



PRODUCTIVITY COMMISSION INQUIRY INTO AUSTRALIA'S MARITIME LOGISTICS SYSTEM

INITIAL SUBMISSION: 18 FEBRUARY 2022

About the Australian Trucking Association and Road Freight NSW

The Australian Trucking Association is a united voice for our members on trucking issues of national importance. Together, we represent the 50,000 businesses and 200,000 people who make up the Australian trucking industry.

Road Freight NSW is the peak industry organisation in NSW representing trucking operators. Its members range from some of the nation's largest transport companies, with many thousands of employees, through to small family businesses operating with less than 5 employees.

Road Freight NSW is an ATA member association.

Maritime logistics: ensuring productive land transport links

Maritime logistics depends on land transport connections to keep supply chains moving. Exports do not get to ports without land transport; imports will not get to consumers and businesses. Working together, land and maritime logistics can boost productivity and economic growth.

Ports, supply chain and freight are an important nexus for an island nation like Australia. Policy makers need to guard against creeping inefficiencies, the proliferation of costs and parasitic charges by third parties. In particular, road freight has all the carrier, contractual and legal responsibilities while earning the least and dealing with ageing workforce.

Due to the limited public consultation window (occurring both over the Christmas/New Year period and during rolling supply chain crises) this submission is an initial response that focuses on key issues.

Previous submissions

ATA NSW, the predecessor organisation to Road Freight NSW, raised serious concerns about the 2012 NSW legislation to lease Port Botany to a private operator.

ATA NSW said that the legislation needed protection for trucking operators against price gouging:

The potential for a new owner of the ports to impose crippling fees on our industry is of significant concern, and one that appears to have been overlooked in the drafting of this legislation.

The impact of these potential charges on small to medium operators was also a concern:

The survival of these businesses is jeopardised if a new port owner decides to impose onerous fees and charges on these small businesses.

ATA NSW also said:

The potential for major impacts on trucking operators is a serious threat. Our industry operates on tight margins, and additional fees and charges are impossible to pass on to customers while maintaining competitiveness. The introduction of additional fees and charges will cause some operators to cease trading, causing increased unemployment and reducing productivity on the port.¹

The NSW Government and then NSW Treasurer made a number of commitments in relation to the proposed sale:

The Government will retain oversight of all regulatory matters such as those relating to price, the environment and the handling of dangerous goods.²

The NSW Treasurer also stated:

...the Bill provides for a transparent pricing regime consistent with the principles adopted by the Council of Australian Governments. This includes regular reporting obligations to the Minister and the opportunity to refer any price issues to the Independent Pricing and Regulatory Tribunal for review. Third, the infrastructure charge, which the member for Maroubra raised, is subject to robust government oversight, including the price monitoring regime. The bill provides that the new port operator must provide details to the Government regarding the details of the infrastructure project, the basis of the charge, the persons required to pay and the time frame of the charge.³

As stated by the trucking industry at the time, these protections are insufficient and leave trucking operators vulnerable to port operators imposing crippling fees. Unfortunately, this has become reality.

Issues for consideration now

The ATA and Road Freight NSW consider that the commission should now consider the following—

- Repeal of Part X of the *Competition and Consumer Act 2010* as it pertains to shipper collective agreements. Their legal, but anticompetitive, behaviour has meant that shippers dictate terms collectively in relation to Australian ports. At a minimum,

¹ ATA NSW submission as quoted by the Hon Adam Searle MLC, in debate on the [Ports Assets \(Authorised Transactions\) Bill 2012, NSW Legislative Council Hansard](#), 21 November 2012

² The Hon Mike Baird MP, 17 October 2012, [Ports Assets \(Authorised Transactions\) Bill 2012 second reading](#), NSW Legislative Assembly Hansard.

³ The Hon Mike Baird MP, 17 October 2012, [Ports Assets \(Authorised Transactions\) Bill 2012 second reading](#), NSW Legislative Assembly Hansard.

improved oversight is required to reduce anti-competitive behaviour for Australian freight operators and consumers.

- Retention of the PBLIS (Port Botany Landside Improvement Strategy) regulation at Port Botany. A system that delivers 17- 45 minute turnaround times from a system that delivered 3 - 14 hour delays at Port Botany.
- Independent price regulation of all surcharges, levies at the port including but not limited to infrastructure access charges and software companies. These surcharges transfer market power and economic rent extraction to private hands. The scope of the NTC review into landslide port charges is substantially insufficient and requires an examination of regulation of surcharges for the purposes of instituting clear enforceable requirements and caps for surcharges. For example, with the latest PONDUS charges at Port Botany containers are declared at a particular weight for export in different countries. They are then weighed at Port Botany with PONDUS on arrival in Australia. If the weight is different at Port Botany PONDUS then what is declared the operator is levied a surcharge, normally in excess of \$200 per container. It is problematic when it is commonplace for exporters in European countries to over declare containers and then for the container to arrive in Port Botany underweight and for the freight operator to be slugged with the PONDUS surcharge. The operator has no control over the exporter but wears the responsibility of their decision to over declare the weight of the container. Please see **Attachments A and B** – Empty Fees and Infrastructure Charges
- Increase investment in infrastructure to address inefficiencies in the supply chain caused by larger ships, lack of land transport access to Australian container ports and shortage of space in empty container parks. For instance, the Gateway Project was in part the rationale for the Westconnex project and meant to funnel heavy vehicles onto the M8. However, it now appears to be meant to ensure free flow of light vehicle traffic for the Sydney International and Domestic Airport rather than focus on heavy vehicles and getting them off suburban streets.
- Explore federal investment in training and skills for the Australian workforce specifically freight and logistics given the average age of a truck driver is substantially higher than the workforce average and the profit margin for freight companies is often less than two per cent.
- Consider the establishment of a federal Port Commissioner (similar to some North American ports) under the auspices of ACCC to examine these issues and have powers to remedy them.
- Ports require dedicated land to operate effectively and the urbanisation of port precincts in areas like Port Botany require effective land use planning policies which ensure the ability of freight and logistics to operate efficiently. The RFNSW/ATA submission to the Greater Sydney Commission on industrial lands policy is at **Attachment C**.
- Introduction of an appropriate regulatory framework that provides exporters, importers and freight forwarders safeguards against 'exclusive dealings', ensuring

minimum service levels and prescribed variation notification periods (minimum 30 day notice as per US regulation).

- Ensure by way of regulation reasonable container detention policies are administered.
- Facility owners and operators (including ports) should be parties in the chain of responsibility under the Heavy Vehicle National Law.
- Regulation to end the use of long vehicle fees, which place pressure on increasing the number of truck trips required to move the freight task. This increases congestion, increases emissions and reduces productivity.

Contact

Road Freight NSW is available to further discuss the key issues nominated for the Commission to consider in this inquiry.

Simon O'Hara
Chief Executive Officer
Road Freight NSW
M: 0400 188 815
E: simon.ohara@rfnsw.com.au

Samuel Marks
Senior Adviser, Infrastructure and Sustainability
Australian Trucking Association
P: 02 6253 6900
E: samuel.marks@truck.net.au