

## **Submission to the "Draft NSW Freight and Ports Plan"**

**March 20 2018**

Thank you for the opportunity to comment on the "Draft NSW Freight and Ports Plan".

My recommendation is that the State of New South Wales (State) examines the implications of the Port of Newcastle lessee proceeding to build a container terminal in accordance with State policy as confirmed by The Hon Gladys Berejiklian MP on September 29 2015 that "the lessee could develop a container terminal if it wished to do so".

The Plan says at page 34: "Port Kembla will act as a progressive overflow facility for Port Botany once its operational capacity has been reached. This is expected to occur after 2040, with Port Kembla requiring development to increase its capacity to accommodate the overflow."

The Plan contradicts the State's container port policy, which is that the lessee of the Port of Newcastle could develop a container terminal if it wished to do so. This State policy was confirmed by The Hon Gladys Berejiklian MP, on September 29 2015, when she answered a Question On Notice from the 2015 Budget Estimates hearings:

September 29 2015

The Hon Gladys Berejiklian MP, Treasurer and Minister for Industrial Relations:

Question 29: Has the NSW Government entered into any agreements that create a disincentive or obstacle to develop a container terminal at the Port of Newcastle?

Answer: I am advised that the lessee could develop a container terminal at the Port of Newcastle if it wished to do so.

A container terminal has not been built at the Port of Newcastle.

In 2012, the State decided to charge a fee for containers shipped through the port, which makes building a container terminal commercially unviable. The State decided to pay this fee to the lessee of Port Botany and Port Kembla (NSW Ports), as compensation for loss of business as a result of containers being shipped through the Newcastle port. The amount of payment to NSW Ports is equal to the amount that NSW Ports charges for a container shipped through Port Botany.

The State has never given a reason for its 2012 decision to charge a fee for containers shipped through the Port of Newcastle including paying this fee to the Port Botany/Kembla lessee. Examining the implications of a Newcastle container terminal to the NSW economy will require the State to explain the purpose of its 2012 decision.

For example, there has been no examination of the implications to the state's freight transport network. A container terminal at Newcastle would pay for a rail freight bypass of Sydney, enabling containers and general freight to be railed, rather than trucked, while removing freight from the Sydney and Newcastle passenger rail networks.

Additionally, there has been no examination of the implications of a Newcastle terminal to the State's regional economic development plans.

These omissions cast doubt on the integrity of the State's transport and economic development plans.

The State told the ACCC in 2012 that it had decided not to have a container terminal built at the Port of Newcastle. Acting on this advice, the ACCC did not enforce the "Commonwealth Competition and Consumer Act 2010" (Competition Act) in respect of the State charging its fee. However, the ACCC recognises that a container terminal is not being built at the Port of Newcastle because the State's fee makes the investment commercially unviable.

When the State informed the ACCC of its decision, it was negotiating to lease Newcastle port's container terminal site to a private company, Newcastle Stevedores Consortium, on condition of building a container terminal, with a minimum capacity of 1 million TEU containers a year. The State commenced negotiating with the Consortium in 2010. In 2013, the State required the Consortium to pay the fee, as a contract condition for building a container terminal. The Consortium did not withdraw its proposal and the State terminated the negotiation in November 2013.

The State had instructed the Consortium in August 2012 and July 2013 not to build a container terminal. The State informed the ACCC about these instructions. At the same time, the State required the Consortium to pay the fee as a contract condition for building a container terminal.

The State required the Consortium to pay the fee because it needed a source of funds to pay the Port Botany/Kembla lessee, without having to inform Parliament. The State had concealed from Parliament its decision to charge the fee and to compensate the Port Botany/Kembla lessee. The State knew that informing Parliament would involve its decision being examined as a contrivance to inflate the Port Botany lease price above the port's retention value.

The State had promised the Parliament in 2012 that Port Botany/Kembla would not be leased unless the price exceeded the retention values. It is unlikely this condition would have been met had the State disclosed its decision.

Developing a major container terminal at the Port of Newcastle is viable if the fee is removed. A container terminal at Newcastle would justify building a rail freight bypass of Sydney, between Newcastle and Port Kembla, via Eastern Creek. This bypass would be paid for by replacing trucks as the method of transporting containers between the port and intermodal terminals. It would enable rail to replace trucks as the principal means of transporting freight between Sydney and regional areas, and interstate.

Port Botany relies on trucks for transporting containers. Container trucking can be eliminated when the rail freight bypass of Sydney is built.

There were one million container trucks moved through Port Botany in 2014. By 2040, there will be six million container truck movements.

An intermodal terminal is being built at Moorebank. This terminal requires all of Sydney's available rail freight capacity. If Moorebank reaches capacity, there will still be 4.9 million container truck movements through Port Botany by 2040.

With the Moorebank intermodal terminal operating at capacity, the economic disbenefits of trucking containers will increase five-fold – from one million per year to five million per year – by 2040.

It is unlikely a container terminal will be built at Port Kembla under current arrangements.

However, a rail freight bypass of Sydney will justify building the Maldon-Dombarton rail freight line to enable building a container terminal at Port Kembla to operate interchangeably with the Port of Newcastle.

The South Coast of NSW will be connected to container ports at both Port Kembla and Port of Newcastle.

Building the section of the bypass line between Glenfield, Badgery's Creek and Eastern Creek first, will enable railing some containers between Port Botany and Eastern Creek until the line to Newcastle is completed, in around 10 years. There would be no intermodal terminal built at Moorebank.

Upon line completion, containers railed between Newcastle and intermodal terminals in outer western Sydney would be de-consolidated at the intermodal terminals and the goods transported to their end destinations in Sydney.

Export goods manufactured in Sydney would be consolidated into containers at the intermodal terminals and the containers then railed to Newcastle for export.

Empty containers would be railed from Sydney to all regional areas of NSW to be filled with export goods and the containers then railed to Newcastle for export.

All container trucks would be removed from Sydney's roads.

Freight currently entering Greater Sydney by road can be railed.

There would be no need to build stages 2 and 3 of the Northern Sydney Freight Corridor to provide the equivalent of a dedicated rail freight line between Newcastle and Strathfield. The cost saving is \$5 billion.

There would be no need to build the Western Sydney Freight Line, between Chullora and Eastern Creek, to enable containers to be railed between Port Botany and outer western Sydney. The cost saving is \$1 billion.

Freight would be removed from the Wollongong-Sydney rail line.

All of Sydney's current rail freight capacity would be used for passenger services to provide a higher economic return than freight.

The Southern Sydney Freight Line would be used for express passenger services from southwestern Sydney growth areas, including Badgery's Creek Airport.

All of the current rail capacity between Newcastle and Sydney would be used for passengers.

A second rail bridge would be built over the Hawkesbury River as part of the rail freight bypass.

The short parallel runway at Sydney airport could be extended from 2600 metres to 4000 metres by terminating container operations at Port Botany.

A rail freight bypass would enable Sydney firms to relocate to regional areas. In western Sydney, 5,000 hectares of land is used for industrial purposes. Many of these firms could

profitably relocate to regional areas if they were able to use rail to freight goods to Sydney and ship containers through the Port of Newcastle.

It is appropriate and necessary for the State to examine the implications to NSW of removing the State's anti-competitive fee for containers shipped through the Port of Newcastle.

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