



MARITIME UNION OF AUSTRALIA (MUA)

SUBMISSION TO QLD TRANSPORT

**REVIEW OF CURRENT PORT COMPETITION
AND REGULATION IN QUEENSLAND**

NOVEMBER 2007

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1. Introduction

- 1.1 The Maritime Union of Australia (MUA) represents over 11,000 workers in the stevedoring, port services, shipping, hydrocarbons and diving sectors of the Australian maritime industry.
- 1.2 Members of the MUA work in a range of occupations across all facets of the maritime sector including stevedoring and ports, on coastal cargo vessels (dry bulk cargo, liquid bulk cargo, refrigerated cargo, project cargo, container cargo, general cargo) as well as salvage vessels, passenger vessels, towage vessels, ferries, cruise ships and dredges. In the offshore oil and gas industry, MUA members work in a variety of occupations in vessels which support offshore oil and gas exploration eg seismic vessels; in offshore oil and gas construction projects including pipe-layers, cable-layers, rock-dumpers, dredges, accommodation vessels, support vessels; and during offshore oil and gas production, on drilling rigs, Floating Production Storage and Offtake tankers (FPSOs), FSOs and support vessels. MUA members work on vessels engaged in international LNG transportation.

2. Overview of the application of competition policy to the ports sector

- 2.1 The MUA believes that there is a fundamental contradiction between the principles that underpin port planning processes and the principles that underpin competition policy processes.
- 2.2 Competition policy is founded on the fundamental principle that well functioning markets are the best mechanism to resolve resource allocation through the price mechanism. A firm's ability to enter a market is essential to maintain the customer's right to exit a market ie to find another provider or supplier.
- 2.3 On the other hand, Government planning is essentially founded on the principle of market failure ie that the market is not an appropriate medium through which to determine the use of certain scarce resources for the benefit of the society as a whole, both now and into the future. This principle is at play in relation to ports, where scarce urban or regional waterfront land required for ports, now and into the future, needs to be secured for the greater good of the State and the nation. If left to the market, property developers for example, may secure all port suited waterfront land leaving no place for ports or for port expansion, where it is required close to centres of population and production/distribution.
- 2.4 We acknowledge that certain planning decisions of Government may constitute barriers to entry. However, we put the view that such decisions are

legitimate and democratically determined barriers to entry - made by an elected Government, which is accountable for its decisions. We say that Governments have a responsibility to perform the role of the State (sovereign State), which is to:

- create and maintain an appropriate legal framework for market exchange;
- limit and supplement the market where necessary; and
- ensure that the market is politically acceptable.

- 2.5 In the case of long term strategic planning, it is our view that the Qld Government has acted responsibly to secure and protect valuable land for port and related purposes for the medium to long term future. This latter consideration is not a matter which can be left to a market contest among port related commercial interests to resolve.
- 2.6 In the case of long term leases or concessions to stevedoring companies to operate publicly provided wharves, the Qld Government has demonstrated, through its recent tender process for the stevedoring concession on new quayline, that it has acted to ensure the smooth flow of Australia's imports and exports in and out of the country to power the economy, to provide inputs to production and to satisfy the consumption demands of the population.
- 2.7 What these two approaches (strategic planning for land use, and long term leases for stevedoring) achieve in the short to medium term is a stable operating environment to meet Australia's import and export requirements (bearing in mind some 99% of Australian trade is undertaken by ship, and therefore requires efficiently functioning ports).
- 2.8 What the approaches achieve in the long term is the opportunity for port expansion to address capacity constraints at a time which recognises that going to tender too early in the capacity cycle can damage operational and commercial stability, whilst at the same time recognising the long lead time necessary in preparing for emerging capacity constraints, based on the best available predictions of growth in trade.
- 2.9 Further, the MUA believes that the application of competition policy to the ports sector through the Competition and Infrastructure Reform Agreement (CIRA) may in fact be impeding the delivery of cost benefits to consumers and producers of Qld, and collectively, to the nation as a whole. We put this view because CIRA requires a narrow assessment of potential competition barriers – restricted to issues within ports (in this case, 7 Qld ports) ie intra-port competition issues, or between ports within a State ie inter-port competition bounded only by the (artificial in relation to trade) boundaries of a State.
- 2.10 We think the application of competition policy within this narrow focus could lead to market distortions, for example, outcomes which limit achievement of economies of scale where investment capacity may well be a more significant success factor in delivering cost/service/value benefits to end producers and/or consumers.
- 2.11 Whilst we broadly concur with the principle espoused in CIRA Clause 4.2, the difficulty is that there is no accepted understanding or agreement on how to define and articulate the benefits and costs of either promoting or restricting

