



2018 Ports Access and Pricing Review

Issues Paper

22 February 2018

Introduction

The *Ports Management Act* requires the Utilities Commission to complete a review of the Northern Territory ports access and pricing regime (regime) by 15 November 2018.¹ This document represents the start of this review.

About the Utilities Commission

The Utilities Commission (Commission) is an independent statutory body established by the *Utilities Commission Act* with defined roles and functions for economic regulation in the electricity, water and sewerage industries and declared ports in the Northern Territory.

The Commission is responsible for the economic regulatory framework for regulated industries that promotes and safeguards competition, as well as fair and efficient market conduct. In the absence of a competitive market, the Commission's aim is to promote the simulation of competitive market conduct and the prevention of the misuse of monopoly power.²

The Commission has functions under various Acts (and associated regulations) including the *Utilities Commission Act*, *Electricity Reform Act*, *Water Supply and Sewerage Services Act* and the *Ports Management Act*.

Submissions

This Issues Paper identifies topics that should be considered as part of the review of the regime and seeks feedback from all stakeholders involved in the regulated ports industries. All interested parties are invited to make submissions on the Issues Paper by **Wednesday, 28 March 2018**.

In the interest of transparency, the Commission will make submissions publicly available with the exception of any confidential information, which includes:

- information that could affect the competitive position of an entity or other person; or
- information that is commercially sensitive for some other reason.

Submissions must clearly specify the document (or part of it) that contains confidential information. A version of the submission suitable for publication (that is, with any confidential information removed) should also be submitted.

To facilitate publication, submissions should be provided electronically by email in Adobe Acrobat or Microsoft Word format.

Any questions regarding this Issues Paper or the review should be directed to the Utilities Commission by telephone (08) 8999 5480 or email www.utilicom.nt.gov.au.

¹ Sections 123(1) of the *Ports Management Act*.

² Section 2 of the *Utilities Commission Act*.

Timetable

The essential dates for the review of the regime are as follows:

Stage	Time
Issues Paper released	February 2018
Public consultation	February – March 2018
Draft Report released	July 2018
Public consultation	July – August 2018
Final Report provided to the Minister	November 2018

The Final Report is due to the Minister by 15 November 2018. The Minister is required to table the report in the Legislative Assembly within seven sitting days of receipt.

Once tabled, the Final Report will be available on the Commission's website www.utilicom.nt.gov.au.

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Glossary

Term	Definition
access policy	An access policy made by a private port operator pursuant to section 127 of the <i>Ports Management Act</i> and regulation 13 of the Ports Management Regulations
COAG	Council of Australian Governments
Commission	The Utilities Commission of the Northern Territory
DPO	Darwin Port Operations Pty Ltd (ABN 62603 472 788), the private port operator for the Port of Darwin
Price Determination	The 2015-18 Prescribed Port Services Price Determination for the Port of Darwin published by the Utilities Commission pursuant to section 132 of the <i>Ports Management Act</i> and regulation 16 of the Ports Management Regulations
Government	The Northern Territory Government
GT	Gross tonnage
Minister	The Minister to whom the <i>Ports Management Act</i> is committed, currently the Minister for Infrastructure, Planning and Logistics
National Third Party Access Regime	As set out in Part IIIA of the <i>Competition and Consumer Act 2010</i> (Cth)
NCC	National Competition Council
PM Act	<i>Ports Management Act</i>
prescribed service	As defined by regulation 12 of the Ports Management Regulations
regime	Part 11 of the <i>Ports Management Act</i> and Part 3 of the Ports Management Regulations
Regulations	Ports Management Regulations
Regulator	The Utilities Commission of the Northern Territory, as provided for by section 119(3) of the <i>Ports Management Act</i> and as established under the <i>Utilities Commission Act</i>
review	The 2018 Ports Access and Pricing Review, required to be conducted by the Regulator in accordance with section 123 of the <i>Ports Management Act</i>
UC Act	<i>Utilities Commission Act</i>

Chapter 1: Review of the Regime

Background

- 1.1 The Commission is required to review the access and price regulation regime established under Part 11 of the *Ports Management Act* (PM Act) and Part 3 of the Ports Management Regulations (Regulations). Under the regime the Commission has a role in relation to ports access and price regulation for prescribed services provided by a port operator. That role commenced with the appointment of a private port operator.
- 1.2 At present, the regime applies to one port. However the Government does have the power to bring other ports into the regime by designation.³
- 1.3 Darwin Port Operations Pty Ltd (DPO) was declared the operator of the Port of Darwin under the PM Act on and from 1 July 2015. On 15 November 2015, ownership of DPO was acquired by Landbridge Infrastructure Australia Pty Ltd (Landbridge) as part of Landbridge's 99 year lease of the Port of Darwin. The change of status of DPO to a private port operator triggered the commencement of the regime (including the Commission's role under the regime) in relation to the Port of Darwin.

The regime

- 1.4 The object of Part 11 is set out at section 117 of the PM Act. It is "to promote the economically efficient operation of, use of and investment in major port facilities in the Territory by which services are provided, so as to promote effective competition in upstream and downstream markets".
- 1.5 Part 11 of the PM Act has five components:
 - Division 1 deals with legal and administrative matters (including the object of Part 11, the requirement for the present review and the making of regulations for Part 11, which must promote the object of Part 11)
 - Division 2 contains provisions directed to prohibiting anti-competitive conduct
 - Division 2 also contains provisions for the development of an access policy by the port operator and reporting in relation to it
 - Division 3 deals with price determinations
 - Division 4 deals with the Commission's information-gathering powers and confidentiality.
- 1.6 Part 3 of the Regulations supplements Part 11 by:
 - prescribing certain services provided by the private port operator as those to which Part 11 applies (regulation 12)
 - establishing requirements in relation to an access policy of a private port operator (regulations 13 to 15)
 - detailing requirements for the making of a price determination (including that price monitoring must be used as the form of price regulation) and the ability to negotiate charges for a prescribed service (regulations 16 to 18).

³ Sections 3 and 6 of the *Ports Management Act* and Second Reading Speech: Ports Management Bill 2014, 27 November 2014.

- 1.7 The regime is intended to protect the consumers of the services provided by the port operator from the exercise of market power by the operator. Such services are generally considered to have natural monopoly characteristics, and the exercise of market power, for example, through the imposition of unreasonable terms and conditions of access or charging excessive prices, can adversely impact upstream and downstream competitive markets, such as shipping, logistics and import and export markets.

