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9 June 2017

Mr Justin Martyn
Director
Utilities Commisison Northern Territory

Level 14, Charles Darwin Centre 19 The Mall
DARWIN NT 0800

Dear Mr Martyn,

Feedback on Draft Port of Darwin Access Policy Rev C, Standard Terms and Reporting Guidelines

Thank you for the opportunity to comment on the third public draft of the Access Policy for the Port of Darwin ("the Policy"), the second public drafts of the Services Standard Terms and Conditions (Services Terms) and Payment Standard Terms and Conditions (Payment Terms) and the first public draft of the Reporting Guidelines.

The amendments to the Policy and Standard Terms drafts to date have closed out INPEX's material concerns. Further refining comments for consideration follow.

Access Policy

1. 1.1(c). INPEX appreciates Darwin Port Pilotage Services Pty Ltd (DPS) being identified as the provider of the prescribed service of pilotage and understands the intent. The Policy is 'of' the Port Operator and therefore appears to only bind Darwin Port Operations. The definition of Port Operator does not include DPS. It is suggested that the Policy be refined to include DPS within the definition of Port Operator where it is applicable to the delivery of pilotage services.
2. 6.5.(a). For consistency suggest that this clause requires an Applicant to submit a statement to comply with the dispute resolution process at Clause 7 vice just to submit to arbitration.
3. General. Where the Policy refers to a period required for payment, ideally it would either point to the Payment Terms, or indicate that the period for payment is triggered by the issue of a tax invoice by the Port Operator.

Standard Services Terms and Conditions

1. Clause 9(d). INPEX suggests this clause be amended to require the User to provide the Port Operator, upon request, evidence of insurances via a certificate/s of insurance. A certificate, vice whole policy documents, as evidence is more commonly the industry standard. The whole policy is only relevant to the holder of the insurance and may also contain sensitive commercial information.

Payment Terms. INPEX has no further comment at this time on these Terms.

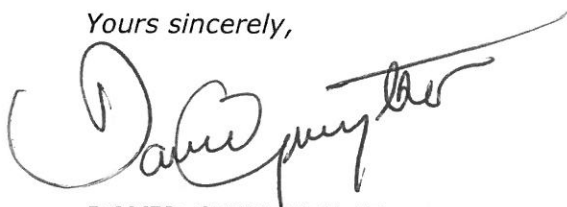
Reporting Guidelines

1. *The guidelines leave the interpretation of a 'material non-compliance' with the Port Operator. It is suggested that high level guidance is provided to assist the Port Operator and User to understand what is a 'material' non-compliance.*
2. *INPEX notes that reporting is up to the Port's judgment. Is an audit function available to the Regulator to assure compliance and access on reasonable terms?*
3. *Suggest all non-compliances are reported. In this way data is collected on the operation of the legislation and the Access Policy. For example, there may be no material non-compliances but many, minor non-compliances which could indicate what otherwise would be unknown problems. Rather than the detailed reporting associated with a material non-compliance, suggest a system of categorisation of minor non-compliances to order the data and keep administration for the Port Operator to a reasonable minimum.*
4. *For similar reasons to 3, it is suggested the Port Operator report the number and category of Access Application and Access Agreement disputes; where they refer to access and standard terms issues vice commercial issues. This would be a further useful measure of the operation of the legislation and Access Policy and whether Users believed there were obtaining access on reasonable terms.*

I have discussed the comments above regarding the Access Policy and Standard Terms with the Port CEO. Provided no material changes are made to the Policy and Standard Terms drafts, INPEX is comfortable to leave the final aspects of issuing the Policy and refining terms, if any, with the Regulator and Port.

INPEX thanks the Regulator and Port for the constructive engagement during the development of these documents.

Yours sincerely,



DAVID GWYTHYER JP

Deputy General Manager - Darwin

CC.

Mr Michael Tennant, CE Department of Trade, Business and Innovation

Ms Anne Tan, GM Strategic Infrastructure and Major Projects

Mr Terry O'Conner, CEO Darwin Port Operations Pty Ltd