competition. It is for this reason that we have asked the State Governments to demonstrate how consumers and producers of the States will be better off by introducing a third container stevedore into their key ports. To our knowledge the Qld Government did not undertake such an analysis before selecting a new stevedore into the Port of Brisbane. The decision was apparently taken on faith.

- 2.12 Additionally, we put the view that it is essential that ports be considered in their national and international context. The MUA has a view that those responsible for the planning and investment decisions, and for regulatory decisions for the ports sector in Australia, have to date taken a parochial approach and fail to see the ports in the context of the overall global freight transport and logistics chain in which they operate.
- 2.13 The downside to this parochial approach is that the national interest in a globalised world and the vital role that ports play in the national transport plan appear to be often overlooked. For example, we put the view that the ACCC, while making appropriate observations on competition issues from time to time, can by the very nature of the legislation under which it operates, only propose intra-port solutions to alleged barriers to competition that have no regard for the economics of the port in a State, national or global context. Placing pressure on parties to achieve micro reform benefits around an arbitrary competition policy construct at a particular port may well impede a national opportunity for Australia to influence the entire supply chain, with consequential long term benefits to domestic consumers and producers.
- 2.14 Ports are a key component in international freight supply chains and in Australia's national freight transport system. The CIRA requirements, in our view, limits the capacity to view ports and their potential to add value to transport chain efficiencies in a national and international context by restricting the focus to a narrow set of individual port, or at best State bounded ports, issues. By looking at each tree in the forest, we are likely to overlook the forest itself. Put another way, a focus in intra-port competition issues ignores opportunities to extract value from the global market positioning of key container ports such as the Port of Brisbane.
- 2.15 We suggest that consolidation of vertical integration strategies, whereby a party can influence the cost (and possibly speed) of delivery of a product from the overseas supplier/manufacturer to the Australian end user (and vice versa), may well deliver a better economic outcome (and service outcome) than that arising from imposition of cost or access equity in just one part of the supply chain.

3. Domestic shipping and port planning frameworks

- 3.1 It is also the view of the MUA that the ports sector cannot be divorced from the coastal shipping sector. If shipping is to play a more significant role in the future freight transport modal mix for Australia's freight task then decisions taken in relation to the movement of international sea freight need to have regard to the impact on coastal shipping, now and into the future.
- 3.2 We believe there are two aspects of coastal shipping that need to be carefully factored into port planning frameworks and port development sequences.

- 3.3 The first is maintenance of priority capacity for existing domestic shipping services, such as those for the Bass Strait shipping trade, involving a mix of container, general purpose and Ro-Ro shipping, as well as other coastal cargoes involving bulk liquids and general freight.
- 3.4 Second, there needs to be scope to enable priority for stevedoring capacity response to any new domestic container shipping (or mixed container/general freight) operation that may emerge under the Rudd Labor Government's coastal shipping policy, which is geared towards revival of an efficient domestic shipping industry. We note the conclusion of the Meyrick and Associates report of May 2007 entitled *International and Domestic Shipping and Ports Study* which said that a critical success factor for coastal shipping, which is reported to have been problematic for PAN Shipping, is the securing of a fixed, ideal day berthing window at the main Australian international ports.
- 3.5 Meyrick concluded that without this priority, it is very hard for a coastal shipping operator to provide the level of quality of service required and be attractive for shippers. It says the solution, albeit costly, is to ultimately construct dedicated berthing facilities and connecting infrastructure in the main ports for domestic container shipping services. The MUA puts the view that this capacity must be factored in to future port planning strategies.
- 3.6 We are unaware if there is anything in the Qld ports regulatory framework which prevents the competitive setting of terms, conditions and prices of shipping services. Given the overwhelming involvement of foreign shipping in Australia's international freight task, to which the container ports and bulk commodity ports are primarily geared, and given the international character of that shipping market, and Australia's geographic position in global freight flows (and relatively small volume), Australian regulatory agencies may not be in a position to be a significant influence on shipping arrangements.
- 3.7 However, if there were to be a more significant role for coastal shipping in the national freight task, a very likely prospect in the medium to longer term, there is a major role for the regulatory framework to ensure fair access and fair competition between international and domestic shipping.
- 3.8 We put the view that Government decisions to identify a target for the movement of container freight by rail (in the range of 30-40%, depending on various State government decisions) will in fact need to be considered a minimum if freight expansion projections Australia's key ports are in fact realised. It may be that at some time in the future closer to 100% of containers will need to be transhipped out of key ports by rail to various intermodal facilities, for distribution to end users, by road and rail.
- 3.9 Alternatively, we believe that the European short sea shipping policy may have application and relevance for Australian ports, to ensure capacity is extended beyond current projections. We believe that containers destined for other significant population centres in Qld (outside the Brisbane metropolitan region) or indeed other major capital cities (if one or more shipping lines chose to use the Port of Brisbane as a transhipment offloading port), might be more appropriately moved by sea, so that there is no demand on either road or rail systems, until the container is closer to its final destination. This could have