Prescribed services

- 1.8 The current access and pricing regime does not apply to all port services and functions. The regime applies to prescribed services provided by a private port operator of a designated port.⁴
- 1.9 The following are the services provided by a private port operator to which the regime applies:
- a) providing or allowing for, access for vessels to the designated port
 - b) providing facilities for loading or unloading vessels at the designated port
 - c) providing berths for vessels at the designated port
 - d) providing or facilitating the provision of pilotage services in a pilotage area within the designated port
 - e) allowing entry of persons and vehicles to any land on which port facilities of the designated port are located.⁵
- 1.10 Prescribed services **do not** include:
- a) any of the above services (paragraph 1.8 (a-e)) provided under a lease granted by the private port operator⁶
 - b) a towage service for facilitating access to the designated port
 - c) a bunkering service at the designated port
 - d) a service for the provisioning of vessels (including the supply of electricity and water) at the designated port
 - e) a service for the removal of waste from vessels at the designated port.⁷

Hindering access and discrimination

- 1.11 The regime imposes two restraints on the conduct of a port operator, in sections 124 and 125 of the PM Act.
- 1.12 Under section 124(1) a private port operator must not engage in conduct for the purpose of preventing or hindering the access of a user or potential user (port user) to any prescribed service. Conduct that breaches this condition (having regard to non-price terms of access) is where:
- the private port operator provides or proposes to provide access to the prescribed service to itself, or a related body corporate of itself, on more favourable terms than the terms on which it provides or proposes to provide access to the prescribed service to a competitor of itself.
- 1.13 Under section 125(1), in negotiating arrangements to provide access to any prescribed service or a change to any such arrangement, a private port operator must not unfairly

⁴ Section 118 of the *Ports Management Act*

⁵ Regulation 12(2) of the Ports Management Regulations

⁶ Regulation 12(2) of the Ports Management Regulations

⁷ Regulation 12(3) of the Ports Management Regulations

differentiate between port users in a way that has a material adverse effect on the ability of one or more of the port users to compete with other port users.

- 1.14 Both sections are subject to carve outs for reasons that include ‘an act done in accordance with the operator’s access policy’ (in the case of section 124(1)) and differential treatment ‘expressly required or permitted by the operator’s access policy’ (in the case of section 125(1)).

Commission activity since the commencement of the regime

- 1.15 Since the commencement of the regime in November 2015, the Commission has discharged its role in accordance with the legislative requirements. A [Price Determination](#) for the Port of Darwin was made in February 2016. An [access policy](#) as submitted by DPO was approved by the Commission in June 2017. The processes of making the Price Determination and approving the access policy both involved consultation with relevant stakeholders. The Commission monitors compliance with both the Price Determination and the access policy and reports on these matters to the Minister. Such compliance reports are required to be tabled in Parliament. These various documents are accessible on the ports page of the Commission’s website www.utilicom.nt.gov.au.

Nature of the review

- 1.16 In general, the Commission will review the need for and effectiveness of the port access and pricing regime and whether changes are required. As directed by the legislation, the review is very broad.
- 1.17 Specifically, section 123(1) of the PM Act provides that the Commission must periodically conduct and complete a review of the operation of the regime. The first such review is to be undertaken within the third year after the commencement of the regime (during the year ending 15 November 2018).
- 1.18 Section 123(2) of the PM Act states the purpose of the review is to determine:
- whether there is an ongoing need for regulatory oversight of access to and pricing of prescribed services provided by private port operators
 - whether there is a need to change the form of regulatory oversight of access and, if so, how
 - whether there is a need to change the form of regulatory oversight of prices and, if so, how
 - whether amendments should be made to Part 11 of the PM Act or the regulations made for it and, if so, the nature of those amendments.
- 1.19 In completing the review, the outcome will be the Commission’s Final Report, which will make recommendations concerning the matters specified at section 123(2). The Minister is required to table the Final Report in Parliament. However, any subsequent amendments to the regime will be a matter for consideration by the Government and Parliament.

Objectives for the review

- 1.20 It is important for the Commission to articulate the objectives it will apply when conducting the review. The Commission’s initial views on this matter are set out below. Stakeholders may wish to comment on this matter.

- 1.21 A review of Part 11 of the PM Act will be conducted by reference to the object of this part as expressed by section 117 of the PM Act. Therefore, the Commission will ask whether there is an ongoing need for regulatory oversight and whether any changes are required to the nature of this oversight.
- 1.22 The Commission's review of the regime as required by section 123 of the PM Act is a function of the Commission, pursuant to section 6(1)(h) of the UC Act. Section 6(2) of the UC Act sets out various factors to which the Commission will have regard in the performance of its functions, including the need to:
- promote competitive and fair market conduct
 - prevent misuse of monopoly or market power
 - facilitate entry into relevant markets
 - promote economic efficiency
 - ensure consumers benefit from competition and efficiency
 - protect the interests of consumers with respect to reliability and quality of services and supply in regulated industries
 - facilitate maintenance of the financial viability of regulated industries
 - ensure an appropriate rate of return on regulated infrastructure assets.
- 1.23 The Commission will ask whether there is an ongoing need for regulatory oversight and whether any changes are required to the nature of this oversight having regard to the matters set out in section 123 of the PM Act and section 6(2) of the UC Act.

Access and pricing principles

- 1.24 Section 132 of the PM Act necessitates a price determination made in accordance with Part 11 must be consistent with the access and pricing principles specified in section 133 of the PM Act. The principles state:
- a) the price of access to a prescribed service should be set to:
 - generate expected revenue from the service that is at least sufficient to meet the efficient costs of providing access to it
 - include a return on investment commensurate with the regulatory and commercial risks involved
 - b) price structures should:
 - allow multi-part pricing and price discrimination when it aids efficiency
 - not allow a vertically integrated provider of access to services to set terms and conditions that discriminate in favour of its downstream operations, except to the extent that the cost of providing access to others is higher
 - c) access and pricing regimes should provide incentives to reduce costs or otherwise improve productivity.
- 1.25 Regulation 16 sets out other matters the Commission must have regard to when making a price determination and among other things, requires the Commission to use price monitoring as the form of price regulation.
- 1.26 The Commission, in the conduct of the review, will consider whether Part 11, together with regulation 16, are operating so prices have been (and will be) consistent with the access and pricing principles specified in section 133 of the PM Act.

Competition Principles Agreement

- 1.27 The Competition Principles Agreement was entered into by the Commonwealth, states and territories (including the Northern Territory) in April 1995 and modified in April 2007.⁸ Clause 6 of the Agreement specifies a set of principles that must be incorporated in a state or territory access regime if the regime is to be deemed to be an effective access regime for the purpose of Part IIIA of the *Competition and Consumer Act 2010* (Cth). For example, the Northern Territory electricity access regime has been certified, as an effective state or territory based regime.⁹
- 1.28 The clause 6 principles might be viewed as a set of best practice principles for an access regime. It is open to the Commission to consider the extent to which the regime incorporates each of the clause 6 principles. The object of Part 11 (section 117) and the access and pricing principles (section 133) of the PM Act are adopted from clause 6 of the Competition Principles Agreement.
- 1.29 The port access regime has not received certification as an effective access regime in accordance with the clause 6 principles. This is because the Territory Government has not made an application to the National Competition Council (NCC), the certifying body for assessment of the regime. The matter of the application of the clause 6 principles in the current review is also discussed in Chapter 4 of this Issues Paper.

⁸ *Competition Principles Agreement* 11 April 1995 (as amended to 13 April 2007), Council of Australian Governments <https://www.coag.gov.au/about-coag/agreements/competition-principles-agreement> accessed 11 January 2018.

