

DRAFT THREAT ABATEMENT PLAN FOR THE IMPACTS OF MARINE DEBRIS ON VERTEBRATE MARINE LIFE PORTS AUSTRALIA SUBMISSION

Ports Australia welcomes the opportunity to comment on the draft plan published by the Department of Environment and Energy (DEE). Ports Australia appreciates DEE's engagement with industry on this matter and has aimed to provide constructive views in regards to issues in the draft plan that are addressed at port operations and planning activities.

Ports Australia – Representation

Ports Australia is the peak industry body representing all port authorities and corporations, both publicly and privately owned, at the national level. Ports Australia is a constituted company limited by guarantee with a Board of Directors, comprising the CEOs of 11 member ports. Our website is at www.portsaustralia.com.au

Ports Australia has consulted closely with all its Members in developing the views outlined below.

Summary Comments

Ports Australia and its Members are supportive of the Australian Government's objectives to abate the threat posed by marine debris and guide investment and effort in addressing the impacts of marine debris on native species. Ports Australia takes this opportunity to highlight that Australian ports plan and invest significant time, money and processes to undertake leading practices in environmental management at their ports. This is demonstrated by significant investment in the use of renewable energy at some of our ports, planning operations and supporting research that are considerate of marine life around ports, supporting conservation efforts of wildlife at and around ports, managing land development at ports that mitigate impacts on migratory birds, and many more environmentally responsible initiatives.

This environmental focus is undertaken hand-in-hand with regulators at the Commonwealth and state/territory level. We consider that there are still opportunities for the regulator to improve its processes to be more efficient, pragmatic and knowledgeable on environmental considerations at our ports that are balanced with the commercial objectives of industry. However, we acknowledge the progressive efforts made through consultation processes such as this.

Port Australia is supportive of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL). Furthermore, we support the obligations, as noted in the draft plan, under MARPOL for all port and terminals to have adequate facilities to receive ships' waste.

Our concern lies with the loose use of the term 'port' or the misunderstanding by DEE in regards to the party that is responsible at a port for meeting the obligations under MARPOL. Most ports across the country are different in their structure and operations. A port authority may merely be a lessor of land to various operators in the port precinct while other port authorities (generally smaller ports) may be the operator of various port functions including for the provision of stevedoring, piloting, terminal management, and navigational services. Accordingly, the obligation under MARPOL to provide facilities to receive ships' waste may lie with different stakeholders in a port precinct. Ports Australia recommends that greater clarity be provided on this matter when finalising actions in the draft plan. Where the port authority is not the responsible party in meeting obligations under MARPOL, it could facilitate engagement between the regulator and the port operator to help achieve the objectives of the draft plan.

Ports Australia's other concern lies with the proposed action in the draft plan to regulate obligations under MARPOL via state/territory legislation or take further steps to enact existing legislation. The one big risk with this, as outlined above, is that if obligations are incorrectly or inappropriately mandated to a stakeholder that is not the responsible party then the objectives will not be achieved and industry will be rightly aggrieved.

Ports Australia is of the understanding that most states/territories have existing legislation and policies that mandate the provision of waste reception facilities at ports. We are also of the understanding that an audit undertaken in 2011 by the International Maritime Organisation indicated that state/territories did not necessarily enforce the relevant legislation/policies. While this may be because of the risk outlined above, it also speaks to the clear risk of over regulating and expecting governments with limited resources to undertake operations that could be achieved by alternative means.

Ports Australia considers that incentive based schemes that modify industry behaviour are a better approach to achieving environmental objectives instead of expecting governments to undertake regulatory activities from limited resources. DEE could consider the incentives based approaches undertaken overseas and engage with industry on schemes and processes that are pragmatic and achievable.

As initially noted, ports are focused on environmental management and are happy to engage with the regulator on innovative and pragmatic solutions that meet the broader community expectations. Ports Australia looks forward to engaging on further discussions on this matter and is happy to facilitate engagement with port authorities to find optimal solutions.

Specific Comments

Action 1.06, Output – Environmental management plans that incorporate marine debris management as part of the ports overall waste management are in place

A port's waste management plan may not include strategies to manage all land and sea side marine debris. This is because of the structure and operations at some ports. For example, Gladstone Ports Corporation's management plans are limited to land side activities given that they do not have any control over activities of ships, commercial fisherman and recreational users of the port. Management of sea side marine debris in this case lies with other stakeholders.

Additionally, some port authorities whose environment management is restricted to the land side only will not account for marine debris management in all areas of the port given that they share the responsibilities with other stakeholders including state and federal regulatory bodies.

Action 1.06, Output – Ports implement litter and marine debris management plans (including ghost net disposal and management in required areas).

Again, clarity on the definition of a port and the responsibility of the different stakeholders at the port is key given that ghost net disposal in some jurisdictions are under state and federal regulatory control.

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