

10 August 2011

Our Reference: SPC11 091

Mr Paul Garaty
Divisional Director, Patrick
Patrick Stevedores Operations No 2 Pty Ltd
C/- Asciano Ltd
Level 6
15 Blue Street
NORTH SYDNEY NSW 2059



Dear Mr Garaty

Direction under clause 18W(1) of Part 2B of the Ports and Maritime Administration Regulation 2007

I refer to Part 2B of the *Ports and Maritime Administration Regulation 2007* (**Regulation**).

Under clause 18W(1) of the Regulation, the Minister responsible for administering the *Ports and Maritime Administration Act 1995* (**Minister**) may, by direction in writing to a stevedore, regulate the charges that can be imposed by that stevedore for or in connection with the loading or unloading of shipping containers or cargo onto or from rail cars at that stevedore's terminal, including any service that is incidental to that loading or unloading.

I, Grant Gilfillan, CEO of Sydney Ports Corporation acting under the delegation of the Minister, give the enclosed direction under clause 18W of the Regulation to Patrick.

If you require any further information, please contact Sydney Ports' Executive General Manager Industry Relations and Logistics, Mr Lachlan Benson. Mr Benson can be contacted on (02) 9296 4686.

Yours sincerely



Grant Gilfillan
Chief Executive Officer



Ports and Maritime Administration Regulation 2007

DIRECTION REGULATING CHARGES

To: Patrick Stevedores Operations No 2 Pty Ltd, ACN 056 292 687 ("the Stevedore" or "Patrick").

C/- Asciano Ltd, Level 6, 15 Blue Street, NORTH SYDNEY NSW 2059

Pursuant to clause 18W(1) of the Regulation, and in accordance with clause 18I(1) of the Regulation, I, Grant Gilfillan, CEO Sydney Ports Corporation acting under delegation of the Minister responsible for administering the *Ports and Maritime Administration Act 1995*, by this direction to Patrick Stevedores Operations No 2 Pty Ltd, ACN 056 292 687 ("The Stevedore" or "Patrick"), regulate the charges that may be imposed for or in connection with the operation or provision of facilities or services of the port related supply chain at the stevedoring facilities located at 7 Penrhyn Road, Port Botany, NSW, 2036 as set out in the Attachment.

This direction replaces the initial direction dated 6 December 2010 and takes effect on 1 September 2011.

Grant Gilfillan
Chief Executive Officer

Dated:

11/8/11

Ports and Maritime Administration Regulation 2007

ATTACHMENT TO DIRECTION TO PATRICK REGULATING CHARGES

Direction

1. The amount that Patrick charges for rail servicing performed in the first 60 minutes after rail servicing commences must not exceed \$540 (excluding GST), except:
 - (a) if the number of lifts performed by Patrick in that time exceeds 36, this amount may be increased by no more than \$30 (excluding GST) for each lift performed in that time which is in excess of 36 lifts;
 - (b) if the number of lifts performed by Patrick in that time:
 - (i) is less than 36; and
 - (ii) is less than the number of lifts available to be performed by Patrick before the rail servicing is completed,this amount is decreased by \$30 (excluding GST) for each lift that was not performed in that time but which, if it had been performed, would have resulted in the number of lifts performed in that time being equal to the lower of 36 lifts and the number of lifts which are available to be performed by Patrick before the rail servicing is completed.
2. The amount that Patrick charges for rail servicing in each 15 minute period thereafter must not exceed \$135 (excluding GST), except:
 - (a) if the number of lifts performed by Patrick in that time exceeds 9, this amount may be increased by no more than \$30 (excluding GST) for each lift performed in that time which is in excess of 9 lifts;
 - (b) if the number of lifts performed by Patrick in that time:
 - (i) is less than 9; and
 - (ii) is less than the number of lifts which, as at the start of the 15 minute period, are available to be performed by Patrick before the rail servicing is completed,this amount is decreased by \$30 (excluding GST) for each lift that was not performed in that time but which, if it had been performed, would have resulted in the number of lifts performed in that time being equal to the lower of 9 lifts and the number of lifts which, as at the start of the 15 minute period, are available to be performed by Patrick before the rail servicing is completed.
3. If rail servicing is to be performed during a time period that is specified between Patrick and a rail operator then Patrick must not charge more than the maximum amount applicable to that time period under paragraphs 1 and 2 of this direction, irrespective of the actual time that it takes for Patrick to perform the rail servicing.

4. If the rail operator cancels a scheduled rail servicing period less than 48 hours prior to the time that the scheduled rail servicing period was due to commence (the **operator cancelled rail servicing period**), the amount that Patrick charges the rail operator for that operator cancelled rail servicing period must not exceed the maximum amount that it would be entitled to charge under paragraphs 1 and 2 of this direction if it had performed:
 - (a) 36 lifts in the first 60 minutes after the commencement time for that operator cancelled rail servicing period; and
 - (b) 9 lifts in each 15 minute period thereafter until the end time of that operator cancelled rail servicing period.
5. If Patrick cancels a scheduled rail servicing period less than 48 hours prior to the time that the scheduled rail servicing period was due to commence (the **Patrick cancelled rail servicing period**):
 - (a) Patrick must not charge the affected rail operator in relation to that Patrick cancelled rail servicing period; and
 - (b) the amount that Patrick charges the affected rail operator for performing rail servicing in relation to the next rail servicing period which has an equivalent duration to the Patrick cancelled rail servicing period must be reduced by an amount which is equal to the maximum that Patrick would have been entitled to charge under paragraphs 1 and 2 of this direction if Patrick had performed:
 - (i) 36 lifts in the first 60 minutes after the commencement time for the Patrick cancelled rail servicing period; and
 - (ii) 9 lifts in each 15 minute period thereafter until the end time of the Patrick cancelled rail servicing period.
6. For the avoidance of doubt, if there is an accumulation of Patrick cancelled rail servicing periods such that there is more than one Patrick cancelled rail servicing period of the same duration before a reduction under paragraph 5(b) is made, paragraph 5(b) will apply separately in relation to each Patrick cancelled rail servicing period so that the first reduction will only apply in respect of the first accumulated Patrick cancelled rail servicing period and the second reduction will only apply in relation to the second accumulated Patrick cancelled rail servicing period, and so on for the remaining accumulated Patrick cancelled rail servicing periods.
7. If a scheduled rail servicing period is cancelled (either by Patrick or a rail operator) 48 hours or more prior to the scheduled commencement time for that rail servicing period, Patrick must not charge for that cancelled rail servicing period.
8. If the amount that Patrick may charge under this direction for performing rail servicing is required to be decreased or reduced to an amount that is less than zero (**negative amount**), the negative amount is to be carried forward as a reduction to the amount that Patrick next charges the relevant rail operator for performing rail servicing.

For the purposes of this direction:

- (a) a term used in this direction which is given a meaning in clause 18F of the Regulation, has the meaning given to that term in the Regulation;

- (b) a term used in this direction which is given a meaning in Schedule 1 of the mandatory standards that have been set under Part 2B of the Regulation, has the meaning given to that term in Schedule 1 of the mandatory standards; and
- (c) a "lift" occurs when a shipping container or cargo is loaded onto or unloaded from a rail car.