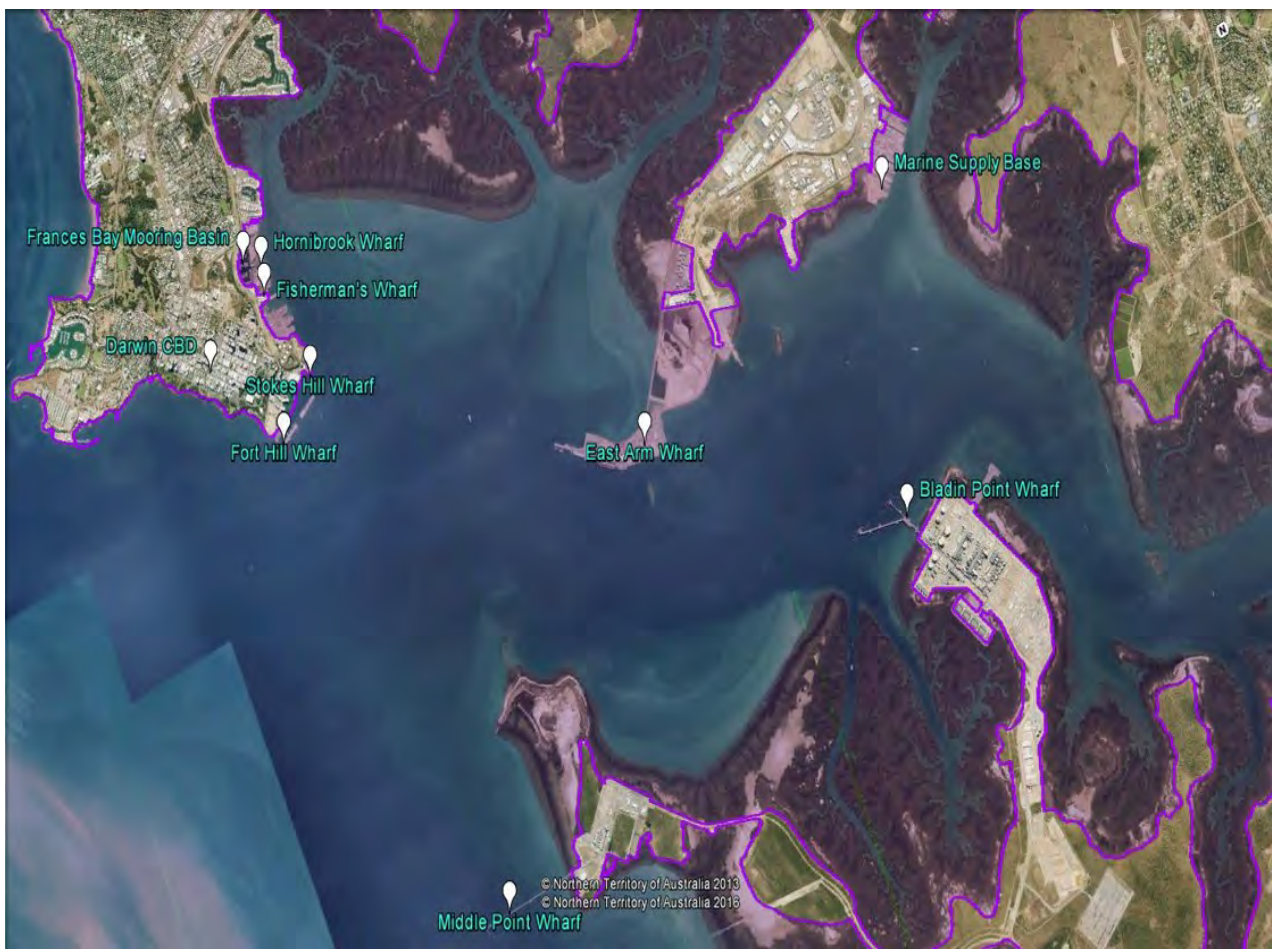
⁹ National Competition Council [website], Past Applications Register, *Northern Territory Access to Services of Electricity Distribution Networks - certified 21 March 2002* http://ncc.gov.au/applications-past/past_applications accessed 5 February 2018.

Chapter 2: The Port of Darwin

About the Port of Darwin

- 2.1 The Port of Darwin is a multi-use, mixed cargo and marine services port. It services various markets, including livestock, dry bulk products, petroleum and other bulk liquids, container cargo, general cargo, cruise vessels, naval vessels and, offshore and gas rig servicing. It is a major offshore industry support hub for most cargoes used in the oil and gas industry in the Arafura and Timor seas as well as waters off Western Australia.¹⁰
- 2.2 The port is directly linked to Adelaide by the Tarcoola-Darwin Railway, is connected by major road transport highways to other capital cities and is Australia's closest shipping port to Asia.¹¹
- 2.3 The Port of Darwin is composed of several distinct areas including East Arm Wharf, Fort Hill Wharf, the Marine Supply Base, Stokes Hill Wharf, Fisherman's Wharf, Hornibrook Wharf and the Frances Bay Mooring Basin (see Map 1 below). Not all areas were leased to Landbridge, with Stokes Hill Wharf, Fisherman's Wharf, Hornibrook Wharf and Frances Bay Mooring Basin continuing to be owned and operated by the Government.

Map 1: Port of Darwin



¹⁰ Darwin Port, About Us, *Darwin Port* [website], paragraph 2, www.darwinport.com.au/about-darwin-port accessed 14 November 2017.

¹¹ Darwin Port, About Us, *Darwin Port* [website], paragraph 2, www.darwinport.com.au/about-darwin-port accessed 14 November 2017.

Recent trends

- 2.4 Following a peak in 2013-14, there has been a progressive downturn in the total trade for the port over the last three years, with a shift in top trade commodities and main sources of revenue. This is a result of the commodities downturn (especially for iron ore and manganese) and the near-completion of the construction phase of the INPEX Ichthys LNG project. There has been a steady decrease in vessel visits to the port. Even at its peak in 2013-14, the utilisation of berthage at East Arm Wharf was estimated at 43 per cent.
- 2.5 The shipping and cargo revenue for 2013-14 was \$41.2 million.¹² Revenue for the same services for 2014-15 was \$41.5 million. This is a slight increase, despite the decline in bulk cargo volume. This may be due to an increase in prices by the Darwin Port Corporation in February 2015, including the introduction of a new fixed berthage fee.¹³ Following the change in port operators in late 2015, revenue for prescribed services for 2015-16 was \$34.3 million and \$32.7 million for 2016-17.
- 2.6 Regarding future developments, DPO has committed to invest \$35 million over five years in the port, and has already completed a new refrigerated container storage area worth \$10 million.¹⁴ Other future projects include the strategic hardstand development, the harbour support vessel facility and the expansion of East Arm Wharf.¹⁵
- 2.7 Since it became a private port operator, DPO has increased the standard charges for prescribed services once. The new charges came into effect on 1 August 2017. All charges for prescribed services (except one) increased by 1.1 per cent. The exception, the charge for bulk liquid fuels (inbound) increased by 3.6 per cent. DPO explained the reason for the higher increase for this service was to receive an acceptable rate of return for the bulk liquids fuel berth infrastructure upgrades.
- 2.8 A new standard charge for a prescribed service was introduced in August 2017 – the Bladin Channel port dues levy, which will apply to vessels larger than 20 000 gross tonnage (GT) accessing the Bladin Channel. The port operator has explained the reason for the new charge is to recover significant investment made by the port operator specifically to support the INPEX project. The Commission understands the only large vessels expected to use the Bladin Channel are INPEX's customers.
- 2.9 Since 2015, the private port operator has entered into 12 agreements with a negotiated charge for a prescribed service.
- 2.10 Attached to this Issues Paper is the Port of Darwin Comparative Report (Appendix A), which provides further details on the operational activity of the Port of Darwin over the last four years.

