MINERALS COUNCIL OF AUSTRALIA

MCA SUBMISSION TO THE PRODUCTIVITY COMMISSION INQUIRY INTO THE LONG-TERM PRODUCTIVITY OF AUSTRALIA'S MARITIME LOGISTICS SYSTEM

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EXECUTIVE SUMMARY

Mining is Australia's largest exporter and industry, the biggest company taxpayer and investor in infrastructure and equipment, and the world's largest exporter of minerals and metals.

In 2021 Australia's resources exports totaled $351 billion or 68 per cent of total export revenue, demonstrating that the prosperity of the Australian economy and people is closely tied to a productive and sustainable mining industry.

The Australian mining industry relies on an efficient, well connected national freight system, incorporating air, rail, road and sea, which enables the reliable and cost effective import, export and transport of goods across the nation's vast distances.

However, participants in the mining industry have over the past year experienced challenges in their input supply chains that have resulted in uncertainty and added costs, leading to significant project cost increases and delays in some cases, for example:

- A mining project was delayed by 40 days with a 22 per cent cost increase due to a break-bulk shipping provider reducing its services to charter only services
- The lead time to order haul trucks from a supplier increased to 15 months with cost increases of 12-15 per cent
- An importer estimated berthing delays and demurrage expenses in Western Australia had cost its business $2 million.

The MCA also understands that many suppliers to the mining industry have told their mining company customers that they are absorbing costs and finding workarounds in response to these challenges while foreshadowing that higher costs will increasingly need to be passed on.

The MCA recognises that global factors beyond the Australian Government's control are the most significant causes of current supply chain disruptions and delays. This includes congestion at major global ports outside Australia and a global container and pallet shortage.

Domestic regulatory settings can support a modern, resilient and connected national freight system by providing for efficient domestic ports, incremental workplace relations reforms, simplified regulation of coastal shipping, reduced congestion, infrastructure investment and improved supply chain coordination.

The freight system is best regarded as an integrated and interlinked system of which the maritime logistics system is one part. Accordingly, reforms and investments should be considered where cost-benefit analysis can demonstrate whole-of-system efficiency and productivity improvements.

The MCA welcomes the opportunity to provide this submission, which identifies impacts of recent supply chain disruptions on the mining industry and makes recommendations aimed at improving the performance of the national freight system.

RECOMMENDATIONS

Australian governments should direct sustained efforts towards ensuring the national freight system is resilient, well connected and internationally competitive through:

- Continuing to carefully monitor stevedore charging practices including increases in terminal access charges and to implement economic regulation where voluntary compliance is not delivering globally competitive and fair pricing
- Pursuing incremental workplace relations reforms to improve port efficiency, including confining permitted content over which protected industrial action can be taken to matters that directly affect employers and employees
- Progressing initiatives aimed at improving the connectedness and harmonisation of logistical and price data which can be harnessed to inform policymaking
- Reforming coastal shipping by introducing a single permit system that allows competitive trading conditions and subjects all vessels to the same conditions of access and operation
- Supporting the mobility and availability of appropriately skilled transport and maritime workers
- Practical measures to reduce congestion at urban ports such as incentivising rail, removal of road transport curfews and securing land for warehousing and distribution
- Providing a principled framework for investment in infrastructure that:
    - is guided by industry consultation and sound economic analysis
    - improves the overall performance of the national freight system
    - is calibrated to not create unnecessary costs on system users
    - considers and allows for the importance of resilience to disruption

IMPACT OF RECENT SUPPLY CHAIN CHALLENGES ON MINING

Pandemic-related shortages are driving up manufacturing costs

Supply chain challenges have primarily been driven by pandemic-related supply and demand dynamics that have pushed up manufacturing costs and lead times.

For example, global steel demand skyrocketed from September 2020 due to government stimulus, while global steel production reduced due to COVID challenges.

Combined with energy shortages in China and Europe these challenges have also put pressure on other manufacturing supply chains.

Freight uncertainty has caused cost blowouts and delays on some mining projects

Mining companies seeking to transport large pieces of equipment and infrastructure including structural roof supports for mines, chemicals and haul trucks have in a few cases had shipments delayed or cancelled requiring alternative options to be found at higher cost and causing project costs and timelines to increase (see Box 1 below).

Flooding in January 2022 which has disrupted freight services from Australia's eastern states to Western Australia and the Northern Territory further demonstrates that where one mode of transport fails, alternative freight paths can be difficult to find at reasonable cost. This has underlined the need for increased capacity to switch between modes of transport including through investment in intermodal infrastructure and liberalised coastal shipping.

