

Port of Melbourne



Port of Melbourne Rail Operations

Port Rail Key Principles

Classification: Public Document

Approval history

| Version | Date | Name | Title |
|----------------|---------------|----------------|---------------------------|
| 1.0 | 24 April 2020 | Caryn Anderson | Executive General Manager |
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1 Background

Port of Melbourne's (**PoM**) objective is to deliver world class, safe, responsible and reliable port facilities and services and play its part in delivering an efficient freight supply chain to support Victoria's growing economy, including the efficient movement of goods within Melbourne and Victoria, together with a workable metro rail freight solution.

To support this objective, PoM is developing an open access operating framework for rail terminals within the Port Precinct tailored to the requirements of Port Users.

The operating framework is intended to optimise the following outcomes in accordance with good industry practice:

- (a) Open and Non-Discriminatory Access for Port Users at port rail terminals and container interchange facilities;
- (b) removing cost out of the port rail supply chain, with a view to promoting competition between rail and road transport to and from the Port Precinct;
- (c) expeditious, efficient, timely, flexible and commercial negotiations of access agreements in good faith between Port Users and port rail terminal operators;
- (d) the long term competitiveness of the Port of Melbourne¹ and port rail terminal operators;
- (e) the efficiency of port rail terminals and the Port of Melbourne;
- (f) Port Users acting in good faith and in accordance with legitimate commercial interests in directly or indirectly seeking access to port rail terminals; and
- (g) volume growth in rail transport at the Port Precinct in support of the State's rail mode shift target.

(Port Rail Access Principles).

PoM acknowledges that the State's rail mode shift target is not an individual target of each rail terminal.

PoM may review (including seeking stakeholder feedback on) the open access operating framework every five years and may amend the operating framework (including the Port Rail Access Principles).

2 Framework Structure

PoM will enter into a rail operating licence and rail management agreement with each rail terminal operator. Subject to the terms of these documents (including their schedules), Port Users (such as rail service operators) and rail terminal operators will be able to freely negotiate access.

The rail operating licences will govern tenure.

The rail management agreements will bind rail terminal operators to the Port Rail Access Principles and PoM's Capacity Allocation Protocol, and impose certain contractual requirements upon rail terminal operators to give effect to the operating framework, such as dispute resolution, key performance indicators and PoM oversight (including requiring the rail terminal operator to provide information necessary for PoM to assess compliance and port rail terminal performance).

¹ the Port of Melbourne includes international container terminals and the port supply chain.

The rail management agreement will contain a number of schedules mandating minimum operational requirements that rail terminal operators must comply with. These schedules will include each of the following (which rail terminal operators will be required to publish):

- (a) terminal access arrangement, which will identify the services provided by the port rail terminal, set out the process for a Port User to obtain access and contain detailed access obligations (including Open and Non-Discriminatory Access, minimum service levels, pricing mechanisms and dispute resolution procedures);
- (b) terminal operating protocol, which will set out the operational requirements for each port rail terminal (including safety procedures, lift procedures and container transfer mechanisms); and
- (c) standard access arrangement, containing the reference service offering that the rail terminal operator must offer to provide (which Port Users and rail terminal operators can negotiate away from if the Port User wishes to).

3 Key requirements of operating framework

3.1 Open and Non-Discriminatory Access

Port Users will initially confirm rail path availability with related rail network managers, and then agree corresponding port rail terminal access with rail terminal operators that fit the criteria of network path availability. Each rail terminal operator must agree to provide Open and Non-Discriminatory Access at its port rail terminal and container interchange, including:

- (a) not unreasonably favouring themselves or another person in a way that unreasonably adversely impacts any Port User's ability to access the Licensed Area to meet the Port User's legitimate commercial needs;
- (b) offering to provide Port Users with Services on standard terms and conditions, which are to be applied in a consistent manner to all Port Users, or offering to provide Port Users with Services through an Access Agreement on terms agreed with that Port User in accordance with the Pricing Principles;
- (c) acting reasonably in providing a Port User with Access to a Window at the rail terminal that aligns with the Rail Path secured (as evidenced by a Port User) and not unreasonably preventing or hindering Access;
- (d) consistently and reasonably exercising its discretion not to allow Access to rail terminal services for any Window allocated to an Access Holder who operates an Unhealthy Train if such Access has the potential to adversely affect other Trains to which a Window has been allocated by the rail terminal operator; and
- (e) being transparent in the manner in which it provides Access, including allocation of Windows, service levels and Reference Prices – this includes publishing a Schedule and Reference Prices on a public website,

(Open and Non-Discriminatory Access).

3.2 Pricing Principles

Rail terminal operators' pricing will be reasonable, including by a rail terminal operator ensuring:

- (a) Reference Prices and Access Charges are consistent with the Port Rail Access Principles and are reasonable in light of all relevant factors, including:

- (i) reflecting operations of an efficient terminal that operates with optimal lifts and storage requirements;
- (i) incorporating a return on investment commensurate with the commercial risks involved; and
- (ii) not incorporating costs otherwise incurred, recovered or that should be borne by third parties (including PoM, the State and related businesses of the RTO); and
- (b) Access Charges allow multi-part pricing and price discrimination when it aids efficiency and competition, but only where differentiation of Access Charges reflects:
 - (i) differences in costs (direct or indirect) of supplying the relevant services;
 - (ii) differences in risks associated with the supply of relevant services;
 - (iii) demand for the services and prevailing market conditions at the time of entering into the relevant agreements; or
 - (iv) discounting pricing behaviour of the RTO that is consistent with outcomes in a competitive environment,

(Pricing Principles).

3.3 Complaints Handling

The RTO will develop and implement a procedure to address complaints within a reasonable time. PoM will be notified within 5 Business Days of any complaints that are escalated to senior representatives of the parties and/or expert determination.

3.4 Reporting and audits

PoM may collect key information from each rail terminal operator to allow periodic reviews of the effectiveness of each port rail terminal and the Port Rail Access System. PoM will agree with rail terminal operators as required to implement any changes reasonably necessary to increase the effectiveness of the Port Rail Access System in accordance with the Port Rail Access Principles.

Nothing in this clause 3.4 would require RTO's to disclose commercially sensitive information of itself or a Port User. Furthermore, RTO's are not obliged to disclose commercially sensitive information to a Port User under the Pricing Principles.

4 Port rail access

- (a) PoM (or its subcontractor responsible for management of the port rail network) (the **Port Rail Manager**) (currently ARTC) will not provide access to the on-port rail area unless Port Users comply with the following principles:
 - (i) not hoarding off-port rail paths, complying with any off-port use it or lose it obligations, including voluntarily giving up off-port rail paths if they are not being productively used and not gaming off-port rail (**Off-port Access Principles**);
 - (ii) holding all appropriate licences and accreditations, including any necessary interface agreements; and
 - (iii) negotiating a relevant Train slot / window at a port rail terminal that aligns with a corresponding off-port rail path.

- (b) Where a Port User has been provided with access to on-port rail, this access may be revoked where the Port Rail Manager considers that the Off-port Access Principles have been breached.
- (c) The Port Rail Manager will use reasonable endeavours to provide and make available the common user tracks and Train staging infrastructure deemed necessary to buffer port rail terminal activities from rail path availability.