

Updates to our Standard Terms and Conditions

Purpose

The purpose of this Fact Sheet is to provide stakeholders with a summary of the principal changes to NSW Ports' standard terms and conditions for channel access (the **Channel Access T&Cs**) and for berthing at our common user wharves and dedicated facilities (the **Berthing T&Cs**) which have been notified to become effective on 1 July 2022.

Updates to Standard T&Cs

The Channel Access T&Cs and the Berthing T&Cs (together, the **Standard T&Cs**) were introduced in July 2018 and apply to each of the owners, charterers and / or operators of vessels (**Customers**) that enter either Port Botany or Port Kembla (the **Ports**) and access and use NSW Ports' channel / wharf facilities. The updated Standard T&Cs will apply to all Vessel that have an Access Period commencing at or after midnight on 30 June 2022.

Principal Changes

To summarise the principal changes, the Standard T&Cs have been updated to:

- specify the certificates / documentation relating to vessels to be produced by Customers (or by their agents) to NSW Ports in line with current industry practices (clause 3(g));
- clarify procedures regarding the order of entry to and departure from the Ports to maximise operational efficiencies (clause 6);
- introduce an administration fee and clarify provisions relating to the payment of port charges and default interest (clause 7);
- require the production of certain trade data, including the inland point of origin of / destination for containers within Australia and EIDO details, noting that these requirements will commence on and from 1 July 2023 in order to allow time for Customers to incorporate the relevant information fields into electronic data templates (clause 10.3 in the Berthing T&Cs);
- require the production of certain vessel performance information (including fuel consumption, shore-power compatibility, noise emission levels etc) in furtherance of NSW Ports' strategic planning and environmental, social and governance goals (clause 10.7 in the Berthing T&Cs);
- adjust the allocation of risk and liability in acknowledgment of NSW Ports' role as a landlord port operator (clauses 10 and 11 in the Channel Access T&Cs and clauses 11 and 12 in the Berthing T&Cs);
- update various port security compliance requirements relating to the *Maritime Transport and Offshore Facilities Act 2003* (Cth) and the International Ship and Port Facility Security Code (various clauses); and
- increase the required level of protection and indemnity insurance cover to the greater of AU\$50m or the maximum amount reasonably available to the relevant vessel (albeit not less than AU\$20m) and required hull and machinery insurance cover to an amount that is at least equal to the reasonable market value of the vessel in question (clause 18 in the Channel Access T&Cs and clause 19 in the Berthing T&Cs).

Copies of the updated Standard T&Cs are available on NSW Ports' website.

Please ensure that you read and understand each of the Channel Access T&Cs and the Berthing T&Cs as they are contractual in nature and impose legally binding obligations on every Customer.