



19 August 2022

DRAFT | Pricing Order Engagement Protocol

1. Introduction

Our Pricing Order Engagement Protocol (POEP) covers PoM's approach to consulting on regulatory matters under the Pricing Order and applies to PoM's consultation with Port Users as defined in the Pricing Order.

Our POEP is intended to be refreshed as required to reflect feedback received through consultation, research, the changing dynamics of stakeholders and projects, emerging trends and important innovations in engagement practice.

Our POEP promotes a culture within PoM that considers stakeholder perspectives, values engagement, recognises the diversity of interests in the port and supports the development of tailored engagement programs that address customer and business objectives. Appropriate and effective engagement will support PoM's responsibility to consult on investments in the port in a way that best serves our stakeholders and the State of Victoria as a whole. It will assist in delivering on our business and stewardship objectives and meeting the requirements of the regulatory framework.

Our POEP aims to fulfil two functions. First, it provides clarity on our approach to consulting Port Users on matters under the Pricing Order. Second, it articulates our consultation commitments and the process by which PoM incorporates Port User feedback into our decision making.

The POEP is not intended to limit the range of stakeholders that PoM will engage with, and PoM will continue to engage with stakeholders who are not Port Users where appropriate having regard to the subject matter of the engagement and the legitimate interests of those stakeholders.

2. PoM obligations

PoM is committed to meeting the obligations of our regulatory framework.

The **Pricing Order** is a regulatory instrument issued by the Governor in Council under section 49A of the *Port Management Act 1995* (Vic) (PMA) to regulate the setting of tariffs for prescribed services.

The Pricing Order came into effect on 1 July 2016 and was subsequently amended on 20 May 2020. The Pricing Order regulates the setting of tariffs for prescribed services, which relate to the provision of services by investing in wharves, berths and channels for shipping.

In relation to consultation, under the Pricing Order PoM must:

- submit a Tariff Compliance Statement setting out information to explain its prescribed service tariffs. Clause 7.1.2(d) states that a tariff compliance statement must: set out the process by which the port has effectively consulted and had regard to comments provided by Port Users.
- If submitting a Tariff Rebalancing Application, Clause 3.2.5 of the Pricing Order requires that, prior to making a Rebalancing Application, the Port Licence Holder must consult Port Users about its proposal to do so and provide a reasonable opportunity for Port Users to express their views to the Port Licence Holder.

The Essential Services Commission's Statement of Regulatory Approach: Port of Melbourne Pricing Order provides further guidance on these matters.

In addition to consultation, the regulatory framework includes a number of mechanisms through which the prudence and efficiency of PoM's investments will be considered. Including for example the annual Tariff Compliance Statement and the Essential Services Commission inquiry into the Port of Melbourne's compliance every 5 years.

3. Understanding Port Users

We value the relationships and interactions with all Port Users that inform our business strategy, daily operations and regulatory obligations under the Pricing Order.

The Pricing Order defines a 'Port User' as a 'person who requests or receives Prescribed Services', where prescribed services have the same meaning as in Section 49(1)(c) of the *Port Management Act 1995* (Vic).

Across the various Port User groups there will be varying interests, concerns and ideas. We respect the diversity of views, encouraging dialogue to understand different perspectives.

Having a good understanding of the various Port Users and their requirements is key to our consultation planning process. PoM's Pricing Order consultation will identify interested and/or impacted Port Users, and we will tailor our consultation to seek input and feedback accordingly.

4. Our Engagement Approach

PoM is committed to stakeholder engagement that is inclusive, timely, genuine and transparent. Our approach is guided by our commitment to comply with our regulatory obligations, and our intent to listen to and be responsive to our stakeholders. We will always seek opportunities to strengthen our engagement over time.

Our approach to Port User consultation reflects key external consultation guidelines, standards and principles including the IAP2 Spectrum of Public Participation and the Victorian Auditor General's Office (VAGO) Public Participation in Government Decision-Making: A Better Practice Guide.

Our approach is also guided by the requirement for each consultation to meet the needs of our business and Port Users and is adapted to support input from Port Users.

PoM develops tailored stakeholder engagement plans for each material project outlined in the Port Development Strategy and other substantive operational matters that may have an impact on Port Users, customers and the surrounding community. Each engagement plan is developed to ensure it is commensurate to the scope and scale of the relevant project.

PoM recognises that engaging stakeholders in our planning process leads to informed decision-making that balances the needs and interests of relevant parties. PoM’s engagement will reflect the context and stakeholder needs on each.

