



31 MAY 2024

FREIGHT POLICY REFORM CONSULTATION PAPER 2024

Submission to the NSW Government on behalf of Freight & Trade Alliance (FTA) and
the Australian Peak Shippers Association (APSA)

“KEEPING AUSTRALIA’S INTERNATIONAL TRADE MOVING”



Australian Peak Shippers
Association Inc. (APSA)

ABOUT THE ALLIANCE

Freight & Trade Alliance (FTA) is the peak body for the international trade sector with a vision to establish a global benchmark of efficiency in Australian biosecurity, border related security, compliance, and logistics activities.

FTA represents more than 500 businesses including Australia's leading customs brokerages, freight forwarders and major importers.

On 1 January 2017, FTA was appointed the Secretariat role for the Australian Peak Shippers Association (APSA). APSA is the peak body for Australia's containerised exporters and importers under *Part X of the Competition and Consumer Act 2010* as designated by the Federal Minister of Infrastructure and Transport.

APSA is also a member and has board representation on the Global Shippers Forum (GSF) that represents shippers' interests and that of their national and regional organisations in Asia, Europe, North and South America, Africa and Australasia.

FTA / APSA also provide international trade and logistics advocacy support to the following associations:

- Australian Cotton Shippers Association;
- Australian Council for Wool Exporters and Processors;
- Australian Dairy Products Federation;
- Australian Horticulture Exporters and Importers Association;
- Australian International Movers Association;
- Australian Meat Industry Council;
- Australian Steel Association; and
- Tyre Stewardship Association.

The current APSA Officers and Committee of Management are listed below:

- Olga Harriton (Manildra Group) - APSA Chair
- Brian Thorpe (Visy) - APSA Vice Chair
- Flaminio Dondina (Casella) - Treasurer
- Paul Zalai - APSA Secretary
- Sarah Granger (Fletcher International Exports)
- Billy Davies (Australian Meat Industry Council)
- Brian Wright (Australian International Movers Association)
- Michael Lamperd (Norco Co-operative Limited)
- Mark Christmas (QMAG)
- Michael Brittain (AGT Foods Australia)

A list of all members and further information about FTA / APSA is available at www.FTAlliance.com.au

EXECUTIVE SUMMARY

Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) represent leading import and export businesses including world class manufacturers and producers, supported by skilled customs brokers and freight forwarders.

FTA / APSA view the NSW Freight Policy Reform as a critical initiative to enhance the efficiency, sustainability, and resilience of the freight transport system in New South Wales. The consultation paper marks a significant step in engaging stakeholders to develop a comprehensive policy framework that addresses the evolving needs of the freight industry.

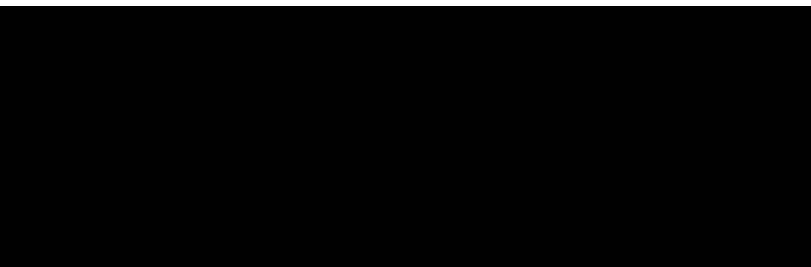
The emphasis on protecting industrial land, enhancing connectivity, and integrating freight considerations into broader transport planning underscores the commitment to a holistic strategy. The vision for a seamless and efficient freight network is complemented by a focus on sustainability, highlighting the importance of adopting green technologies and alternative fuel strategies to reduce emissions and environmental impact.

The Department of Transport for NSW, through ongoing engagement with key stakeholders, is poised to craft policies that embody a thorough and cooperative strategy for the advancement of the freight sector. This includes ensuring that SYD Airport remains a critical hub, the opening of Western Sydney Airport, supporting the timely completion of the Inland Rail project, and recognising the potential of Newcastle as an alternate port option.

FTA / APSA, in collaboration with our members, have contributed to providing feedback to the Department's NSW Freight Policy Reform Consultation Paper. This collective effort underscores the importance of stakeholder engagement in shaping a future-ready freight system that supports economic growth and sustainability for New South Wales.

CONTACT

For further detail please contact:



QUESTION 1a. In relation to the above six matters, are there particular aspects of policy that are causing challenges to your business operations or efficiency?

Regulatory Overlap: Inconsistent regulations between NSW and the federal government creates compliance difficulties and operational inefficiencies.

