



SUBMISSION

Statement of Regulatory Approach – Port of Melbourne Pricing Order

Submission to the Essential Services Commission

Australian Logistics Council
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Table of recommendations

- 1 Support upfront ESC assessment of major strategic projects before significant expenditure is committed.
- 2 Make clear which matters are settled through the upfront assessment and which remain open to later review.
- 3 Give clearer guidance on project variations and materiality without relying on one rigid financial threshold.
- 4 Set out the main information requirements before lodging an application. Keep further information requests targeted and proportionate.
- 5 Leave detailed tariff design and cost allocation to the later tariff consultation. The Statement should not favour one tariff structure in advance.
- 6 Require a clear link between approved project expenditure and any resulting tariff recovery.
- 7 Require transparent allocation of shared road, freight rail and common-user infrastructure costs.
- 8 Ensure consultation considers the wider supply chain, including cargo owners, transport operators, stevedores, intermodal terminals and regional users.
- 9 Keep ongoing reporting proportionate. An annual review would recreate the original prudency and efficiency assessment.
- 10 Consider the wider supply chain cost impact when future PCEP tariff arrangements are assessed.
- 11 Keep this consultation separate from any later assessment of PCEP's final scope, timing, cost or merits.

1. About the Australian Logistics Council

The Australian Logistics Council (ALC) is the national peak body representing Australia's supply chain logistics and freight transport industry.

Our members operate across the end-to-end supply chain. They include road transport operators, freight rail businesses, ports, stevedores, intermodal terminals, cargo owners, retailers, property businesses and technology providers.

ALC works with governments and regulators to improve supply chain productivity, resilience and investment.

2. Executive summary

ALC supports the broad direction of the Essential Services Commission's (ESC) proposed approach. It gives Port of Melbourne earlier regulatory certainty while giving users better visibility of the project need, scope and expenditure before major investment is committed.

Capacity needs to be planned before constraints emerge, but expenditure that flows into regulated charges still needs proper scrutiny.

The new framework applies to strategic projects with expected capital expenditure of at least \$500 million. For an approved Port Capacity Enhancement Program (PCEP) application, the Pricing Order also provides a pathway to recover approved project costs above the usual tariff adjustment limit.¹

¹ Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, pp. iii–2.

Upfront assessment should settle the main regulatory questions before significant capital is committed. Once approved, the Port should have enough flexibility to manage normal project delivery, including moving expenditure between years within the approved total project amount, provided the approved scope, standard, and overall project cost are not materially changed.

That certainty should not remove oversight. Material changes in scope, standard or expenditure should still be examined.

Tariff design should remain a separate step. Users should see how approved costs translate into future charges, but the Statement should not decide in advance who pays or how costs are allocated.

ALC's interest is the end-to-end outcome. Port costs move through road transport, freight rail, stevedoring, warehousing, distribution and cargo owners. The framework should support timely investment while keeping cost allocation transparent and open to proper consultation.

3. Upfront assessment of major projects

ALC supports this approach.

The Pricing Order amendments give the ESC a new role in assessing major strategic projects before investment occurs. Early assessment gives both sides something useful. Port of Melbourne gets greater certainty before committing significant capital. Port users get earlier visibility of investment they could ultimately help fund.

Port capacity also needs to be planned well ahead of demand. Port of Melbourne expects container trade to double over the next 30 years and is targeting additional capacity at Webb Dock North for 2036, subject to approvals and further stakeholder engagement.²

ALC supports planning early enough to avoid congestion or capacity constraints. But this submission should not be read as ALC endorsing the final scope, timing or cost of PCEP.

The ESC itself makes this distinction. The current consultation does not assess PCEP's merits, prudence or efficiency. The Port is expected to lodge its application in 2027.³

That later process is the right place to test the project itself. Plan early. Test the investment properly. Build when the evidence supports it.

4. Regulatory certainty, annual review and project delivery

The main benefit of upfront assessment is certainty.

The ESC proposes that an accepted application set out the approved project scope, standard and expenditure. Approved expenditure will then form part of the Port's aggregate revenue requirement and capital base.⁴

ALC supports that approach. Large infrastructure projects change during delivery. The final Statement should distinguish routine project delivery decisions from changes that warrant a fresh regulatory decision. Normal design, procurement and sequencing adjustments should be manageable within an approved scope and standard.

At the same time, certainty should not mean immunity from later scrutiny. If the project changes materially or expenditure moves above the approved amount, further review is appropriate.

The draft SoRA also proposes annual reporting through the tariff compliance statement on project progress, actual and forecast expenditure, updated forecasts and total project cost. ALC

²Port of Melbourne, Port Capacity Enhancement Program, accessed 12 October 2026, <https://www.portofmelbourne.com/facilities-development/port-capacity-enhancement-program/>.

³Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, Introduction.

⁴Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, pp. 4–5.

supports that transparency. However, the annual process should verify delivery against the approved scope, standard and expenditure envelope. It should not become an annual re-assessment of prudence and efficiency where the project remains within the approved framework. Further review should be reserved for material departures or expenditure above approved amounts.

5. Project variations and materiality

The ESC proposes to allow minor variations where they do not materially change project outcomes. It is also seeking views on whether clearer materiality thresholds are needed.⁵

ALC supports more guidance. We would not support one fixed percentage test.

Cost is important, but it is not the only measure of materiality. A relatively small cost change might alter who benefits from the project. A larger cost movement might leave the project outcome unchanged.

The ESC should assess whether a change affects the project's purpose, capacity, or operating standard; the users who benefit; the allocation of project costs; and expected tariff recovery.