Box 1: Selected examples of freight cost and disruption impacts affecting the mining industry

Minerals industry participants have provided the MCA with examples of how supply chain costs are impacting their businesses:

- A large mining company was affected by delays and cost increases on two major projects due to its shipping provider changing its global shipping strategy, resulting in the shipping provider reducing its regular break-bulk shipping services to Australia. One project had a cost impact of 8 per cent and a delay of 30 days, while another project had a cost impact of 22 per cent and a delay of 40 days. Re-handling, storage, insurances, additional inland freight and port changes to reduce loading delays contributed to the increased costs.
- A mining company was affected by cost and lead-time increases for haul trucks. In mid-2021 it was possible to arrange for the import of mining trucks to Australia with little delay – but in the fourth quarter of 2021 the same trucks had a 15-month lead time for construction and shipping, with cost increases of 12 to 15 percent
- A large mining company commented on the high cost of coastal shipping in Australia along some routes. In October 2021 it sought to ship a container along the eastern seaboard. The cost of shipping the container was double the cost of shipping the same container to China
- An importer estimated that berthing delays and demurrage expenses in Western Australia had resulted in cumulative costs of $2 million on its business
- At least five iron ore and gold mining companies in Western Australia were impacted by industrial disruption at the Port of Fremantle resulting in delays to the receipt of mining equipment, including spare components, haul trucks, wheel loaders and dozers

Global shipping disruption is slowing manufacturing

Cost pressures and disruptions to manufacturing around the world have also been compounded by increases in the cost of global shipping, reduced shipping schedule reliability and blank sailings:

- The average cost of shipping a 40' container peaked at over US$10,000 in mid-September. As at 3 February 2022 it remains at least 79 per cent higher than a year ago[1]
- Shipping schedule reliability is approximately 33-40 per cent, with surcharges being routinely applied to guarantee delivery[2]
- Mining Equipment Technology and Services (METS) companies have reported container shipping costs rising by a factor of 4 to 5.

For example, Caterpillar Inc., a major supplier of mining equipment, has reported last year that transportation shortages resulted in delays and increased costs and that its suppliers were dealing with availability issues and freight delays, leading to pressure on production in its facilities.[3]

The MCA recognises that while container costs have been high, the impact is uneven as many enterprises manage their exposure to freight cost increases through contractual arrangements.

[1] Drewry, *World Container Index* viewed 3 February 2022.
[2] Sea-Intelligence, *Global Liner Performance (GLP) report*, issue 124, 27 December 2021.
[3] Caterpillar Inc., *Quarterly report for the period ended 30 September 2021*, p. 50.

IMPROVING THE PERFORMANCE OF THE NATIONAL FREIGHT SYSTEM

- Australia's port performance and landside distribution networks could be improved to attract more global shipping and improve the nation's competitiveness
- The minerals industry supports further examination by the Productivity Commission of competition and regulatory settings that apply to stevedores
- The Australian Government should pursue workplace relations reforms to 'permitted content', liberalise coastal shipping, support practical measures to reduce congestion around ports and infrastructure investment and improvements to data systems among other initiatives

Improving Australia's port performance

The MCA considers that seeking improvements in port productivity and efficiency in Australia should be a priority for government.

In 2021, IHS Markit in collaboration with the World Bank produced the Container Port Performance Index report. The index provides a comparable assessment of 351 container ports around the world and shows that in 2020 Australian container ports ranked well towards the bottom.[4]

The index measures port performance based upon the total amount of time ships are required to spend in port. Although time spent in port is only one of many factors affecting port performance, it is arguably the most important. Despite the restricted nature of the assessment, IHS Markit has applied a robust approach and methodology to produce an objective basis for comparison.

Port efficiency shapes global shipping companies' decisions about the levels of service they provide to Australia and has an impact on the nation's competitiveness.

A careful examination must now be undertaken to determine whether sufficient competition exists between the four stevedoring companies that operate Australia's container ports, and how federal and state regulation can be optimised to increase port efficiency and reduce cost for end-users.

Workplace relations reforms

Rolling industrial action at Australia's ports over the past year has compounded global supply chain disruptions. Further, as the ACCC has recently highlighted, anti-competitive terms such 'family and friends' provisions have been demanded and included in enterprise agreements, undermining the ability of employers to manage their businesses efficiently and invest in productivity improvements.

