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Page: 1/5

12 August 2019

Garry Button
CEO
Freight Victoria
Department of Transport
Level 8, 8 Exhibition Street
MELBOURNE VIC 3000

By Email: garry.button@ecodev.vic.gov.au
CC: rosemary.donleyl@ecodev.vic.gov.au

Dear Mr Button

Submission to the Victorian Coastal Shipping Review

I am pleased to make the following submission to the Victorian Coastal Shipping Review (**Review**) in my own capacity as a Partner at Rigby Cooke Lawyers (**RCL**), as a director of the Export Council of Australia (**ECA**) and as a member of the Executive of the Food and Beverage Importers Association (**FBIA**).

This submission also represents many of the views of the Customs Brokers and Forwarders Association of Australia (**CBFCA**), the peak body representing licensed customs brokers and freight forwarders.

Each of RCL, the ECA, the FBIA and the CBFCA would be pleased to make further submissions if requested and would also be pleased to assist with any further work being undertaken for the Review including any group established to pursue the work of the Review.

At the outset, each of RCL the ECA, the FBIA and the CBFCA would like to record their thanks to the Victorian Government and Freight Victoria for initiating the Review and other work aimed at improving transport infrastructure including the Victorian Port Access and Pricing Review.

Background

Even with the current political pressures around global trade and the supply chain, there seems to be little prospect that there will be no reduction in goods being moved through the international supply chain.

This places massive pressure on those in the supply chain to work for outcomes which will facilitate current and future demands in a way which is effective, secure and affordable. In terms of sea cargo this has led to the development of larger and more sophisticated vessels

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RIGBY COOKE LAWYERS

Our ref: Letter to: Garry Button
Your ref: Page: Freight Victoria
2/5

as well as necessary supporting infrastructure at the ports and then in road and rail to move goods once they are through the ports and stevedore facilities.

At the ports this has led to a variety of outcomes including additional dredging of the entrances to ports and the construction of bigger and more advanced port facilities along with improved connections to improved road and rail facilities

All of those requirements have resulted in ownership of the supply chain infrastructure moving away from the public sector into the hands of a small number of wealthy participants in the private sector. Those holding that infrastructure are in a strong position in the market. However those parties will only be prepared to make the investment to provide those facilities subject to conditions providing a guaranteed return on investment and flexibility in the way they provide their facilities and services. This can lead to an “imperfect” competition environment, which can include permissions for those providing the facilities and services to work together to set rates and services in a way which will guarantee that those facilities and services are provided by collective action. In Australia that can be seen in the “Liner” exemption from normal competition laws and the ongoing tolerance by regulators and government of regular increases in the costs to use stevedore infrastructure at the ports. Government and industry needs the facilities and some allowances are made.

Within this sensitive environment, all levels of government, their agencies and those in the private supply chain are regularly looking for the development of processes to improve trade in a secure fashion but which still retain a spread of providers prepared to provide those facilities and services at a reasonable cost.

The ongoing need for access to coastal shipping

One aspect of improving trade infrastructure lies with the provision of “coastal shipping” in Australia. For a number of years there was a separate shipping industry providing coastal shipping services to move goods around Australia which did not rely on overseas vessels and their services into Australia. However, over time the numbers of Australian - flagged vessels available for coastal shipping have dropped dramatically so that the majority of the movement of goods around Australia by sea is provided by overseas vessels as part of the “end” of their shipping routes. This jeopardises full access to shipping services for exporters and importers and this creates proportionately larger issues for SME parties who cannot independently secure access to shipping or other transport.

Reasons for the demise of the coastal shipping industry

There have been a number of reasons suggested for this outcome, which include the increased costs of vessels, the lack of access to cargo facilities (which are focussed on international trade), ongoing issues with interaction with road and rail infrastructure and the nature of the existing regulation of those providing coastal shipping. The current Federal legislative environment is seen by many as too limiting. The challenges of that regulation are seen in the failure of the Federal Coalition government to secure the passage of reform legislation before the last election and the uncertain future of that legislation leaving in place a regulatory regime which may not be “fit for purpose” for now and the future.

Our ref: Letter to: Garry Button
Your ref: Page: Freight Victoria
3/5

Preservation of existing arrangements for Tasmanian freight

Notwithstanding suggested reforms, each of RCL the ECA, the FBIA and the CBFCA recognise the specific needs of those seeking sea freight in Tasmania which arrangements should, as a minimum, be preserved at their current levels. Any changes should only improve the position of those in Tasmania needing access to sea freight.