Port Congestion: Major ports such as Port Botany and Port Kembla at times face significant congestion, leading to delays and increased operational costs ultimately levied on the importers and exporters. Australian ports currently rank very low in the global Container Port Performance Index, and the World Bank also suggests Australia is disappointingly currently ranked 106 by the World Bank for “*trading across borders*”.

Infrastructure Gaps: Inadequate road and rail infrastructure, especially in connecting key intermodal terminals, affects the seamless movement of freight.

Industrial Land Use: Urban encroachment and the rezoning of industrial land for residential purposes restrict the space available for freight operations, causing operational constraints.

Integration of Freight Considerations: Freight considerations are often secondary in broader transport planning and investment decisions, leading to suboptimal infrastructure development and insufficient funding for projects critical to the freight sector.

Aging Workforce: The aging workforce in the freight industry, particularly among customs brokers, poses significant challenges, as there are very few young professionals nationally. This demographic trend is leading to skills shortages and will impact efficiency and operations in the near future.

QUESTION 1b. In relation to the above six matters, are there particular actions – short, medium or long-term, that you think the NSW Government alone or together with the Australian Government should take to support the efficient operations of your business?

Short-term:

- Harmonise regulations between the state and federal levels to reduce compliance burdens.
- Implement immediate measures to alleviate port congestion through optimised scheduling and infrastructure enhancements.
- Focus on workforce development initiatives, including training programs and incentives to attract younger individuals to careers in customs brokerage and other critical areas.

Medium-term:

- Increase investment in expanding and upgrading road and rail networks to improve connectivity and capacity, especially around intermodal terminals.
- Enforce policies to protect industrial land from being rezoned for residential use, ensuring sufficient space for freight operational growth.
- Develop cargo flight strategies to ensure SYD Airport remains a critical hub even after Western Sydney Airport opens in 2026, preventing additional congestion on roads by keeping freight close to the ultimate delivery points.

Long-term:

- Ensure freight considerations are embedded into all levels of transport planning, prioritising projects that enhance freight efficiency.
- Develop sustainable funding mechanisms, such as public-private partnerships, dedicated to long-term infrastructure projects critical to freight transport.
- Increase focus on the timely and cost-effective completion of the Inland Rail project, addressing concerns about delays and budget overruns.
- Promote alternate fuel strategies to keep pace with other states, focusing on future fuel trends like methanol and LNG, and developing sustainable aviation fuel (SAF) for the aviation sector.

QUESTION 2. Do you have recommendations or issues to note about rail freight policy?

Current Policy Fitness: The existing rail freight policy does not fully meet the needs due to capacity and connectivity issues.

Future Changes: Increase infrastructure investments to enhance rail capacity and reliability. Introduce policies that incentivise a modal shift from road to rail, such as subsidies and reduced track access charges.

Modal Shift Support: Different rail tasks, such as the movement of bulk goods or containers, can support a modal shift to rail by reducing road congestion and emissions.

Inland Rail Impact: Inland Rail will significantly impact operations by providing a direct and efficient route for freight movement. The NSW Government should expand the integration of Inland Rail with existing networks and support the development of connecting infrastructure. Emphasis should also be placed on ensuring the project is completed on time and within budget, addressing current concerns about delays and costs.

Cost-Benefit Analysis: Consider both public and private benefits when evaluating rail freight policies, such as reduced road congestion and environmental benefits.

QUESTION 3. Do you have recommendations or issues to note about ports?

Anticipated Changes: The increase in container trade will require ports to adapt by upgrading infrastructure and continue to adopt new technologies.

Transport Outcomes: Desired outcomes include improved port infrastructure, enhanced hinterland connectivity, and optimised operations through digitalisation and automation. By encouraging uptake of new technologies such as AI and OCR,

Terminal Access Charges: The regulation of Terminal Access Charges imposed by stevedores is crucial. These charges significantly impact the costs for importers and exporters, often leading to higher operational costs and reduced competitiveness. Introducing regulatory oversight on these charges would ensure transparency, fairness, and consistency, thereby supporting the overall efficiency and cost-effectiveness of port operations.

It is evident from consecutive ACCC stevedore monitoring reports that shipping line consortia are also benefiting from significantly reduced quayside charges administered by their contracted stevedore and empty container park providers. Savings that are clearly not being passed on down the supply chain via reductions in Terminal Handling Charges.

With less quayside revenue, stevedores and empty container parks have resorted to a 'ransom' model forcing transport operators to pay Terminal Access Charge (TAC) and ancillary fees or be denied access to container collection / dispatch facilities. It is not sustainable for our exporters and importers to absorb this additional impost of hundreds of millions of dollars annually whereby they cannot influence service or price.