significant impacts on reducing urban congestion and on meeting environmental goals. Such a model would take pressure off both road and rail, and significantly reduce infrastructure costs.

- 3.10 We note the observations made in the Meyrick report to the Australian Maritime Group of May 2007 entitled *International and Domestic Shipping and Ports Study* which suggested that if there is to be a competitive coastal shipping industry in Australia, port access issues for coastal sea freight will need to be addressed. That report notes the securing of a fixed, ideal day berthing window at the main Australian international ports as a critical success factor for coastal shipping (Section 6.10.2 at P135). Clearly, this is an issue for regulators.
- 3.11 We also note recent statements from the Chief Executive of the Port of Auckland, NZ, who said he wants to establish Auckland port as a regional container hub rivaling and feeding into Australia. He made the point that Maersk made Auckland its North Island hub earlier in 2007, in a boost to the port's regional ambitions, and that the Port of Auckland will continue to commit capital and other resourcing with the aim of becoming Australasia's premier container hub port. The NZ Shipping Federation is already working with the NZ Government to leverage an increased role for coastal shipping off the Maersk decision. Australian ports need to be responding to these developments with more far sighted policy thinking.
- 3.12 Should a short sea shipping strategy gain traction, there is a considerable body of economic evidence that provides direction on port pricing schemes aimed at increasing the efficiency the sea leg in the supply chain¹ which also increases the overall competitiveness of a supply chain that includes a sea leg. We also suggest that in this respect, Ramsey Pricing² might be adopted by the stevedores, but such a strategy would probably require a change in the performance criteria in the Port of Brisbane Corporation-stevedoring operator contracts, to include a specific goal of ensuring coastal sea freight becomes a part of the transport mode mix if road, and possibly rail, congestion is to be eased.
- 3.13 Given the proposed timing of implementation of an emissions trading scheme being proposed by the Rudd Government, emissions trading can be expected to become a reality within a short period of time. It seems wise to commence consideration of the implications of an emissions trading regime on the cost and pricing of the freight task from and around Port of Brisbane, and other key Qld regional ports, at an early rather than a later stage.
- 3.14 Although the Auslink Program has been modified so that it encompasses road and rail access to ports, we believe the Auslink Program is deficient in that it does not encompass ports, intermodal facilities and shipping corridors (including shipping channels) within its funding scope. All these elements are important features of the freight transport scheme, and if included in the scope of the Auslink Program would achieve a greater degree of competitive equity

¹ For example, Pettersen Strandenes, Siri, *Port Pricing Structures and Ship Efficiency*, Centre for International Economics and Shipping, Norway June 2004

² Ramsey pricing is an alternative to cost plus pricing which can be applied where the revenue stream can be differentiated, allowing different prices to be charged against those different streams e.g. international cargo and domestic cargo, or peak and off peak times

for all the transport modes and therefore in the pricing of transport infrastructure.