The Australian Government must continue to pursue incremental workplace relations reform with a focus on improving productivity. For example, the MCA has held a longstanding position that the 'permitted content' over which protected industrial action can be taken should be confined to matters that directly affect employers and employees. This position, consistent with the view of the Productivity Commission, would discourage the insertion of clauses in enterprise agreements that restrict the fundamental right of an employer to manage its own business, or which have little to do with employer-employee relations.[5]

Specifically, the Australian Parliament should:

- Amend the phrase 'matters pertaining to' the relationship between an employer and employees in section 172 of the *Fair Work Act 2009* to 'matters directly related to'

[4] IHS Markit / The World Bank, *The Container Port Performance Index 2020*, published 2021.
[5] Productivity Commission, *Workplace Relations Framework: Inquiry Report, Volume 2*, Canberra, 21 December 2015, pp. 683, 820.

- Amend section 194 of the Fair Work Act to include an express prohibition on enterprise agreement terms that unreasonably interfere with legitimate business decisions or restrict an employer's capacity to choose an employment mix suited to its business
- Remove matters pertaining to the relationship between an employer and a trade union from the range of permitted matters in enterprise agreements under section 172 of the Fair Work Act
- Amend section 409 of the Fair Work Act to delete the inclusion of a 'reasonable belief' that a claim in relation to an agreement is about a permitted matter.

Addressing congestion in the landside distribution system

Port productivity should not be the only focus of policymakers – there are also bottlenecks in landside distribution networks. For example, the handling capacity of Port Botany's container terminals has been assessed as being at least 7.2 million twenty-foot equivalent unit (TEU) per year.[6] Yet the port handled only 2.6 million TEU in 2019, in part due to Sydney's road congestion and relatively low container movement via rail freight.

While the NSW Port Authority has prioritised increasing the movement of containers by rail at Port Botany, the share of rail continues to decline – road transport continues to be used to transport more than 80 per cent of Port Botany's container imports. Moreover, inefficient coastal shipping puts more pressure on land transport, notably trucks (on-road).

The MCA recommends practical measures directed at reducing road congestion, such as:

- Targeted government support to incentivise the use of rail rather than road transport
- Enabling road transport to occur at off-peak times through supporting the relaxation or removal of curfews, as was authorised temporarily during the early stages of the COVID-19 pandemic
- Motivating and working with state governments to identify and secure land for warehousing and distribution to accommodate the shift away from 'just-in-time' supply chains to 'just in case' supply chains that has emerged from the pandemic.

In the medium term, investments to expand and connect regional ports, such as Gladstone and Port Kembla, will need to be made to meet the growth in the national freight task. The MCA would be supportive of such investments on the basis that they:

- Is guided by industry consultation and sound economic analysis
- Improve the overall performance of the national freight system
- Are calibrated to not create unnecessary costs on system users.

The recent Omicron wave of the COVID-19 pandemic has highlighted that access to a skilled workforce is also fundamental to supporting resilience and competitiveness of supply chains. Disruptions to global and domestic supply chains, combined with shortages of train drivers and maritime workers has reduced productivity across the economy. The MCA recommends continued industry led skills reform supported by government, expansion of mutual recognition of occupation licencing and initiatives to boost workforce diversity and participation.

A single permit system for coastal shipping

The Australian mining industry is the largest user of coastal shipping and supports the development of an internationally competitive regulatory framework that enables the coastal shipping industry to operate effectively, efficiently and in the national interest.

[6] NSW Ports, *Navigating the Future: NSW Ports' 30 Year Master Plan*, October 2015, p. 44.

The introduction of the *Coastal Trading Act 2012* reduced competition in the coastal shipping industry and saw an increase in the domestic costs of coastal shipping. Whereas the previous licensing regime allowed both Australian and foreign-flagged ships to engage in coastal trade, the current regime discriminates against foreign-flagged vessels and imposes onerous regulatory obligations.

The result has been a decline in coastal shipping's share of the national freight task and in the competitiveness of the freight industry overall. Road and rail now dominate domestic freight while coastal shipping has remained flat in terms of tonne-kilometres transported each year.[7]

Policy settings that require the use of specific flagged or crewed vessels or cabotage can also constrain the management reducing flexibility in the management of shipping schedules.

There are high opportunity costs in the failure of coastal shipping regulations to stimulate domestic shipping, but improvements to the regulation of coastal shipping have the potential to contribute more to a competitive and resilient domestic freight industry.