The consistent position of FTA / APSA over many years of advocacy aligns with the PC finding in their draft report, recommending all charges be negotiated on a commercial in-confidence basis between the stevedore and their contracted client (shipping lines) negating the need to impose charges on third parties who have no ability to influence service or price.

All businesses face a dilemma of how to deal with unavoidable costs such as rent, infrastructure, labour, and power. Those same businesses are then forced to either absorb these costs or pass them on to their commercial clients. Similarly, stevedores and empty container parks should be forced to either absorb operating costs or pass these on to their commercial client (shipping lines). Shipping lines then have the choice to absorb or pass those costs onto exporters, importers and freight forwarders through negotiated freight rates and associated charges.

The existing voluntary arrangements established by the Victorian government and adopted by the National

Transport Commission have proven to be futile, providing no ability to influence price, and giving stevedores' tacit approval to significantly inflate fees levied against our domestic transport operators.

FTA / APSA note that the PC deviated away from its original position and now recommend a mandatory code with the ACCC to act as the pricing regulator with special provisions to keep stevedores highly accountable for any charges imposed on the landside logistics sector. The proposed mandatory code will undoubtedly be an improvement to the current regime but will be less effective than simply allowing market forces to take effect by forcing cost recovery to take place exclusively via contracted commercial parties.

Shipping lines are best placed to keep a lid on prices charged by their commercial suppliers.

Should the Federal Government implement the PC recommendation, it is essential that it do so in its entirety as any watering down of this recommendation will have devastating impacts, leaving our essential containerised trade sector exposed to ongoing and uncontrolled spiraling costs. Whilst this is an issue that would be for the Federal Government to address nationally, there needs to be a push from State Government to ensure recommendations are followed through in order to benefit the local economy.

While much of the attention has been focused on stevedores, it is important to note the empty container parks (ECPs) have adopted an identical cost recovery model. Transport operators cannot choose which ECP to dehire (return) containers after being unpacked by an importer.

The transport operator must also book a time slot with the ECP. This booking started as a minimal fee to cover technology costs, to many that now exceeds up to \$100 per container. Again, the transport operator has no influence on service and is purely a 'price taker'.

The Federal Government must implement equivalent regulation to both stevedores and ECPS to protect the Australian export and import sectors from the current unfair cost recovery models, but again, there needs to be a push from State Government to ensure recommendations are followed through in order to benefit the local economy.

FTA and APSA provided extensive material to the PC highlighting the administration of exorbitant container detention fees, payable when delays occur in returning empty containers within prescribed periods as set by shipping lines.

Furthermore, evidence included scenarios whereby these fees are unfairly applied in an environment of 'vessel bunching', limited operating hours of facilities to receive empty containers, the empty container park being at capacity, delays in border and biosecurity releases, extreme supply chain labour shortages and in many cases, the detention clock starting at a time when cargo is physically unavailable for collection from the wharf.

The impost of an unreasonable container detention charging regime continues to be a significant impost for Australian commerce and a windfall for foreign owned shipping lines contributing to their recent multi-billion dollar annual profits. A remedy is required in an environment with inflationary pressures being felt across Australia with charges being passed down the supply chain, adversely affecting manufacturers, farmers, rural communities, and consumers.

This is hitting hard – everyone from major retailers through to small businesses. Freight forwarders, customs brokers and transport companies are left with the unenviable position of trying to explain this unbudgeted and unreasonable fee to importers and exporters costing anywhere from hundreds of dollars per consignment up to hundreds of thousands of dollars in some circumstances.

Whilst the PC sees a part of the solution being to remove the shipping line protections from Australian Consumer Law unfair contract provisions, we have asked the Federal Government to make decisive action by following the ACCC position in its last container stevedore monitoring report by creating a distinct prohibition on such unfair or unreasonable commercial conduct, either confined to the shipping industry as with the US model, or more broadly.

FTA and APSA remain of the view that the only realistic solution is for regulatory intervention to impose limits on when, or the amount of, container detention that can be charged.

Some options to protect importers could be:

- requiring shipping lines to offer to sell the container to the consignee after a set period and that the sale would end the detention period;
- cap the amount of detention to the lesser of the value of the container or the actual loss suffered by the shipping line;
- place a limit on shipping line's being able to charge detention where the delay in returning the container was due to:
- extended free periods in the event of border or biosecurity intervention;
- extended free periods for a Force majeure event;
- extended free periods for any act of the shipping line (or their contractors);
- restricting the daily charges to an amount equal to set amount - for instance, the provision could provide that the maximum daily charge cannot be greater than an amount equal to 5% of the replacement value of the container.