4. Addressing the terms of reference

4.1 Impact of planning practices on potential new service providers

- 4.1.1 We believe that Federal Labor's proposal to create an independent statutory authority, *Infrastructure Australia*, to assist in the planning and coordination of Australia's infrastructure needs may provide the appropriate framework within which to ensure that nationally agreed planning principles and port planning strategies are in place to ensure the orderly and timely development of Australia's port infrastructure.
- 4.1.2 The policy anticipates that *Infrastructure Australia* will undertake a national infrastructure audit to assess the adequacy, capacity and condition of nationally significant infrastructure assets in order to identify possible future gaps
- 4.1.3 The policy states that *Infrastructure Australia* will establish policy guidelines and standardised formats to facilitate the consideration of infrastructure proposals and to expedite decision making in regard to priority investment.
- 4.1.4 We believe that within this context the principles for determining opportunities to facilitate new entrants to participate in service delivery at Australian ports can best be established, based on sound planning and commercial principles which take account of factors such as Minimum Efficient Scale (MES), port configuration, sea/rail/road access etc.

4.2 Competitive neutrality in the provision of third party access to services

- 4.2.1 We note the weaknesses and flaws in the Trade Practices Act that has led to infrastructure delays and diversion of processes from sensible commercial and national interest processes to adversarial legal quagmires in relation to third party access to rail infrastructure in the WA iron ore industry. We must avoid implantation of such processes in the Australian ports sector.
- 4.2.2 We believe there is merit in considering the possible adoption of the "efficiency override" concept outlined in the Prime Minister's Export Infrastructure Report of May 2005, as a mechanism for application in the ports sector, particularly in the stevedoring services segment. We put this view because of the need to nurture and encourage the commercial risk involved in the large capital investments required to run a successful terminal operation in a global supply chain where the terminal operators do not control production of the service (container throughput) but rather depend on derived demand for the success of the business.
- 4.2.3 We believe that current competition law, which may require the owner of infrastructure to grant access to third party users, is potentially a brake on development of port infrastructure, and an alternative must be found for the ports sector. In this regard we propose that there be changes to CIRA.

- 4.2.4 A concentration on intra-port competition, which is the focus of current ACCC commentary in relation to stevedoring competition, in our view places limitations on the options available to achieve a more competitive, efficient and productive ports sector in a national and global context, and can only lead to undue pressure being placed on labour relations arrangements. The MUA is a strong supporter of the principles of competition, but we argue for fair and balanced competition that is based on adoption of, or maintenance/improvement of, core labour standards. We caution against the use of competition strategies that require for their success, competition around wages and conditions of employment among the workforce, or across the workforce, which can only be detrimental to port productivity, and so defeat the purpose of competition policy.
- 4.2.5 We note the range of mechanisms adopted in Qld for the facilitation of new entrants in provision of port services, and acknowledge that as a package they suggest fair access is already available. However, we put the view that agreements such as Port Services Agreements, Management Agreements and voluntary access agreements should be transparent, at least in relation to the criteria which were used to decide on the terms of the agreements and the performance criteria specified in the agreements.

4.3 Right to earn a commercial return without exploiting monopoly power

- 4.3.1 As a general principle we believe there is a place for State monopolies in relation to port planning, port asset management (such as quayline), port operating environment and port development. We favour the landlord model where Governments will act mainly as regulators and land developers, while private firms will assume the responsibility for port operations and service provision, as is the case in many other global container ports, such as Rotterdam, Antwerp, New York, and Singapore.
- 4.3.2 The qualification we put on this is twofold. First, those monopoly bodies must adopt the strategic manager model that includes a proactive leadership role in port planning and development, strategic marketing, coordination and trade facilitation. In this regard we see an important role for the Port of Brisbane Corporation and Queensland's regional port corporations.
- 4.3.3 It is important that the port authority, acting as strategic port manager and in consultation with the port's service providers and users:
- co-ordinate, clarify and where appropriate quantify service expectations;
 - communicate these expectations to all whose interests are vitally affected by them;
 - monitor performance against them; and
 - disseminate the results of this monitoring fully and frankly to all affected parties.
- 4.3.4 Second, we believe that a form of countervailing power is required, not only by adoption of competition or market based principles which are regarded by the advocates of competition as a central mechanism to devolve power (or limit alleged opportunity for abuse of market power), but also through accountability and transparency mechanisms, underpinned by collaboration.