The question should be whether the project remains substantially the project the ESC approved.

6. Information requirements and assessment timing

The ESC expects detailed supporting information for strategic project applications. This includes financial and demand forecasts, pricing impacts, business cases, cost-benefit analysis, project milestones, procurement and risk information. It also expects a Board attestation.⁶

That level of scrutiny is reasonable for a project of this scale. The Port should, however, know what the ESC expects before lodging its application.

ALC would be concerned if major information requirements emerged gradually during assessment. That creates uncertainty and risks delay.

The final Statement should therefore set out a clear core information set. The ESC should still seek further information where needed. Those requests should be specific and proportionate.

The ESC has up to nine months to complete its assessment once an application enters the formal process.⁷

Nine months is not necessarily excessive for infrastructure of this scale. But commercial decisions do not stop while the regulatory process runs. Procurement, financing, tender periods, and contractor availability all run on their own timelines.

ALC supports early regulatory engagement before formal lodgement. The aim should be to settle major information questions early, so the formal assessment period focuses on the regulatory decision.

7. Tariff transparency and tariff design

ALC supports clear and transparent cost recovery.

Port users should understand what they are paying for and how a charge relates to approved expenditure. ESC's proposed approach requires strategic project costs, including PCEP costs,

⁵Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, p. 8.

⁶Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, pp. 3–4.

⁷Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, pp. 4–5.

to be separately identified so the relationship between approved expenditure and tariff changes is visible.⁸

But the Statement should not favour one tariff structure before consultation occurs.

A separate levy might make a charge easier to see. That does not mean the allocation is fair.

The more important questions are who benefits, who pays and when the costs are recovered. Those questions need proper consultation.

ALC considers that these decisions should remain distinct. The strategic project assessment should test prudence and efficiency. Detailed tariff design and allocation should be addressed through later consultation and compliance processes.

8. Cost allocation and shared infrastructure

This is a central issue for ALC.

Major port investment does not sit neatly within one project boundary. Roads, freight rail, utilities, systems and common-user infrastructure often support both new investment and existing operations.

The ESC expects strategic project expenditure to be separated from unrelated works and business-as-usual expenditure. That makes sense.

Shared infrastructure is harder. The final Statement should require a clear and transparent approach to those costs.

The allocation should reflect why the expenditure occurred and who benefits. Current users should not automatically pay for infrastructure built mainly for future capacity. Future users should not automatically carry every cost where existing users also receive a clear benefit.

The Pricing Order already contains cost allocation principles that the ESC assesses Port of Melbourne against. ALC is not asking the ESC to replace those principles or determine future allocations through this Statement. The final approach should apply the existing framework transparently and make the basis for any allocation of strategic-project costs clear and open to scrutiny.

9. Consultation and wider supply chain impacts

ESC expects Port of Melbourne to show how it consulted users and how it considered their feedback. ALC supports that requirement.

For a project of this scale, consultation should reach beyond Port of Melbourne's direct customers. The consequences of a tariff increase do not necessarily remain with the business that receives the invoice.

Road transport operators, freight rail businesses, Stevedores, intermodal terminals, cargo owners, exporters, importers and regional businesses all have an interest.

That does not mean every stakeholder needs to agree. It means the ESC and Port of Melbourne should understand where the costs and benefits ultimately fall.

ALC has consistently supported infrastructure charging that is fair, transparent and linked to the way infrastructure is used and funded.⁹

Future PCEP charges will sit alongside existing transport and infrastructure costs. The ESC does not need to regulate every supply chain charge through this process. It should, however,

⁸Essential Services Commission, Statement of Regulatory Approach – Port of Melbourne Pricing Order: Consultation Paper, 21 September 2026, Appendix A.

⁹Australian Logistics Council, Implementing a Forward-Looking Cost Base for Heavy Vehicle Charges, submission to the National Transport Commission, 12 June 2026.

understand whether PCEP cost recovery materially affects freight costs, modal competitiveness, or trade competitiveness.

10. Keep the PCEP decision separate

ALC supports long-term planning for additional port capacity. We also support timing investment to demonstrated need.

The current consultation is about the regulatory process used to assess strategic projects. It is not the final decision on PCEP.

ALC will remain disciplined on that point. We will not use this submission to endorse the eventual project scope, timing or cost.

Victoria needs to avoid late investment that creates congestion and capacity constraints. It also needs to avoid asking supply chain users to fund materially earlier than necessary without a sound economic case.

The later PCEP assessment should test that balance.

11. Conclusion

ALC supports the direction of the ESC's proposed Statement of Regulatory Approach.

Upfront assessment should give Port of Melbourne more certainty when planning major infrastructure. It should also give users greater confidence that expenditure has been independently tested before it enters regulated charges. Both outcomes are important.

The final Statement should provide clear boundaries around what the ESC settles upfront and what remains open to later review. It should allow Port of Melbourne to manage normal project delivery without unnecessary regulatory uncertainty. It should retain scrutiny of material changes and additional expenditure.

On tariffs, ALC supports transparency but does not support deciding the allocation question early. The Statement should show how approved expenditure connects to future tariff recovery. The later tariff consultation and compliance process should determine how those costs are allocated.

That distinction matters because Port of Melbourne is part of a much larger system. Costs created at the port flow through road transport, freight rail, stevedoring, warehousing, distribution and cargo owners.

ALC therefore wants a framework that supports Port of Melbourne in investing when needed, while protecting the efficiency and competitiveness of the broader supply chain logistics and freight transport system.