

# DP World Australia / Patrick Freemantle dual runs authorisation

## Submission in reply to submissions from interested parties

### 1 Introduction

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- 1 The Australian Competition and Consumer Commission (**ACCC**) in considering the application of DP World Australia Limited (**DP World Australia**) and Patrick Stevedores Operations Pty Limited (**Patrick**) for authorisation of the Freemantle dual run proposal. A number of interested parties have made submissions to the ACCC regarding this application. Most of those submissions strongly support both the application for authorisation and the likelihood that the dual run proposal would result in net public benefits.
- 2 The purpose of this submission is to address certain matters raised by three interested party submissions, namely the submission of Mr Davies, the submission of the Custom Brokers & Forwarders Council of Australia Inc (dated 19 July 2010) and the submission of Jayde Transport (dated 6 August 2010). Section 2 sets out the stevedores' response to certain matters raised in those submissions.

### 2 Response to interested party submissions

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- 3 Mr Davies' submission suggests that the dual run proposal would advantage large road transport operators and disadvantage small or owner-driver operators. This is incorrect. All road transport operators, whether large or small, will have the opportunity to reserve port slots. The proposal is also expected to allow smaller operators, for whom dual runs are currently difficult, a greater opportunity to operate dual runs and to increase their number of slots. That is because a smaller carrier, which in general would only book a limited number of slots per day, will have a greater chance through port slots of being able to match slots to one truck trip.
- 4 The object of the dual run proposal is to provide this opportunity to operators who wish to engage in dual runs. For those operators who do not currently operate dual runs, the proposal will provide them with an incentive to adapt their business so that they are able to serve both import and export containers.<sup>1</sup> Although it may be that some operators will elect not to take up the opportunity, this opportunity is one they will have under the proposal which they are unlikely to have otherwise. For those operators that do not take up the opportunity of conducting dual runs, they will continue to be able to reserve slots in the usual manner.
- 5 The assertion in Mr Davies' submission that the dual run proposal formalises and legitimises potential for preferential treatment of P&O Trans Australia (**POTA**) and Patrick's land-side logistics businesses is also incorrect. There is no sense in which the dual run proposal formalises, or facilitates, potential preferential treatment of land-side logistics businesses in which the stevedores have an interest. The proposal does not

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cf. Western Australian Port Operators Task Force submission dated 5 August 2010; submission of DP World and Patrick dated 2 July 2010 at 9-10.

provide the stevedores with the ability or incentive to discriminate against road transport operators in which they have no financial interest.

- 6 The suggestion by Mr Davies that road transport operators could be persuaded to take up greater dual running through education and advertising is unsupported by evidence and inconsistent with the circumstances leading to this process.
- 7 The three major obstacles identified by the Forum (which is the group referred to in Section 3.2 of the stevedores' original 2 July 2010 submission) to dual running relate to difficulties in reserving slots and co-ordinating truck movements across the two container stevedoring terminals and the tendency of many road transport operators to focus on either import or export trade. There is no sense in which advertising or education would address these obstacles. Moreover, given that it was the Transport Forum WA Inc (which is Western Australia's peak road transport industry body) and the WA Government that approached the stevedores regarding the dual run proposal, it is likely that road transport operators are already aware of the desire to increase dual running, which suggests that education and advertising is unlikely to have any impact.
- 8 Contrary to Mr Davies' suggestion that the public benefits arising from the dual run proposed are 'dubious', there is overwhelming support from industry bodies (including the Road Transport Industry) and the WA Government for the dual run proposal, and the public benefits that are likely to result from it. A number of interested parties submissions acknowledge that significant public benefits are likely to materialise as a result of the dual run proposal:
- The Ports Australia submission dated 16 July 2010 states that dual running *'will promote increased efficiency and productivity in port operations and is an essential measure in enhancing port land-side capacity in the context of strong forecast compound growth in Australia's container trades ... and strong pressures on viable port land and on road and rail access corridors'*.
  - The Freight and Logistics Council of Western Australia submission dated 29 July 2010 refers to a number of public benefits that would result from the dual run proposal:
    - (a) the need to give Freemantle inner harbour the *'best chance of reaching full capacity going forward'* so as to avoid significant costs that would result from early development of outer harbour facilities;
    - (b) fulfilling this need means *'growth in port trucks must be held to something less than growth in port trade'* with one method of achieving this being promoting dual running;
    - (c) dual running would result in the community experiencing fewer port trucks;
    - (d) dual running means the Road Transport Industry has the potential to lower its operating costs; and
    - (e) dual running reduces the pressure for a premature move to the outer harbour.
  - The Western Australian Port Operation Task Force submission dated 5 August 2010 referred to the following public benefits that would result from the dual run proposal:
    - (a) increased truck utilisation means reduced truck traffic, improved safety and reduced noise and pollution;
    - (b) lower costs to the road transport industry;
    - (c) the opportunity to fully utilise the capacity of the inner harbour; and
    - (d) *'the response from carriers provides strong indication that a number of Port Slots would be taken up immediately and that adjustments to*