4.3.5 The key accountability and transparency mechanisms we regard as essential are:

- Cross referencing of port corporation board policy and strategy to assist in ensuring more consistent State approaches to key strategic questions like responding to trade growth, and to ensure strategic decisions are taken within a national interest context (and in the case of commodity exports like coal, in a national industry context);
- Consistency of port and port environs planning principles not only across States but across the entire Australian ports sector (including inland ports). We say such principles should also be integrated with interlocking land and sea transport infrastructure planning, again across States, but also nationally.
- Consistency of principles underpinning tender criteria used to award service provision rights, including contract duration and performance criteria for access to quayline for container and other single user stevedoring contracts. We note that the most recent Australian tender for a new stevedoring entrant (for berths 11 and 12 at the Port of Brisbane) was based on the selection criteria set out in the bullet points below. We believe there should be a national analysis, conducted under the auspices of COAG or Transport ministers advising COAG, of the most appropriate tender selection criteria as part of the development of a set of tendering principles. The Port of Brisbane tender selection criteria are (though we do not know the weighting given to each criterion):
 - Capacity to manage growth;
 - Ability to attract new business;
 - Impact on competition;
 - Resources and experience; and
 - Financial capacity/capability.
- Mechanisms for direct stakeholder communication with the board/senior management of a port corporation;
- The publication of performance agreements made between the Ministerial shareholders and a port corporation (in the case of public, corporatised port corporations);
- The publication of tender documents issued by a port corporation, at no cost to interested parties;
- The opportunity for public comment on the development of Community Service Obligations, the publication of CSOs required of any party, and reporting on compliance with the CSOs;
- The publication of key performance indicators required of any party contracting with a port corporation; and
- Reporting of performance against agreed or imposed performance indicators by commercial parties.

- 4.3.6 Derived from the discussion in Section 2 of this submission, we say there is no evidence of any misuse of market power in relation to the role of port corporations or in the commercial relationships that port corporations are involved in, and therefore there is no evidence that economic regulation of any form is warranted.
- 4.3.7 However, we believe that Shareholder requirements regarding returns to government which are imposed on port corporation directors and managers, which arise in part from their monopoly position, may lead to price distortions that are not related to efficiency or the cost of providing the service. Again, the proposals we outline in section 4.3.5 are a means to at least make these processes transparent.
- 4.3.8 We suggest that if transparency is not forthcoming on a voluntary basis, that a form of price monitoring be instituted. We note as a matter of interest that there are for example wide variations in the wharf charges applied by various port authorities, as shown in Table 1. We query the basis of the charges given their wide variation.

Table 1: Port authority wharf charges – Australia’s top 5 container ports

Port	Port Corp wharfage charges - \$s per 20 foot container (from Sept 2007)
Sydney	81.50
Brisbane	68.00
Adelaide	58.46
Fremantle	53.59
Melbourne	35.50

Source: Australian Newspaper, *Charges make Sydney most expensive port*, Business Section P18 26 June 2007

- 4.3.9 We are not aware that there is any significant competition between the 7 port corporations under review in Qld. However, to the extent that competition exists, it is well managed in our view. As a general proposition however, we do not believe there is any great benefit to be achieved from inter-port competition, particularly within the (artificial) boundaries of a State. The ports each have different roles, service different markets and form part of the national freight transport network within a global supply chain.
- 4.3.10 In relation to the market power of stevedores in Australia, we believe that the commentary and analysis may have generally overstated the level of market power that stevedores can exercise, and in so doing, understated the level of market power that shipping lines can exercise. This is understandable, because Australian regulators such as ACCC have limited regulation over international shipping, limited by Part X of the Trade Practices Act. Neither the ACCC nor bodies like the Qld Competition Authority can regulate international shipping lines in terms of their patterns and frequency of port calls, their pricing behaviour nor service quality. Their international character largely puts them out of reach of Australian regulators.
- 4.3.11 We say it is the decisions of the major shipping lines that will more likely influence the container throughput volumes, the peaks and troughs in service (which impacts on the landside performance), the market share of particular

Australian ports, the ratio of fulls and empties – all factors that will impact on the commercial decisions of the stevedores, and constrain the exploitation of any market power they may hold.

