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AUSTRALIA

Submission to the National Transport Commission

Updating the national voluntary guidelines for landside stevedore charges and expansion to empty container park charges

Introduction

Patrick Terminals (**Patrick**) welcomes the opportunity to respond to the NTC's consultation paper (**Consultation Paper**) on proposed updates to the National Voluntary Guidelines for Landside Stevedore Charges and Empty Container Park (**ECP**) Charges (the **Guidelines**).

Patrick is Australia's leading stevedore, operating terminals in Brisbane, Melbourne, Sydney and Fremantle. Patrick is the only stevedore that operates exclusively in Australia and exclusively in terminal operations (i.e., no upstream or downstream operations in the container supply chain). Patrick is therefore uniquely exposed to Australian policy settings and committed to strengthening the productivity and resilience of supply chains servicing the Australian economy. Patrick has complied with the Victorian Voluntary Pricing Protocol (**VPP**) for Stevedores since its introduction in 2020, and was the only industry participant to comply with the Victorian VPP when it was expanded to ECPs in 2025.

This submission addresses the following matters:

1. General observations on the updated Guidelines and the role they should play in the national approach to landside pricing
2. Targeted amendments to the proposed Guidelines.

1. General observations on the updated Guidelines

Patrick's support for expanding the Guidelines is illustrated by Patrick's current adherence to the existing Guidelines in all states. The proposed expansion ensures the demonstrated transparency benefits of the Guidelines will apply to all stevedores operating in Australia.

Patrick makes the following broad observations about the national voluntary framework.

First, a voluntary framework is the appropriate regulatory approach in the current circumstances. In response to industry and regulator feedback, stevedores are voluntarily adopting changes to their operating practices to provide greater transparency. For example, Patrick has voluntarily adopted the Guidelines in all states, and adopted practices that go beyond the Guidelines. This includes facilitating voluntary landside efficiency stakeholder groups to support landside performance and provide information about Patrick's landside investment program.

The updated Guidelines build on that industry-led progress. The Guidelines should be given a reasonable period to operate before their effectiveness is assessed (alongside the additional market-led changes taking place) and before further regulatory measures are considered. This is consistent with established Commonwealth policy, which provides that the Government will generally not consider prescribing a mandatory industry code unless there is evidence that self-regulation has failed to adequately address the identified problem (see Treasury's *Industry Codes of Conduct Policy Framework* (2017)). Applying the same principle, a mandatory regime should not be considered while voluntary, market-led changes are ongoing.

The consultation paper notes, at Section 2.1, that the Guidelines are intended to form part of a broader suite of measures including periodic or discretionary reviews by the relevant Minister. Patrick supports that approach, and considers it should be retained and given appropriate emphasis in the final Guidelines.

Second, it is critical that the NTC and relevant Government departments understand the material differences between the business models and ownership structures of ECP operators to which the proposed Guidelines apply. For example, Patrick is an operator of an "Empty Container Park" (as defined in the Guidelines) due to its operation of CargoLink facilities, which are short-term empty container staging facilities physically adjacent to each Patrick terminal. Through CargoLink, Patrick essentially provides an ancillary service to shipping lines calling at Patrick's terminals to reduce costs and enable more efficient vessel loading. In contrast, other ECPs operate as standalone commercial enterprises seeking to earn returns purely through empty container management. Unlike CargoLink customers, customers of standalone operators are subject to redirection notices and different fee structures.

Further, there are material differences in operating models and ownership structures among standalone ECP operators– for example, some are vertically integrated, and some operate on a 'pop-up' basis (i.e. with short-term licences and leases, and minimal exposure to market risks).

The complexity of this segment of the container supply chain, including the significant degree of diversity in commercial models between ECP operators (which is not seen in other segments – e.g. stevedores), must be appreciated when assessing information provided by ECP operators on pricing decisions and determining appropriate regulatory tools.

Third, Patrick strongly objects to the overly simplistic description of competition in the stevedoring market included on page 9 of the Consultation Paper: "*The number of stevedore operators in a market is limited, which means that there is limited competition.*" The degree of competition in a market is not simply derived from the number of suppliers. Contrary to the simplistic description published in the Consultation Paper, the Australian stevedoring market is highly competitive and functioning effectively within the complex, globally interconnected system that is the container supply chain. The strong degree of competition in the market is demonstrated by the high productivity and resilience of Australian terminals, highly variable stevedore profit margins (which are lower than relevant benchmarks), considerable fluctuations in market share and switching of volumes between operators, and significant levels of stevedore investment directed to improving service quality.

2. Suggested amendments to the updated Guidelines

A. Information requirements under ECP Guidelines

Patrick assumes that the NTC's intention is for there to be a consistent approach between the information disclosure requirements that apply to stevedores and ECPs. However, Patrick notes that ECP Guideline 3 and 7 would require ECPs to publicly disclose information in the notice of intention and final notice that is not required to be disclosed under the equivalent stevedore guidelines.

In particular, ECP Guideline 3 proposes that the public notice of intention include detailed pricing data and supporting information, and for capital investment-related changes, expected benefits, current and projected service performance, beneficiaries, and the period over which improvements are expected.

Patrick has legitimate concerns that ECPs being required to disclose these additional categories of information, which include commercially sensitive pricing and performance data, could give rise to competition issues.

Accordingly, Patrick proposes that the ECP Guidelines be amended such that:

1. ECP Guideline 3 requires ECPs to publish the same categories of information that is required to be included in stevedores' notice of intention under Stevedore Guideline 3 (i.e. rationale; due date for industry feedback; contact details)
2. ECP Guideline 7 requires ECPs to publish the same categories of information that is required to be included in stevedores' final notice under Stevedore Guideline 7 (i.e. a summary of engagement themes and responses).

All remaining information currently proposed for inclusion in the public notice of intention by Guideline 3 for ECPs and in the final notice by Guideline 7 for ECPs should instead only be provided to the relevant government department on a confidential basis, consistent with the treatment of commercially sensitive information under the stevedore guidelines.

This approach achieves the same transparency outcome. Industry participants will receive public notice of the proposed change and its rationale, with a clear channel to provide feedback. Government will receive the detailed data it needs to assess the merits of the change. The difference is that ECPs will not be required to publish commercially sensitive information to the market, avoiding potential competition issues.