¹² Shipping and cargo revenue includes wharfage, berthage, pilotage and port dues: Darwin Port Corporation, *Annual Report 2013-14*, page 136.

¹³ Darwin Port Corporation, *Annual Report 2014-15*, page 116 and 118.

¹⁴ S. Everingham, 'Darwin Port: Landbridge says it's a 'win-win' if NT Government retains 20 percent stake', *ABC News*, 26 May 2017, para. 3 and 4, <http://www.abc.net.au/news/2017-05-26/win-win-if-nt-govt-keeps-stake-in-darwin-port-says-landbridge/8564122> accessed 19 December 2017.

¹⁵ Darwin Port, *Port Development Plan 2016* [website], https://www.darwinport.com.au/sites/default/files/uploads/2017/Port-Development-Plan_0.PDF accessed 19 December 2017.

Price benchmarking

- 2.11 As part of this review, the Commission engaged the specialist services of GHD Advisory (GHD) to undertake a benchmarking study of port prices for the Port of Darwin against comparable interstate ports. The ports included in the study were Darwin, Broome, Port Hedland, Fremantle, Adelaide, Cairns, Townsville and Gladstone.
- 2.12 It should be noted that undertaking a comparison of ports is inherently difficult due to the different characteristics of each port, the types of markets seeking to use the port and differing volumes going through the port. The cost of operating a port is generally high in fixed costs, thus there is normally large economies of scale that are available. Generally, ports with larger volumes would be expected to have lower costs per unit.
- 2.13 The GHD report is seeking to provide stakeholders and the Commission with a general understanding of the port industry, an indication of the information available and the relative cost imposed by the Port of Darwin compared to other ports across Australia. The report is not seeking to measure the efficiency of the Port of Darwin.
- 2.14 A copy of the full report is attached to this Issues Paper (Appendix B), with GHD's main findings summarised below:
- Over the last three years, the published port charges for the prescribed services for the Port of Darwin have experienced only relatively minor increases when compared to other interstate ports studied and taking into account local consumer price index changes. The main reasons for this may be due to a combination of declining total trade at the Port of Darwin (caused by bulk mineral exports), the lack of significant new large scale investments in port infrastructure compared with other ports and unchanging financial return requirements since DPO became a private port operator.
 - The Port of Darwin appears to have relatively high levels of pilotage costs for large (high GT) vessels calling at the port. This is particularly true for pure car carriers and cruise ships.
 - In terms of visible total port call costs for 2017, generally the port appears not to be the most expensive of the comparator ports for the various cargo sectors, with the exception of motor vehicle imports and cruise ship visits. For cruise ship visits, Darwin is closely followed by Cairns. The Port of Darwin is strongly cost competitive for livestock vessels, which confirms its key national position in this export trade.
 - Overall, the call costs for Darwin currently appear to only represent a small percentage of cargo shipment values.
 - The relative position of total port call costs for the Port of Darwin appears to have improved over the last three years due to the lower rate of increase in port charges compared with the other interstate comparator ports.¹⁶

¹⁶ GHD Advisory, *Darwin Port Price Benchmarking Study 2017*, 25 January 2018, page 20.

Chapter 3: Ongoing Need for Regulatory Oversight

- 3.1 In accordance with section 123 of the PM Act, the Commission will, during the review, address the matters outlined in chapters 3 and 4 of this Issues Paper. A list of all of these issues and associated questions is attached (Appendix C). However, the Commission recognises there may be other issues of relevance to the review not dealt with in chapters 3 and 4. The Commission invites stakeholder comments on any issue relating to the regime.

Issue 1: Market power

- 3.2 In assessing whether there is an ongoing need for regulatory oversight, the most critical question for the Commission to consider is whether there is the potential or actual exercise of market power by the port operator. Industries should only be subject to economic regulation where there is a clear need to promote competition in dependent markets or to prevent the misuse of market power.¹⁷ Where sufficient constraints on the exercise of market power exist, regulation may be unnecessary.
- 3.3 The prescribed services specified in the regime have natural monopoly characteristics. This is because competition is restricted by the high costs required to reproduce the infrastructure in order to deliver those services. This creates a structure where port users have no or limited options to obtain alternative port services.
- 3.4 As effective competition is absent from natural monopolies, an imbalance in bargaining power between the infrastructure operator and parties seeking to access the services provided by that infrastructure is created.¹⁸ Consequently, a port operator can hold substantial market power and, for example, have the ability to increase prices while reducing supply or discriminate against access seekers to its own benefit. In addition, port infrastructure services are essential to the operation and performance of dependent upstream and downstream markets (such as shipping, logistics, and imports and exports), and access and pricing regimes aim to protect consumers from the exercise of market power and promote competition in related markets.¹⁹
- 3.5 It is also important to consider whether there are issues of vertical integration, such as the possibility of the private port operator conducting or expanding into business activities in dependent (upstream or downstream) markets. For example, providers of port infrastructure services may also operate businesses in the logistics or transport sectors. While this can increase business efficiency in some instances, it may also escalate the potential for the exercise of market power, further limiting the bargaining position of port users.
- 3.6 However, independent of regulation, constraints may exist that limit the port operator's ability or motivation to exercise market power, such as other alternative ports or modes of transport. The Commission seeks stakeholder views on the existence of constraints that act to limit the exercise of market power by DPO and whether the nature of such constraints may change in the future.

¹⁷ Productivity Commission 2013, *National Access Regime, Inquiry Report no. 66*, Canberra, page 278.

¹⁸ P. McClintock, 'Intergovernmental Cooperation on Infrastructure, Transport, Energy and Cities: The COAG Reform Council's Perspective', *Network* [online publication], Issue 39, March 2011, page 3, <https://www.accc.gov.au/publications/network> accessed 7 December 2017.

¹⁹ Harper, I., Anderson, P., McCluskey & S., O'Bryan, M., *Competition Policy Review: Final Report*, March 2015, page 10, <https://treasury.gov.au/> accessed 4 January 2018.

- 3.7 As part of the review, the Commission will also explore changes in the market environment and future developments that may be planned for the Port of Darwin and relevant industries.

Q 1a: Since the commencement of the regime, have there been any major changes in the market that may alter the need for regulatory oversight to continue?

Q 1b: Are there any expected future developments that may change the need for regulatory oversight?

Q 1c: Is there any evidence that additional constraints on the potential for the port operator to exercise market power are needed in the regime?

Q 1d: Is the regime's approach to addressing the potential for the exercise of market power sufficient, given the possibility that a port operator may expand its business operations into upstream or downstream markets?