Similar considerations are also required in context of exports whereby some shipping lines start the free detention from the time of container collection to the time it boards the vessel for export.

Again, this is unfair in circumstances whereby vessels bypass ports or face delays.

FTA / APSA see the need for some form of safeguard for the detention clock to stop once the export container is received by the stevedore and in circumstances whereby the exporter stages the container in their facility (or a contracted third party's yard) for the period until the vessel is available to receive cargo.

Alternate Port Options: Port of Newcastle as a result of recent rulings, in the past few months is fast becoming a viable option as an alternate port for major carriers of containerised trade to consider, which could help alleviate congestion at other major ports and provide additional capacity.

Stakeholder Engagement: There is a need for more stakeholder engagement regarding the rezoning of land around major ports. Current land use is often directed toward non-port-related projects, which do not prioritize businesses that would benefit port operations. Greater involvement of stakeholders could ensure that rezoning decisions support port-related activities.

PBLIS Review Recommendations: FTA / APSA have stated to Transport for NSW a strong objection to these two recommendations:

- **PBLIS Recommendation 6:** Remove the broad power for regulating stevedore charges,
- **PBLIS Recommendation 19:** Remove regulated rail servicing arrangements.

Instead of using existing provisions (Ports and Maritime Administration Act - Schedule 4 ; 6 Supply Chain Charges), the Report points to the Productivity Commission's review of Australia's Maritime Logistics System supporting its recommendation for a Mandatory Code to be administered against stevedore fees nationally with new powers to be provided to the Australian Competition and Consumer Commission (ACCC).

While FTA / APSA also see significant merit in a Mandatory Code as recommended by the Productivity Commission, any weakening of powers at a state level must not be contemplated until a federal solution is implemented, tested and proven to be a necessary safeguard for the Australian trade sector.

QUESTION 4. Do you have recommendations or issues to note about road freight?

Air Cargo Risk Assessment: Ensure a comprehensive risk assessment is conducted to analyse the impacts of cargo flights primarily servicing only Western Sydney Airport from 2026 onwards. This assessment is critical to prevent exacerbating congestion on already busy roads, as transporting freight from the outer suburbs back into the inner and metropolitan areas would significantly increase commercial traffic during peak periods. Alternately continue to use SYD Kingsford Smith Airport if the congestion increases as a result.

QUESTION 5. Do you have recommendations or issues to note about decarbonisation or changing technology?

Improving Freight Networks: Adopt technologies that enhance efficiency and reduce emissions, such as electric and hybrid vehicles, automated systems, and real-time tracking.

Lowering Emissions: Policies should support the transition to low-emission technologies and provide incentives for adopting green practices.

Alternate Fuel Strategies: The NSW Freight Policy Reform (FRP) should focus on alternate fuel strategies to keep pace with other states. Emphasis should be placed on future fuel trends such as methanol, LNG, and the development of sustainable aviation fuel (SAF) for the aviation sector.

Harmonisation with Global Standards: The NSW Freight Policy Reform (FRP) should ensure that its strategies align with international best practices and global standards.

QUESTION 6. Do you have recommendations or issues to note about strategic land use planning and industrial land?

Urban Freight Planning: Ensure adequate space for logistics and transport activities through strategic land use planning.

Recognising Freight Value: The value of freight logistics and transport should be recognized in building supply chain resilience, and policies should reflect their importance.

Improving Strategic Land Use Plans: Protect industrial land from rezoning, enhance connectivity to freight corridors, and promote mixed-use developments that include logistics functions.

Stakeholder Engagement: There should be more stakeholder engagement regarding the rezoning of land around major airports and ports. Current utilisation of land for non-port-related projects with little priority given to businesses or projects that benefit the ports is of concern to our members. Involving stakeholders can help ensure land use decisions support port-related activities and enhance operational efficiency.

QUESTION 7. Does the NSW Government provide adequate consideration of freight matters?

Stakeholder Feedback: While stakeholder feedback is often incorporated, there is room for improvement in ensuring that all relevant voices are heard and considered in policy development.

Access to Contacts: Improve access to contacts within Transport for NSW through regular stakeholder meetings.

Improving Access to Decision Makers: Enhance access to decision-makers by establishing clear communication channels and involving industry representatives in policy discussions.

Focus on Air Cargo: Some FTA / APSA members in the air cargo sector have expressed concern that the NSW Freight Policy Reform Consultation Paper is 'sea freight centric', and that more emphasis should be added to ensure air cargo is a key focus rather than a secondary concern.