*structures and practices would follow once improved opportunities for two-way loading become available ...*'.

- The Transport Forum WA Inc submission dated 11 August 2010 refers to the following public benefits:
  - (a) reduction in operating costs for astute port operators;
  - (b) dual running is an essential and vital element in enabling larger vessels to be cleared in the same timeframe and turnaround times presently allowed for today's smaller vessels; and
  - (c) dual running is a strategy that must be tried to reduce road congestion.
- The letter from of the Minister for Transport; Disability Services dated 18 February 2010 states that:
  - (a) a key factor threatening the life of vital Freemantle Port infrastructure is *'the impact on the surrounding community of associated port truck activity'*; and
  - (b) he believes that the dual run proposal *'has the potential to significantly contribute to an outcome for Freemantle Port consistent with the best interests of surrounding community and associated government policy'*.

9 Although the expected public benefits of the dual run proposal have not been quantified with detailed empirical evidence (largely because this is not possible ex ante), there does not appear to be any doubt amongst relevant industry groups and government as to the public benefits likely to result from the proposal and that they are significant. As stated by the stevedores in their original 2 July 2010 submission, they understand that the Forum expects at least a reasonable proportion of empty trips would be eliminated by the dual run proposal<sup>2</sup>. Also, the Western Australian Port Operations Task Force considers that a number of port slots will be taken up immediately upon implementation of the proposal. This suggests there should be at least some immediate impact from the dual run proposal and a greater number of dual runs.

10 As to the CBFCA suggestion that the ACCC should authorise the dual run proposal for a time period shorter than the 5 years requested by the stevedores, DP World and Patrick disagree with this suggestion for at least three reasons. First, the stevedores need at least 5 years to justify the upfront investment in amending the VBS to facilitate implementation of the dual run proposal. Secondly, there is likely to be little, if any, public detriment as a result of the dual run proposal, which means there should be no reason why 5 years is not appropriate. Thirdly, the Road Transport Industry may need a number of years to adjust. A proper review of the impact of the dual run proposal may not be appropriate until at least 3 or 4 years has passed.

11 As to the matters raised by Jayde Transport in its submission dated 6 August 2010 relating to pricing of port slots, each of the stevedores has had a separate confidential discussion with the ACCC regarding pricing issues around port slots.

12 As to Jayde Transports questions regarding whether and when the stevedores will offer port slots, this matter was addressed in the stevedores' original 2 July 2010 submission. Although the stevedores would not be agreeing a minimum number of port slots, if any, that they would provide, the stevedores will have the incentive to provide port slots, given the interest of the WA Government and the Road Transport Industry in reducing truck congestion.<sup>3</sup>

13 As to Jayde Transport's question regarding the monitoring of the dual run proposal in practice, 1-Stop will record and collect data regarding the operation of the port slots

<sup>2</sup> Submission of DP Work and Patrick dated 2 July 2010 at 15.

<sup>3</sup> Submission of DP Work and Patrick dated 2 July 2010 at 13.

proposal. The WA Government asked that certain information be recorded for the purpose of assessing the success and impact of the dual run proposal over time, and the ability to record data and run reports on port slots has been scoped into the relevant implementation project with 1-Stop. Accordingly, it should be possible to review the performance of the port slots proposal over time.

- 14 In addition, the changes that would be made to the VBS to facilitate the dual run proposal will be based upon an open architecture. This means that other facilities (including empty container parks and future additional container terminals) would be able to be included on the VBS with port slot capability if that would assist in further improving the level of dual running.

Dated 10 September 2010.