

Media Release

5 April 2024

Port of Newcastle Compensation Payment Valued at \$13 million

IPART has determined that the current value of a one-off compensation payment that can be made by the Port of Newcastle to the State of NSW is \$13 million.^a

If the one-off payment is made, it will remove the Port of Newcastle's liability to reimburse the State for compensation payments owed to NSW Ports (the operator of Port Botany and Port Kembla), if the Port of Newcastle handles container trade above a specified level.

Independent Pricing and Regulatory Tribunal (IPART) Chair Carmel Donnelly said the Tribunal determined the value of the payment according to the requirements set out in the Port of Newcastle (*Extinguishment of Liability*) Act 2022.

"IPART was appointed under that legislation to determine this value and the law requires that determination to be made in a very specific way," she said.

IPART was required to determine how much the inclusion of the reimbursement provision would have reduced the financial value of the right to operate and lease the assets of the Port of Newcastle for 98 years, in the opinion of a reasonable person, at the time the Port of Newcastle Deed was entered into.

"This could be described as what a reasonable person, bidding for the right to operate and lease the Port of Newcastle in 2014, would have reduced their bid by, because of the requirement to reimburse the State for payments to NSW Ports," said Ms Donnelly.

"IPART was only allowed to consider information that could have been known in May 2014, when the transaction to privatise the Port of Newcastle was finalised."

Any amount payable by the State to NSW Ports under a separate 2013 arrangement, may be quite different to the amount IPART has determined the Port of Newcastle can pay the State to extinguish its liability. The amount of any compensation payable by the State to NSW Ports is calculated each year based on actual container throughput at the Port of Newcastle and wharfage charges at Port Botany and Port Kembla. IPART was not tasked with determining the amount payable under this separate 2013 arrangement.

^a IPART's determination was made in 2014 dollars, as required by the legislation. We have adjusted the determined value of \$10.12 million (2014 dollars) for inflation to obtain the value that would be payable in today's dollars which is \$13.006m.

The full Tribunal determination and an information paper outlining the relevant considerations are available from the IPART website at www.ipart.nsw.gov.au.

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