Issue 2: Impact of the regime

- 3.8 The purpose of the regime is to promote the economically efficient operation of, use of and investment in major port facilities in the Territory. It is also to promote effective competition in upstream and downstream markets. The Commission is interested in stakeholders' views on whether the regime is achieving these objectives.
- 3.9 In justifying the continuance of regulatory oversight, it is necessary to consider whether the benefits of the regime exceed the associated costs.²⁰ Regulation of monopoly services can provide a level of certainty and transparency, increasing investment and competition in dependent (upstream or downstream) markets. Conversely, regulation imposes administrative and compliance costs on regulated industries.²¹

Q 2a: Does the access and pricing regime promote the economically efficient operation of and investment in major ports, and competition in upstream and downstream markets?

Q 2b: What are the benefits and costs of the access and pricing regime?

Q 2c: Are there any effective alternatives?

Issue 3: Exemption of services provided under lease

- 3.10 The regime allows for services provided under a lease granted by the port operator to be excluded from the access and pricing regime.²²
- 3.11 This is the current arrangement for the Marine Supply Base, a dedicated oil and gas support facility located within the Port of Darwin. It is operated by ASCO Australia Pty Ltd under a fee for service agreement for a term of up to 20 years, which commenced in June 2014.
- 3.12 The lease for the Marine Supply Base was finalised before the private port operator commenced as the operator for the port and the introduction of the access and pricing regime. The Commission understands it was the Government's specific intention to

²⁰ Productivity Commission 2013, *National Access Regime, Inquiry Report no. 66*, Canberra, page 8.

²¹ Productivity Commission 2013, *National Access Regime, Inquiry Report no. 66*, Canberra, page 42 to 43.

²² Regulation 12(2) of the Ports Management Regulations.

exclude the Marine Supply Base from regulatory oversight and this was achieved through the inclusion of regulation 12(2) in the Ports Management Regulations.

- 3.13 Nevertheless, the application of regulation 12(2) provides an ongoing mechanism for all prescribed services to potentially be leased, setting these services outside of the regulatory regime.

Q 3a: Is the application of regulation 12(2) too wide in allowing the port operator to lease prescribed services, and thus potentially setting these services outside of the regime?

Q 3b: Are there any effective alternatives?

Issue 4: Regulated services

- 3.14 The regime applies to prescribed services, which includes access for vessels, loading and unloading of vessels, berthing, pilotage, and entry of persons and vehicles to the port facilities.²³ There are a number of services not included such as towage, bunkering, waste removal, and the supply of electricity and water.²⁴

Q 4a: Is it necessary to regulate all of the current prescribed services?

Q 4b: Are there any services not currently prescribed that should be?

²³ Regulation 12(1) of the Ports Management Regulations

²⁴ Regulation 12(3) of the Ports Management Regulations

Chapter 4: Form of Regulatory Oversight (Access, Pricing and Possible Amendments)

- 4.1 The form of regulatory oversight established by the regime can be summarised as:
- a) a negotiate-arbitrate model under an operator-defined access policy (for access terms)
 - b) price monitoring (for prices)
 - c) legislative prohibitions of specified conduct (to address the potential for discrimination in favour of related entities)
 - d) a light-handed regime (for compliance monitoring and enforcement).
- 4.2 One of the regulatory functions of the Commission is to approve the access policy for the Port of Darwin as submitted by the private port operator. In March 2016, DPO submitted a draft access policy to the Commission and following a lengthy consultation period, an access policy was approved on 30 June 2017. The approval process highlighted various issues with the regime and the relationship between different parts of the regime.
- 4.3 The Commission invites comment on any issue relating to the form of regulatory oversight (access or pricing) established by the regime and any gaps and experiences with the operation of the regime in practice. In particular, the Commission is looking to address the following topics.

Issue 5: Price monitoring

- 4.4 Price monitoring is a tool used by regulators to observe and understand the performance of a business, industry or market. It helps identify competition concerns and informs decision-making about the potential need for more intrusive forms of price regulation to address those concerns.²⁵
- 4.5 The Regulations specifically state the Commission must use price monitoring as the form of regulation for pricing.²⁶ This is the only form of price regulation available to the Commission, irrespective of whether price monitoring identifies concerns with the industry, market or conduct of a port operator.

Q 5: Is price monitoring alone a sufficient form of price regulation?

Issue 6: Threat of regulatory intervention

- 4.6 The access and pricing regime is based on a light handed regulatory model. As discussed above, the Regulations stipulate the Commission must use price monitoring as the form of regulation.²⁷
- 4.7 It relies on port users negotiating the price and terms for access with the port operator, with recourse to arbitration if a dispute arises. The arbitration process is not contained within the PM Act but instead is required by the Regulations to be included in the port operator's access policy.

²⁵ G. Houston, J. Fish & A. Dahl, *Assessment of Price Monitoring in Australia: A Briefing Note for the AEMC*, NERA Consulting, 14 December 2007 <http://www.aemc.gov.au/Media/docs/Price%20Monitoring%20in%20Aust%20-%20NERA-a1f11f34-04b9-40b4-b1d3-372bb117c4e1-0.pdf> accessed 11 January 2018, page 43.

²⁶ Regulation 16(2)(a) of the Ports Management Regulations.

²⁷ Regulation 16(2)(a) of the Ports Management Regulations.

- 4.8 A light-handed approach usually includes a level of transparency by providing port users with sufficient information (through price reporting requirements) to allow them to negotiate with the port operator about prescribed services.
- 4.9 A light-handed approach needs to afford an effective check on the exercise of monopoly power. This is usually done through the threat of more stringent regulation imposed in the event the private port operator misuses its market power.²⁸ Does the regime in its current form explicitly allow for this?

Q 6a: Should arbitration be included in the PM Act or Regulations rather than the port operator's access policy?

Q 6b: Should the regulator have flexibility to use other forms of price regulation where price monitoring is insufficient? If so how?

Issue 7: *Assessing the access regime*

- 4.10 Under the National Third Party Access Regime, state and territory governments can apply to the National Competition Council to have a state or territory-based access regime certified as effective.
- 4.11 Applications for certification are assessed against clauses 6(2)-6(4) of the Competition Principles Agreement, which set out the types of infrastructure services that may be subject to an access regime, as well as the broad requirements for regulated access.²⁹
- 4.12 The principles can be grouped into five areas, the scope of the access regime, interstate issues, the negotiation framework, the dispute resolution framework, and the terms and conditions of access.³⁰
- 4.13 While there is no statutory requirement for state and territory governments to have an access regime certified, governments have agreed that all state and territory access regimes for services provided by significant infrastructure facilities would be submitted for certification.³¹
- 4.14 In its inquiry into the National Access Regime, the Productivity Commission recently affirmed the Competition Principles Agreement as the template for best practice for access regulation.³²

Q 7: Are the criteria for certification (clause 6 of the Competition Principles Agreement) an appropriate tool for assessing the access regime for the purposes of this review?

Issue 8: *Consultation on the initial access policy*

- 4.15 There is no requirement for the port operator to consult with port users during the approval process for the initial access policy. However, consultation by the port operator with port users is a requirement if the port operator proposes to amend the access policy. If another port was declared and brought into the regime by the Minister,

²⁸ C. Decker, *Modern Economic Regulation, An Introduction to Theory and Practice*, Cambridge University Press, Cambridge, 2015, page 61-62.

