

# Terms of Reference for the Ports and Maritime Administration Act 1995 and Port Botany Landside Improvement Strategy Independent Review

## Introduction

This document sets out the Terms of Reference for and the intended approach to the review of the *Ports and Maritime Administration Act 1995* (the Act) and the Port Botany Landside Improvement Strategy (PBLIS) ('the Review').

The review was announced on 12 November 2021.

The review will be conducted by Mr Ed Willett ('the Independent Reviewer').

## Review Background

Efficient and productive ports are a priority for the NSW Government as outlined in the NSW Freight and Ports Plan 2018-2023.

The Act provides the administrative framework for important aspects of port and maritime management, and:

- establishes the Port Authority of New South Wales as a statutory State owned corporation;
- sets out the marine safety and other functions of the Minister;
- provides for private port operator safety and security functions and information gathering;
- sets out the financial and other provisions for Transport for NSW and enables the maintenance of safety and security at ports;
- provides for port charges and establishes the port price monitoring scheme;
- provides the ability to regulate ports to promote competition and productivity;
- provides for marine pilotage; and
- sets out other maritime matters relevant for recreational and domestic commercial vessels such as wharves and moorings.

The PBLIS arrangements primarily regulate the performance of stevedores and road carriers at the Port Botany container terminals. Introduced following the 2008 Independent Pricing and Regulatory Tribunal findings about inefficiencies with container movements at Port Botany, it is appropriate that these arrangements be reviewed to assess the outcomes of the strategy and ensure it is meeting its objectives. The review will cover the sections of the Ports and Maritime Administration Regulation 2021 (the Regulation) that are relevant to PBLIS and the Mandatory Standards.

## Matters in Scope for the Review

The review will consider:

1. Whether the policy objectives of the Act remain current and whether the terms of the Act remain appropriate for securing those objectives.
2. Whether any changes to PBLIS (in the Act, Regulation or Mandatory Standards) are required, considering:

- (a) what PBLIS has achieved;
  - (b) what PBLIS is currently achieving;
  - (c) any unintended impacts of PBLIS; and
  - (d) whether PBLIS remains the best approach for promoting the economically efficient operation and use of and investment in land-based port facilities and port-related supply chain facilities. And, if so, whether these arrangements are appropriate, and if not, what are the alternative options.
3. Feedback provided during the Regulation remake process that was deferred for consideration during this Review.

### **Matters Out of Scope for the Review**

The parts of the Act relating to the long-term lease arrangements at the Ports of Botany, Kembla and Newcastle will only be considered within the context of those lease arrangements.

In addition, specific consideration of stevedore charges will be out of scope for this review, recognising that these charges are a national economic issue that has been referred to the Federal Government for consideration. Where existing PBLIS requirements apply to stevedore charges they will be considered in the review.

The review will not consider parts of the Regulation not relevant to PBLIS that were recently reviewed by Transport for NSW, unless consequential amendments are required as a result of proposed changes to the Act.

### **Review Activities**

The review activities will be determined by the Independent Reviewer and are expected to include the engagement of external economic analysis of PBLIS, industry behavioural analysis and comparison to other (Australian and global) jurisdictional approaches.

### **Outputs and Consultation Process**

1. Appointment of Independent Reviewer.
2. Confirmation of review activities and consultation timing.
3. Discussion Paper to facilitate stakeholder feedback.
4. Stakeholder consultation on Discussion Paper including workshops as suitable, one-on-one engagements as well as written communication.
5. Analysis of review findings and options, including any proposed changes developed and detailed in an Options Paper.
6. Stakeholder consultation on Options Paper.
7. Final Report provided to Minister for Transport and Roads.
8. Government response to independent review recommendations.

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