4. Our Regulatory Consultation Process

The following steps of consultation have been identified with key matters for PoM to consider as part of its Pricing Order consultation compliance.

Step	Our Approach
<p>Identify consultation need</p>	<ul style="list-style-type: none"> • Identify Port Users and their particular consultation needs to meet our Pricing Order obligations. This may include stakeholder mapping and reviewing feedback on previous engagements. • Clearly articulate consultation goals and desired outcomes. • Undertake risk assessment relevant to the nature and scale of the consultation to identify issues and opportunities for Port User participation. • Applying lessons learned from previous Pricing Order consultation activities in the next consultation program where relevant.
<p>Plan consultation approach</p>	<ul style="list-style-type: none"> • Identify and articulate priority matters relevant to the Pricing Order that might have a significant impact on Port Users. • Consider the level of interest the Port User will have on the matters under the Pricing Order and be clear on what we are seeking feedback about and how we will use that feedback (negotiables and non-negotiables). • Consider Port User history including, level of knowledge, previous consultation, and likely understanding of concepts. • Tailor the form of consultation to suit the matter on which PoM seeks to engage. • Prepare a consultation plan that: <ul style="list-style-type: none"> – Allows appropriate consultation when proposals are still at a formative stage – Considers consultation channels and materials appropriate to the level of consultation. • Structures consultation to provide Port Users with a reasonable opportunity to participate.
<p>Implement consultation</p>	<ul style="list-style-type: none"> • On material matters and formal consultation programs: <ul style="list-style-type: none"> – Provide at least 2 weeks notice prior to commencement of consultation with the notice to be provided in a form appropriate to reaching Port Users – Provide at least 4 weeks for a formal consultation period. • Prepare materials for consultation to provide appropriate information to enable Port Users to make meaningful contributions, outlining the purpose, form and content of consultation. • Tailor key messages and materials to meet the needs of relevant Port User groups and individuals. This may include publishing technical reports or providing summary information on the matter on which PoM is consulting. • Develop communication and consultation material that is clear, accurate, and timely. • Establish mechanisms for feedback to Port User groups. This may include for example direct communications and feedback or producing reports to summarise the feedback received. • Capture evidence of consultation activities by maintaining records to include details of consultation activities including who was engaged and why, channels and materials used, dates and times, objectives of consultation, what was discussed and issues raised, and details of the feedback.

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Port User Feedback	<ul style="list-style-type: none"> • When being consulted, Port Users will be requested to provide feedback, either written or via alternative acceptable means, through each consultation activity. • Opportunities to provide feedback through channels other than written submissions will also be considered and provided where appropriate.
Consideration and Decision Making	<ul style="list-style-type: none"> • PoM will consider feedback obtained during its consultation activities and any written responses to determine how feedback might inform decision making. • PoM will publish a stakeholder consultation report for each material matter of consultation or detail through its annual TCS details of its consultation with Port Users, including a summary of the issues raised and feedback received from Port Users, and details of how PoM has considered the views of Port Users in making decisions. • When Port Users have made a substantive written submission to Pricing Order consultations, PoM will provide a response outlining how PoM has had regard to the feedback in its decision making. This may include for example in relation to investment decision making. • PoM will keep the Secretary of Department of Transport and Secretary of Department of Treasury and Finance informed about any material feedback it receives and how that feedback has been considered.

5. Treatment of commercially sensitive information

PoM recognises the commercially sensitive nature of some information it may receive as part of port consultation processes, particularly those matters relevant to the capital investment program under the Pricing Order. PoM will use best endeavors to maintain the confidentiality of such information. Where Port Users provide PoM with commercially sensitive information which PoM considers should be part of the consultation process, we will seek to work with those relevant Port Users with the aim of facilitating the public provision of some form of the information or an appropriate high-level summary to allow for broader consultation on that information.

6. Complaints

We commit through this Protocol to a process for Port Users to make formal compliance enquiries or complaints to us about our compliance with this Protocol. PoM encourages Port Users to raise any matters of compliance concern with PoM in the first instance to provide an opportunity for discussion, exploration, clarification and rectification.

These can be emailed to rts@portofmelbourne.com setting out the elements of this Protocol that the Port User considers have not been complied with and the reasons for the enquiry or complaint. Port Users may also make an enquiry about what constitutes compliance, where this is unclear or in question.

If a written reply is requested, we will acknowledge receipt within 5 Business Days and take no more than 10 Business Days to respond to an enquiry or complaint. Our response will address the substance of the enquiry or complaint or set out a date when a reply will be provided if the enquiry or complaint is complex.