²⁹ National Competition Council, *Access to Monopoly Infrastructure in Australia: National Third Party Access Regime (Competition and Consumer Act 2010, Part IIIA)* [website], December 2017, page 1-3, http://ncc.gov.au/images/uploads/Access_to_Monopoly_Infrastructure_-_December_2017.pdf accessed 3 November 2017.

³⁰ Productivity Commission 2013, *National Access Regime, Inquiry Report no. 66*, Canberra, page 197.

³¹ Competition and Infrastructure Reform Agreement 10 February 2006 (as amended 13 April 2007), clauses 2.9 and 4.1, <http://ncc.gov.au/search/5f17313c47fe6f8b23b04560ddb7b4d4/> accessed 19 December 2017.

³² Productivity Commission 2013, *National Access Regime, Inquiry Report no. 66*, Canberra, page 188.

an access policy would be required. It may be appropriate for consultation to occur regarding an initial access policy?

Q 8: Should the legislation be changed to include the requirement for consultation by the private port operator with port users on an initial access policy?

Issue 9: Amending the access policy

- 4.16 The port operator is required to review the access policy within five years of it being approved.³³ There is no obligation on the port operator to report on the outcome of the review or to revise the access policy, if necessary. Further, the Commission has no power to require amendments to the access policy if it becomes out of date or ineffective. This means the current access policy for the Port of Darwin could remain in place indefinitely.
- 4.17 Additionally, there is no mechanism in the legislation requiring an access policy be in place at all times. If the initial access policy should expire or cease to be valid, there is no means under which it can be replaced.

Q 9a: Should the port operator publicly report on the outcome of the review of the access policy and should this report be assessed or approved by the Commission?

Q 9b: Should the port operator be required to revise the access policy and if so in what circumstances?

Q 9c: Should the Commission have the power to require amendments be made to the access policy and, if so, in what circumstances?

Q 9d: Is it necessary to amend the regime to ensure there is an access policy in place at all times?

Issue 10: Decision-making framework for approving the access policy

- 4.18 Based on current legislation and legal interpretation, when considering the draft access policy the Commission has limited discretion to require changes to the draft and can only take into account the matters in section 127 of the PM Act and regulation 13 of the Regulations. For example, the Commission cannot have regard to comments from port users, best industry practice standards, the object of Part 11 of the PM Act or the matters outlined in section 6(2) of the UC Act.

Q 10: In considering whether to approve a draft access policy, should the scope of the matters to which the Commission may have regard be changed?

Issue 11: Conflict with other agreements

- 4.19 As part of the process of DPO becoming the private operator for the port, the private port operator has entered into a lease and a number of other agreements with the Government regarding the operation of the port. The legislation does not provide any guidance about how to resolve a potential conflict between the access policy and the other agreements to which the port operator is required to adhere.

³³ Regulation 15 of the Ports Management Regulations. The current access policy was approved on 30 June 2017 and is due to be reviewed by 30 June 2022.

Q 11: Should the regime include guidance on how to resolve a conflict between the access policy and other agreements to which the port operator is bound?

Issue 12: Hindering access and unfairly differentiating

- 4.20 It was Government's intention the regime would create a legislative obligation on the port operator to not unreasonably hinder access to port services or unfairly discriminate between port users.³⁴ Accordingly, these principles are included in the regime in sections 124 and 125 of the PM Act.
- 4.21 However, these sections have been drafted to allow the access policy to create exceptions to these safeguards.³⁵ The legislation does not specify that the Commission should take the hindering access and unfairly differentiating sections into account when deciding to approve a draft access policy.
- 4.22 The port operator's access policy must include details of the approach and factors it will take into account in allowing vessels access to the port and when scheduling vessels.³⁶ These are known as priority or queueing principles and they play an important role in supporting the obligation to not unreasonably hinder access to port services or unfairly differentiate between port users. Yet, there is no legislative basis for the Commission to consider the merits of the port operator's priority principles and the practical or operational implications.

Q 12a: Should the access policy allow the port operator to create exceptions to the hindering access and unfairly differentiating provisions through the access policy?

Q 12b: Should the legislation expressly permit the Commission to take the hindering access and unfairly differentiating provisions into account when considering a draft access policy for approval?

Q 12c: Would it be beneficial for the Commission to have the power to consider the merits of the port operator's priority/queueing policy and how it operates in practice?

Issue 13: Matters to be taken into account by an arbitrator

- 4.23 Under the access policy, if a dispute arises between the port operator and the user it may be referred to an arbitrator for resolution. However, the legislation does not address the matters that must be taken into account by an arbitrator in making a determination. As a result, the port operator may seek to define those matters in the access policy, potentially including factors that may protect its own interests (and not those of the port user).

Q 13a: Regarding dispute resolution, should the legislation specify the matters that must be taken into account by the arbitrator?

Q 13b: If so, is there a preferred decision-making framework?

³⁴ Second Reading speech: Ports Management Bill 2014, 27 November 2014.

³⁵ Sections 124(5)(b) and s 125(2)(c) of the *Ports Management Act*.

³⁶ Regulation 13(2)(a) of the Ports Management Regulations.

Issue 14: Reporting breaches with the access policy

- 4.24 Under the legislation, each year the port operator is required to report to the Commission on any material instances of non-compliance with its access policy.³⁷ The requirement is a subjective self-reporting obligation as it relies on the private port operator to assess what is a 'material instance of non-compliance' and whether it should be reported.³⁸ The Commission is not aware of any material instances of non-compliance with DPO's approved Access Policy or the Price Determination.³⁹
- 4.25 There is no mechanism in the legislation for other parties, such as port users or industry stakeholders to report to the Commission about any breaches of a material nature.
- 4.26 The Commission also needs to assess whether the access policy is effective. The port operator reports annually to the Commission about material instances of non-compliance with the access policy.⁴⁰ It does not report on matters such as the access sought, the access provided, the instances access is refused, or the time taken to negotiate access with port users. There is no requirement to report on how many negotiations have resulted in arbitration or the outcomes. The Chief Executive Officer does not have to sign a compliance certificate confirming the organisation has met all of its regulatory obligations.
- 4.27 Under the current regime, there are no specific penalties imposed on the port operator in the event it fails to report material instances of non-compliance with its access policy to the Commission. The only recourse available to the Commission is to report the failure to the Minister.⁴¹

Q 14a: Under the regime, should port users and industry stakeholders be able to report a material instance of non-compliance with the access policy to the Commission?

Q 14b: Regarding the access policy, should the port operator report to the Commission on broader information such as the access sought, provided, refused, or the time it takes for negotiations?

Q 14c: Should the Chief Executive Officer of the port operator sign a compliance certificate?

Q 14d: Should the regime include penalties to be imposed on the private port operator if it fails to report any material instances of non-compliance with its access policy?

Issue 15: Access to meaningful information

- 4.28 One of the Commission's functions is to determine if price increases are warranted and not a reflection of the port operator exercising market power. To do this properly, the

³⁷ Section 130 of the *Ports Management Act*.