Potential benefits from an improved coastal shipping regime

There are a number of potential benefits from an improved coastal shipping regime including

- Provision of services tailored to the specific market at a lesser cost
- Development of specific vessels focussed on local needs
- Reducing congestion in the land - side supply chain where goods are moved around Australia by sea as opposed to rail or freight
- Improvements in road safety from less congestion on the roads
- Reduction in pollution
- Assisting in revitalising regional Australia
- Increasing Australia's maritime skills shortage and not relying on those leaving the armed services
- Reduction in reliance on overseas - owned vessels
- Improving access to transport and logistics services for SMEs

The States are continuing their work on these issues in addition to the Review. According to the Queensland State Trade Minister, a Queensland State Parliamentary Committee is considering reform of coastal shipping in the Queensland context. Further, the 20 year freight infrastructure strategy for reform recently issued by the South Australian Freight Council ("**Moving Freight 2019**") includes a review of developments with ports and related infrastructure and will no doubt form the basis for further review of coastal shipping in South Australia.

While a national policy reform strategy for coastal shipping, perhaps as part of the current national transport infrastructure reform may be seen as an ideal outcome, previous attempts have been unsuccessful. Accordingly, the Review and other work by the States is probably the only practical way to resolve the current impasse, ideally co - ordinated as far as possible between those States which have an interest in the concept.

Elements to be included in a reform plan for the coastal shipping regime

Some elements of a reform plan for the coastal shipping regime would include the following

- Proper consideration and inclusion of the work and outcomes of the other State - based work. Not all of the beneficial ideas will come from one jurisdiction
- Proper considered inclusion of all levels of government (Federal, State and local) and their agencies which all have their own needs. Victoria cannot "go it alone" and develop a regime which disregards the needs of other governments and the wider industry. Inclusion of the other levels will also facilitate the development of a regime which requires input and support of other levels of government. For example, the planning restrictions of areas around the ports may need adjustment to permit

RIGBY COOKE LAWYERS

Our ref: Letter to: Garry Button
Freight Victoria
Your ref: Page: 4/5

increased operation of other smaller ports. Similarly, the regime will require the co - operation of the Federal government to facilitate the designation of areas as “Ports” for the provisions of the Customs Act 1901, to allow for the import of goods required for the regime on a duty - free basis and to allow goods to be imported and exported from the new ports as well as using the ports for purely domestic use. There may also need to be Federal changes to permit wider overseas investment in the ports and related infrastructure of the regime

- Without limitation of the considerations set out in the previous paragraph the development of the new regime may need a review of the Federal government’s “cabotage” policy which has been excluded from various Fair Trade Agreements
- Proper co - design between all levels of government and the private supply chain working with coastal shipping including those providing the services and the facilities and those working in that space (freight forwarders and licensed customs brokers for example)
- Proper consideration of related concepts being developed elsewhere in the supply chain such as work in trade facilitation and cargo security along with impending changes such as those required by IMO 2020
- Incorporation of other private sector initiatives such as single - window and blockchain. Indeed the Victorian Review and new regime may well represent an excellent “test base” for use to develop products for national use
- Engagement with industry providing services to those using coastal shipping or related freight and transport services to allow for testing of new technologies and practical initiatives before wider adoption - a form of State - based research and development through a Coastal Skills and Services Academy (or similar)
- Considering the development of vessels specific to the coastal shipping needs Vessels of smaller size, using carbon neutral fuel and technological advances which can use less - developed port and road and rail infrastructure and even unmanned vessels could be valuable options. Development of such vessels could also take into account export opportunities for the vessels to be used in other markets
- Increased and improved use of existing facilities at “smaller” ports which were originally developed for earlier versions of the coastal shipping regime
- The creation of a regulatory and competition regime specific to the need of those involved in coastal shipping. This would take into account the needs for the private sector to receive a reasonable return on their investment while not allowing abuse of market position and would be consistent to the “co - design” of the regime
- Consideration of other coastal shipping regimes which have operated successfully to identify elements which could be adopted in the Victorian regime (on its own and in interaction with the work of other States or federally)

Proposals to start the process

We would suggest that the process could start with a meeting of all interested parties to facilitate a “mapping exercise” to determine what would be included in a revised program and also what would be the current impediments.

That could set out an outline of a proposed work program with work tasks to be prioritised to be addressed through a “steering committee” which would also work with other State and Federal committees, specifically including the National Committee on Trade Facilitation.

RIGBY COOKE LAWYERS

Our ref: Letter to: Garry Button
Your ref: Page: Freight Victoria
5/5

We look forward to being of more assistance and would welcome the opportunity of being engaged in further work of this Review.

Yours faithfully

A handwritten signature in blue ink, consisting of a large, stylized 'A' followed by a horizontal line that tapers to the right.

Andrew Hudson
Partner