The minerals industry supports reforms that were proposed in the Shipping Legislation Amendment Bill 2015, which would introduce a single permit system allowing competitive trading conditions for all vessels and subjecting all vessels to the same conditions of access and operation.

Enabling more connected data

Freight is an integrated system that depends on coordination between different actors in the supply chain. However, while logistical data is collected at many points, it is clear that there is potential to improve supply chain efficiency through harmonising data standards and enabling data sharing.

A report by iMOVE Cooperative Research Centre found that 'there are multiple freight data standards and information systems in use across industry, many unable to communicate with each other'. The research points to a fragmented data environment information is collected in systems that do not communicate with each other.

The Australian government can play a significant role in encouraging the harmonisation of freight data systems and standards through engaging stakeholders to work towards real-time freight data exchange and visibility.

The MCA acknowledges the initiatives already underway, including the establishment of a National Freight Data Hub prototype website.

The MCA expects that the demand for reliable supply chain data will only increase as industries, including mining, continue to improve their reporting systems to provide more transparency to stakeholders on a wide range of metrics.

Preventing monopolistic behaviour of ports and improving inter-port competition

In its recent stevedoring monitoring report, the ACCC highlighted that 'container ports in Australia are regional monopolies and, in the absence of appropriate regulatory oversight, have the ability to extract monopoly rents from port users who are unable to choose to go to an alternative port'.[8]

The MCA recognises that there is currently little opportunity to develop market competition between Australia's major ports, with each port servicing a major city. The risk of monopolistic behaviour can (and in most cases is) addressed through price monitoring, while reserving the right to impose more comprehensive economic regulation.

Over the medium term, arrangements such as that at the Port of Newcastle (Box 2) will need to be addressed to ensure more ports can provide container services and can be connected to the national freight system.

[7] BITRE, *Australian Infrastructure Statistics Yearbook 2020*, p. 69.
[8] Australian Competition and Consumer Commission, *Container stevedoring monitoring report – 2020–21*, released October 2021, p. 28.

Box 2: Anti-competitive arrangements prevent the Port of Newcastle from handling containers

During 2013 and 2014 the NSW Government privatised Port Botany, Port Kembla and the Port of Newcastle. As part of these privatisations the NSW Government entered into 50-year port commitment deeds with NSW Ports Operations Hold Co Pty Ltd and its subsidiaries Port Botany Operations Pty Ltd and Port Kembla Operations Pty Ltd (together: NSW Ports).

The effect of the privatisations and related deeds is that the operators of the Port of Newcastle must pay to compensate the operators of Port Botany and Port Kembla if container traffic at the Port of Newcastle is above a specified cap.

At the time of the privatisations this cap was 30,000 TEUs per annum adjusted by an annual growth rate. The amount of compensation is equivalent to the wharfage fee the port operators would receive if they handled the containers.

According to the ACCC this arrangement effectively doubles the cost of moving a container at the Port of Newcastle. Coal industry participants have also pointed to the fact that they remain concerned about the port using its market power to increase port access and service charges.

A federal court case brought by the ACCC against NSW Ports in 2018 was dismissed and is currently on appeal. The federal government has also resisted regulation, which could be achieved through a declaration by the Treasurer under Part IIIA of the *Competition and Consumer Act 2010*.

However, the fact remains that the cost imposed by the port commitment deeds are a long-term barrier to the development of a container terminal at the Port of Newcastle and to introducing more competition and capacity in the national freight system.

Supporting infrastructure investment and port connectivity

Ongoing infrastructure investment will be needed to meet the nation's growing freight task, which is expected to grow by 25 percent from 2018 to 2040.[9] The Australian government has a role to play in providing a consistent regulatory framework for funding that infrastructure.

The MCA's view is that infrastructure investments must be guided by industry consultation and sound economic analysis to ensure taxpayer resources are invested in projects which will benefit future generations.

Further, investments must better connect regional communities while being carefully calibrated to ensure that overinvestment does not lead to unnecessary costs on system users.

Finally, investments must be based on a 'whole of system' approach to ensure the investment improves the efficiency and resilience of the national freight system.

Possible investments that could be supported under such a framework may include:

- Connecting Inland Rail to Australian ports through investing in intermodal hubs and rail connections
- Ensuring new freight hubs such as Western Sydney Airport are fully integrated in the national freight system
- Investigating the viability of extending Inland Rail from Toowoomba to the Port of Gladstone.

[9] Bureau of Infrastructure, Transport and Regional Economics (BITRE) 2019, *Australian aggregate freight forecasts – 2019 update*, Research Report 152, p. 57.