³⁸ Australian Government, *ASIC Enforcement Review, Position and Consultation Paper 1: Self-reporting of contraventions by financial services and credit licensees* [website], 11 April 2017, page 10 https://static.treasury.gov.au/uploads/sites/1/2017/06/C2017-012_Breach-reporting-issues-paper.pdf accessed 2 February 2018.

³⁹ Section 121 of the *Ports Management Act* and Report on Material Instances of Non-compliance with the Darwin Port Access Policy and Determinations 2015-16 and 2016-17.

⁴⁰ Section 130 of the *Ports Management Act*.

⁴¹ Section 121(1)(a) of the *Ports Management Act* requires the Commission to report to the Minister each year on material instances of non-compliance.

Commission needs to have access to appropriate and relevant information. For the Port of Darwin, the private port operator is part of an international business that does not specifically publish an annual report on the Port of Darwin. Consequently, the Commission needs to rely on the PM Act and the UC Act to gather the necessary information.

- 4.29 Under the PM Act, each year the Commission receives information on revenue for prescribed services, which is self-reported by the port operator.⁴² The Commission also has the power to require certain information about particular prices, if needed.⁴³ However, there is no specific obligation in the PM Act requiring the port operator to keep separate accounts and records about prescribed services. The UC Act provides the Commission with general information-gathering powers when performing its functions under the UC Act or another Act (such as the PM Act).
- 4.30 Economic regulators use a combination of compliance reporting and compliance audits to monitor regulated industries' adherence with their regulatory obligations. Compliance auditing is an intrinsic part of any regulatory compliance regime. At present, the regime does not require the port operator to have its records independently audited prior to submitting it to the Commission. Nor does the regime allow the Commission to initiate an independent audit of the port operator's records. Further, if there is a breach of the port operator's obligations in relation to access and pricing for prescribed services, the Commission does not have the power to investigate.

Q 15a: Regarding prices for prescribed services, should the regime include powers for the Commission to obtain information from the private port operator about profit, cost and investment levels?

Q 15b: Should the regime specifically require the port operator to keep separate accounts and records about prescribed services, rather than the Commission relying on its information-gathering powers under the UC Act?

Q 15c: Should the regime include powers for the Commission to initiate an independent audit of the port operator's compliance with the regime?

Q 15d: Is it appropriate for the Commission to have an investigative function for breaches of the port operator's obligations under the regime?

Issue 16: Standards of service

- 4.31 Standards of service establish minimum criteria of reliability and quality and can help reduce the potential for a port operator to exercise its market power. A general standard of service was voluntarily included in the current access policy by the port operator. Outside this, the Commission has very limited ability to specify or insist on a commitment to service standards for prescribed services by the port operator.

Q 16: Should the Commission be able to specify or insist on a commitment to service standards for prescribed services by the port operator?

⁴² Regulation 16(2)(e) of the Ports Management Regulations and clause 10 of the Price Determination.

⁴³ Section 136 of the *Ports Management Act*.

Chapter 5: Appendices

Appendix A: Port of Darwin Comparative Report – Utilities Commission

Appendix B: Port of Darwin Price Benchmarking Report – GHD Advisory

Appendix C: List of Issues and Questions



2017 Port of Darwin Comparative Report

Comparison of Annual Reporting for 2013-2017

13 December 2017

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Glossary

Term	Definition
access policy	An access policy made by a private port operator pursuant to section 127 of the <i>Ports Management Act</i> and regulation 13 of the Ports Management Regulations
Commission	The Utilities Commission of the Northern Territory
DPO	Darwin Port Operations Pty Ltd (ABN 62603 472 788), the private port operator for the Port of Darwin
Price Determination	The 2015-18 Prescribed Port Services Price Determination for the Port of Darwin published by the Utilities Commission pursuant to section 132 of the <i>Ports Management Act</i> and regulation 16 of the Ports Management Regulations
Government	The Northern Territory Government
prescribed service	As defined by regulation 12 of the Ports Management Regulations
regime	Part 11 of the <i>Ports Management Act</i> and Part 3 of the Ports Management Regulations
Regulator	The Utilities Commission of the Northern Territory, as established by section 119(3) of the <i>Ports Management Act</i> and as established under the <i>Utilities Commission Act</i>
Regulations	Ports Management Regulations

Chapter 1: Introduction

Background

- 1.1 Darwin Port Operations Pty Ltd (DPO) was declared the operator of the Port of Darwin under the *Ports Management Act* (PM Act) on and from 1 July 2015. On 15 November 2015, ownership of DPO was acquired by Landbridge Infrastructure Australia Pty Ltd (Landbridge) as part of Landbridge's 99 year lease of the Port of Darwin.
- 1.2 The change of status of DPO to a private port operator triggered the commencement of the ports access and pricing regime.¹ In accordance with the regime, the Utilities Commission (Commission) is the economic regulator of ports access and pricing for Northern Territory ports.
- 1.3 The regime requires the private port operator to report annually to the Commission about access and pricing, including matters such as:
 - Material instances of non-compliance with its access policy²
 - A list of the types of charges for prescribed services charged by the operator
 - The amount of revenue received by the operator from charges for prescribed services (showing the amount of revenue for each separate charge)
 - For a charge for a prescribed service payable on a unit basis, the total number of units charged for each separate charge
 - Details about the amount and reason for any changes to a charge for a prescribed service³
 - The addition of a new charge or the removal of an existing charge for a prescribed service⁴
 - The number and terms of any agreements entered into to fix a negotiated charge for a prescribed service.⁵
- 1.4 As the regime commenced in late 2015, the Commission has received this information from the private port operator for the last two financial years.
- 1.5 The Commission has used this information, as well as what is publically available for the two years prior to the commencement of the private port operator, to complete a comparison of the operational activities of the Port of Darwin for the last four years. For the purposes of this report, trade statistics for each year have been analysed and compared by capacity, volume and revenue.

¹ Part 11 of the *Ports Management Act* and Part 3 of the Ports Management Regulations

² Section 130 Ports Management Act

³ Regulation 16(2)(e) of the Ports Management Regulations and clause 10 of the Price Determination

⁴ Regulation 16(2)(c) and (e) and clause 8 and 9 of the Price Determination

⁵ Regulation 16(2)(f) of the Port Management Regulations and clause 10(e) of the Price Determination

About the Port of Darwin

- 1.6 The Port of Darwin is a multi-use, mixed cargo and marine services port. It services a number of markets, including: livestock, dry bulk, petroleum and other bulk liquids, container cargo, general cargo, cruise vessels, naval vessels and, offshore and gas rig servicing. It is a major offshore industry support hub for most cargoes used in the oil and gas industry in the Arafura and Timor seas as well as waters off Western Australia.⁶
- 1.7 The port is directly linked to Adelaide by the Tarcoola-Darwin Railway, is connected by major road transport highways to other capital cities and is Australia's closest shipping port to Asia.⁷
- 1.8 The Port of Darwin is made up of a number of areas including East Arm Wharf, Fort Hill Wharf, the Marine Supply Base, Stokes Hill Wharf, Fisherman's Wharf, Hornibrook Wharf and the Frances Bay Mooring Basin. Not all areas were leased to Landbridge, with Stokes Hill Wharf, Fisherman's Wharf, Hornibrook Wharf and Frances Bay Mooring Basin continuing to be owned and operated by the Government.
- 1.9 The Marine Supply Base is not regulated by the Commission. This is because the regime allows for services provided under a lease granted by the port operator to be excluded from the access and pricing regime. The Marine Supply Base is operated by ASCO Australia Pty Ltd under a fee for service agreement for a term of up to 20 years, which commenced in June 2014.⁸

⁶ Darwin Port, About Us, *Darwin Port* [website], paragraph 2, www.darwinport.com.au/about-darwin-port accessed 14 November 2017.