4.3.12 The market power of shipping lines has been amply demonstrated in New Zealand. Maersk, the largest global container shipping line, currently visits nine ports in NZ but recently signalled a preference for one main port in each island and three or four feeder ports. In response to such developments, the NZ Government has released a discussion paper entitled *Sea Change: transforming coastal shipping in NZ: a draft strategy for public consultation*, which is the start of a process to achieve the NZ Government shipping policy, which is to facilitate a revival of coastal shipping in NZ.

4.3.13 We also wish to raise a concern about those analyses which draw on the ACCC critique of the stevedores' rate of return on assets. We raise two concerns in relation to the analyses. First, we query whether the overseas stevedores chosen for comparison by the ACCC are in fact comparable stevedoring operations, and therefore whether they are appropriate for comparison on a measure of return on assets. For example, are their market characteristics (such as lease terms, competitive environment etc) and port characteristics (such as quayline to storage space, ship frequency etc) sufficiently similar for accurate and valid comparisons to be made. We note for example that one overseas operation quoted by the ACCC is PSA, a division of the Singapore Government's global investment vehicle, Tamasek. Perhaps this Government relationship, which may require certain returns to Government, makes it an unsuitable comparator. Second, we note that there are quite different views on how to interpret a higher than "average" EBITDA.

4.3.14 For example, in the current debate in NSW about the performance of Sydney Ferries and whether it should be offered to tender, reputable financial analysts providing commissioned reports for the NSW Independent Pricing and Regulatory Tribunal (IPART) have compared the Sydney Ferries EBITDA with other like ferry operators internationally. The analysts have found Sydney Ferries EBITDA margin (at around 12.2%) to be low by international standards, and use this performance to conclude it is not "efficient", and therefore the private sector could probably do a better job of managing the business. This implies that a higher EBITDA would indicate an efficient operator (and remembering that in this example all the operators are effectively, monopolies).

4.3.15 We also know that financial analysts advising on the stock market frequently use EBITDA comparisons as an indicator of the strength of company management – the higher the EBITDA, the better managed is the company. We query if it is intellectually sound to focus only on the argument that equates high EBITDA as an indicator of profit gouging and lack of competition.

4.3.16 ATO data shows that asset intensive infrastructure industries such as communications, like stevedoring/ports, exhibit generally higher returns on assets than less capital intensive industries such as finance. For example, in 2003-04 ATO data shows the EBITDA average for communications companies across Australia was 19%, while electricity, gas and water was 17%, which is considerably higher than the ASX average of 10.9% for 2005-06.

4.3.17 It may well be that the DP World business model, based on the Emirates global entrepreneurial style or the activist Toll acquisitional style now being pursued by its spin off, Asciano, in terms of its thirst for market share, are both business models conducive to higher rates of return than the more traditional business styles pursued by the top 200 ASX companies. The MUA has a mutual interest in assisting companies that employ our members to be strong, efficient and well managed companies capable of competing without resort to productivity sapping and regressive labour relations strategies. Our enterprise bargaining strategies and approach to labour relations reflect that mutuality of interest.

4.4 Conflicts of interest

(i) Vertically integrated structures

4.4.1 We have indicated in 2.15 that consolidation of vertical integration strategies, whereby a party can influence the cost (and possibly speed) of delivery of a product from the overseas supplier/manufacturer to the Australian end user (and vice versa), may well deliver a better economic outcome (and service outcome) than that arising from imposition of cost or access equity in just one part of the supply chain.

4.4.2 We caution against the use of competition policy to limit or impede development of vertical integration strategies where those strategies deliver value and service benefits to the Australian end of the supply chain.

(ii) Landlord or transport provider and exercising regulatory powers over shipping

4.4.3. Areas where Australian shipping experiences competitive disadvantage is in relation to:

- Subsidisation of road and rail transport through infrastructure pricing that does not recover the full cost of provision of the infrastructure;
- Subsidisation of road, and to a limited extent rail transport, through the Auslink program;
- GST taxation on bunker fuel;
- Import duty on bunker fuel;
- Low priority for berthing access; and
- Abuse of the coastal trade permit system.

4.4.5 The MUA also puts the view that the propensity of Australian commodity exporters and Governments to place a low value on the shipping component of the overall bulk commodity supply chain, from mine to export destination, is at the core of the dilemma facing Australian exporters and those who provide supply chain services in an environment where demand for Australia's abundance of resources is increasing. This neglect is exacerbating the disadvantage Australia suffers in the distance we are from market destinations, and suggests there is an opportunity for regulators to modify shipper's behaviour.

