

## “KEEPING AUSTRALIA’S INTERNATIONAL TRADE MOVING”



**FTA**  
FREIGHT & TRADE ALLIANCE



Australian Peak Shippers  
Association Inc. (APSA)

### **SUMMARY - FTA / APSA response to the Draft NSW Freight and Ports Plan**

Below is a summary of Freight & Trade Alliance (FTA) and the Australian Peak Shippers Association (APSA) member feedback in response to the Draft NSW Freight and Ports Plan.

FTA / APSA continues to advocate to authorities that freight and port policy should be led by cargo owners and port users, and this view is reflected in our submission.

#### **Summary of recommendations:**

Recommendation 1 - That the Port Botany Rail Optimisation Group (PBROG) is expanded to include representation from cargo owners, as per their Terms of Reference.

Recommendation 2 - That Transport for NSW considers aligning the regulatory regimes applied to key port-rail facilities.

Recommendation 3 - That Transport for NSW addresses the prospect of containerised trade at the Port of Newcastle, particularly considering the recent ACCC Inquiry.

Recommendation 4 - That Transport for NSW considers container terminal price controls, aligned to controls that apply to wharfage and other regulated port charges, in response to excessive terminal access fee increases.

#### **CONTACT**

Enquiries to Travis Brooks-Garrett, Director- Freight & Trade Alliance (FTA) / Secretariat- Australian Peak Shippers Association (APSA) - [tbrooks-garrett@ftalliance.com.au](mailto:tbrooks-garrett@ftalliance.com.au)

---

### **1. Port Botany Rail Optimisation Group (PBROG)**

Section 4.1. of the plan commits to “increased collaboration between the freight industry and Government.” By “freight industry”, we hope that the NSW is seeking to serve the supply chain owners (our state’s importers and exporters) that drive the state’s economy.

FTA/APSA currently represents three of the largest stakeholders in NSW’s containerised port-rail supply chain. Not only are the three largest containerised exporters not represented on PBROG but there is in fact no representation of supply chain owners. Current members are exclusively infrastructure owners or infrastructure operators.

This imbalance of interests should be corrected, in line with the draft plan.

**Recommendation 1 - That the Port Botany Rail Optimisation Group (PBROG) is expanded to include representation from cargo owners, as per their Terms of Reference.**

## 2. Alignment of regulatory regimes

Over the course of the last five years, FTA/APSA has observed the vertical integration of stevedores into landside logistics. This includes:

- Qube, a 50% shareholder in Asciano, developing its Moorebank site and acquiring Maritime Container Services (MCS);
- DPWA's establishment of operations at the site of the former Sydney Haulage operation; and
- Linx, a 50% shareholder in Asciano via its ownership by Brookfield, securing the lease for Enfield.

FTA/APSA maintains a position that this type of vertical integration can deliver efficiencies and cost savings, only if open access regimes and fair pricing principles are observed and monitored.

Currently, the Moorebank facility is subject to Commonwealth control via a regulated access regime. This regulation captures “the requirement that the terminal is to be a common user facility available on reasonably comparable terms to all rail operators and other terminal users. It sets out the rules for reference and auxiliary services, application processes, capacity allocation, pricing, cost allocation, complaints, disputes and monitoring and enforcement.”

FTA/APSA would like to see a standard monitored open access regime similar or equal to the requirements set by the Commonwealth for the Moorebank Intermodal Company, for facilities that are essential to the Port of Botany port-rail supply chain.

Specific legislative powers exist for such regulation under Section 10B Part 2 Division 2 of the *Ports and Maritime Administration Act (1995) No. 13*:

*(1) The regulations may make provision for or with respect to any of the matters set out in Schedule 4 in connection with the operation or provision of land-based port facilities and services and the facilities and services of the port-related supply chain, in relation to the operation of the following ports:*

- (a) Sydney Harbour,*
- (b) Botany Bay,*
- (c) Newcastle,*
- (d) Port Kembla.*

While the draft plan speaks of “reduced regulatory burden for the freight industry”, the largest containerised exporters in NSW, regard this type of regulation as essential considering the changing competition landscape in port landside logistics.

The monitoring of open access is particularly important for port-rail services, where the barriers to entry are high, where the number of port-rail facilities is limited, and where some rural export supply chains are wholly dependent on affordable and non-discriminatory access to these facilities.

**Recommendation 2 - That Transport for NSW considers aligning the regulatory regimes applied to key port-rail facilities.**

### **3. Port of Newcastle**

FTA/APSA was surprised to note the exclusion of the Port of Newcastle as a possible location for a second container port in New South Wales. While we understand the competitive restrictions that exist under their lease terms, it is clearly the intention of the Port of Newcastle to open the operation to containerised trade.

While we recognise the political and legal challenges that this may entail, we also see benefits in intrastate competition between ports. While NSW Ports has strengthened its commercial and strategic alignment with the Port of Botany stevedores, we believe that a second option for Sydney and northern New South Wales cargo owners will place downward pressure on supply chain costs and may deliver increased service levels for our exporters.

**Recommendation 3 - That Transport for NSW addresses the prospect of containerised trade at the Port of Newcastle, particularly considering the recent ACCC Inquiry.**

### **4. Terminal price controls**

While the Port Botany Landside Improvement Strategy (PBLIS) is a benchmark for port regulation in Australia, the lack of oversight of terminal pricing is damaging the competitiveness of New South Wales exporters. Wharfage, as a prescribed port charge, is regulated as an effort to protect Australian importers and exporters. Terminal pricing should be regulated in the same way, with excessive increases observed in the last twelve months and further increases expected.

Many of the state's largest importers and exporters have made representations to all levels of Government in opposition to these charges.

The Australian Competition and Consumer Commission (ACCC) noted in its 2017 Container Stevedoring Monitoring Report that infrastructure charges "raise a number of issues for the port supply chain". While the ACCC performs a monitoring role, the responsibility to regulate these charges sits with the New South Wales Government.

With terminal pricing continuing to increase, with no caps or regulation or oversight, we believe that this behaviour poses a significant long-term risk to the viability of New South Wales's export supply chain.

In partnership with the major importers and exporters of the state, we would ask Transport for New South Wales to undertake a review of the practice.

**Recommendation 4 - That Transport for NSW considers container terminal price controls, aligned to controls that apply to wharfage and other regulated port charges, in response to excessive terminal access fee increases.**