- 4.4.6 Australia's resource exporters have apparently failed to understand the shipping industry and its significance in supply chain productivity and efficiency. Shipping appears to be regarded by exporters as just another service to be bought in to support the supply chain, like fuel for the trains or tyres for the trucks. Invariably, shipping is left to the commodity buyer to arrange. This is the downside of Free On Board (FOB) shipping terms so strongly favoured by Australian commodity exporters, particularly in the coal sector. The MUA believes there are a number of disadvantages to arise from the use of FOB shipping terms.
- 4.4.7 First, FOB shipping terms means that the exporter has minimal influence over the scheduling of the ships, and cannot maximise the productivity of the ships. Yet the exporter is paying the demurrage costs while the ships sit in queues off Australian ports, typically at a cost of up to \$1m per day (ACCC estimate for the Port of Newcastle). Under such circumstances, there is no incentive for the foreign ship operator to find alternative cargoes for the ship - to reschedule. Under current regulatory arrangements it appears there is limited ability for Australian regulators such as the ACCC to influence ship arrival times to ensure arrival times match available loading time slots.
- 4.4.8 Second, the ships are invariably Flag of Convenience (FOC) ships, operating at the lowest international standards and with crews that are paid at the lowest international seafarer rates of pay, and with the weakest conditions of employment. The very fact that a ship may have to wait outside a port for 2-3 weeks means that the opportunity for seafarers to enjoy some form of normalcy of life, such as shore leave, is diminished and contributes to the already low labour standards.
- 4.4.9 Third, the Australian exporter has no control over ship safety standards. It is no coincidence that there has been a number of accidents involving foreign ships carrying Australian commodities in the Asian region over the past 2 years, as well as potentially disastrous incidents like the *Pasha Bulker* grounding at a Newcastle beach.
- 4.4.10 This last for FOB shipping in coal/minerals contrasts dramatically with the Liquefied Natural Gas (LNG) trade from the North West Shelf (NWS), where the exporter has arranged shipping on Delivered Ex Ship (DES or Ex Ship) terms, where the exporter controls the shipping. The net result is that the commodity exporter has full control over ship scheduling, ship costs and ship standards.
- 4.4.11 For example, when an LNG carrier is likely to be underutilised during the Asian summer, it can be diverted to deliver spot LNG cargoes to additional customers, thus maximising ship productivity. Furthermore, the Ex Ship arrangements mean that there are Australian registered ships using Australian crews in the LNG trade, with national interest and other commercial advantages for Australia. The use of Australian shipping and seafarers is regarded by the NWS LNG operator as giving it a critical comparative advantage in the LNG trade. Not only are Australian ship standards at the leading edge, but Australian seafarers are regarded internationally as among the best trained and best qualified. The shipping becomes a profitable and productive business in its own right, with significant spin offs for Australia, not

least of which is strong integration between the shipping and onshore infrastructure assets.

4.4.12 The LNG industry will be a major shipper of Australian resources over the next 50 plus years. It is already setting the standard in managing the entire supply chain, from well head to export destination, with stunning results. There has not been one safety incident or ship delay in over 2,300 shipments of Australian LNG over nearly 20 years of export, and not one dollar paid in demurrage costs. As new LNG projects come on stream, and the shipping element of projects becomes increasingly important, the example established on the NWS project should become the shipping model for all future Australian export industries, and most definitely the model for new LNG shipping.

4.4.13 A recent report commissioned by the Australian Maritime Group, comprising Commonwealth and State maritime officials that reports to Australia's Transport Ministers, prepared by Meyrick and Associates entitled *International and Domestic Shipping and Ports Study* of May 2007, said that "*sales trade terms of Australian exporters means that they, and the ports, are unable to control the inefficiencies of vessel planning by overseas buyers which is often a cause of the growing congestion found at bulk export ports*". This independent research confirms the view put by the MUA that FOB shipping means the Australian exporter loses all control over shipping – it's scheduling, its cost, its standards, its efficiency – and is a contributing factor to the coal queues experienced at ports like Hay Point.