⁷ Darwin Port, About Us, *Darwin Port* [website], paragraph 2, www.darwinport.com.au/about-darwin-port accessed 14 November 2017.

⁸ Regulation 12(2) of the Ports Management Regulations.

Chapter 2: Reporting

Compliance with the Access Policy

- 2.1 The port operator's access policy for the Port of Darwin was approved by the Commission on 30 June 2017. DPO have reported that there have been no material instances of non-compliance with the access policy to date.

Changes to standard charges for prescribed services

- 2.2 For the 2015-16 and 2016-17 financial years, there were no changes to standard charges for prescribed services.
- 2.3 On 1 August 2017, DPO increased its standard charges for prescribed services. All charges except one increased by 1.1%. The exception, the charge for bulk liquid fuels (inbound) increased by 3.6%. DPO have explained that the reason for the higher increase for this service is to receive an acceptable rate of return for the bulk liquids fuel berth infrastructure upgrades.
- 2.4 DPO introduced a new tariff, the Bladin Channel port dues levy. This tariff is for vessels larger than 20 000 gross tonne (GT) accessing the Bladin Channel. DPO has advised the Commission that the purpose of the new tariff is to provide a recovery mechanism for investment in pilotage, harbour control and management facilities to support the safe management of large vessel traffic.
- 2.5 The Commission was satisfied that these changes were not inconsistent with the Price Determination.
- 2.6 This is the first time that DPO have changed the standard charges for prescribed services since becoming the private port operator.

Agreements to fix a negotiated charge for a prescribed service

- 2.7 Since 2015, the private port operator has entered into 12 agreements to fix a negotiated charge for a prescribed service.
- 2.8 For 2015-16, three agreements to fix a negotiated charge for a prescribed service were entered into.⁹ Most of these agreements were for leases and licencing arrangements for premises such as warehouses, offices and demountable offices at the port. One agreement was made to change an existing negotiated charge for a prescribed service. This was to extend and amend the bulk handling agreement with OM Manganese. OM Manganese went into administration in 2015-16. However, it is now out of administration and continues to trade and use the port.
- 2.9 In 2016-17, the number of agreements tripled to nine. The nature of these agreements were also for leases and licensing arrangements with commercial entities, such as demountable offices and storage facilities.

⁹ Or were being finalised at the time the report was made to the Commission.

Chapter 3: Trade

Data and statistics

- 3.1 The Commission has used data from the previous four financial years. There are some differences in the way the data has been reported across this period. For example, in 2013-14 and 2014-15 the port was operated by the Government and published an Annual Report which was tabled in Parliament. For most of 2015-16 and for 2016-17 the port has been operated by the private port operator, with DPO reporting to the Commission about access and pricing pursuant to its obligations under the regime.¹⁰
- 3.2 In general, it would be expected that revenues will change with volumes and vessel visits. However, it should be noted that different types of commodities do attract different levels of revenue per tonne (or vessel visits), and as a result there is not a consistent link between changes in volume and revenue.
- 3.3 Full details of the trade statistics for each of the comparison years are included in Appendix A.

Trends for the Port of Darwin

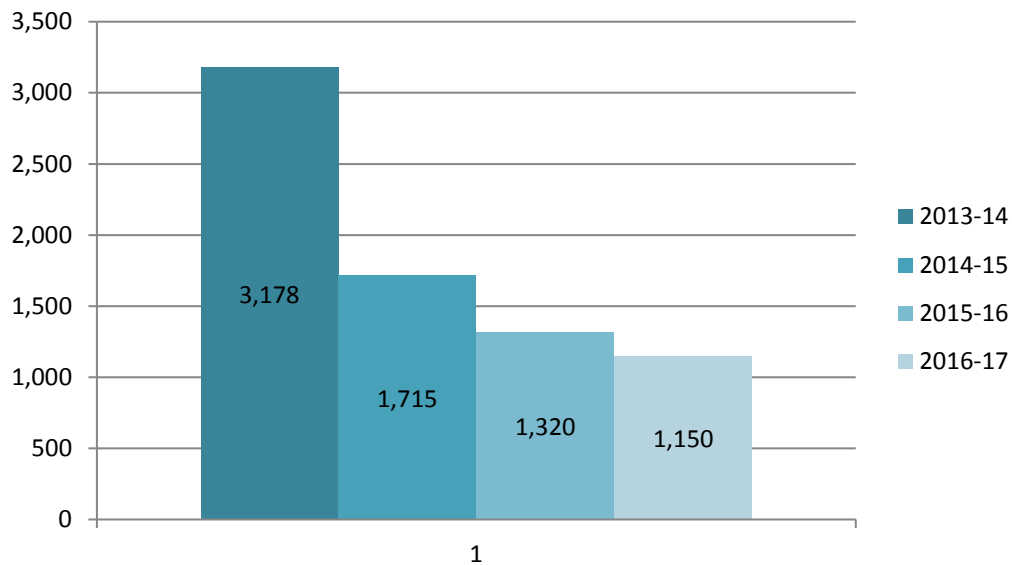
- 3.4 Following a record breaking peak in 2013-14, there has been a progressive downturn in the total trade for the port over the last three years, with a shift in top trade commodities and main sources of revenue. This is a result of the commodities downturn (especially for iron ore and manganese) and the near-completion of the construction phase of the INPEX Ichthys LNG project (INPEX). There has been a steady decrease in vessel visits to the port. Even at its peak in 2013-14, the utilisation of berthage at East Arm Wharf was estimated at 43%.
- 3.5 The following discussion provides a summary of changes in capacity, volume and revenue across the four year period.

Capacity

- 3.6 Figure 1 shows that peak vessel visits occurred in 2013-14. Since 2013-14 there has been a consistent decrease in vessel visits to the port. Notwithstanding this peak, the utilisation of berthage at East Arm Wharf was just under half its capacity for this period.

¹⁰ Section 130 *Ports Management Act*, regulation 16(2) of the Ports Management Regulations and clause 10 of the Price Determination.

Figure 1: Vessel Visits



Volume

- 3.7 Consistent with vessel visits, 2013-14 was a record breaking year for port volume. The main drivers for increases for this period were: the additional port activity generated by the INPEX project;¹¹ increases in iron ore exports; and a rise in general and container cargo attributed to other local major projects.¹²
- 3.8 Figure 2 provides a comparison of the total trade tonnage for the last four years, and provides an overview of the variations of port activity in general.

Figure 2: Total Trade by Tonnes

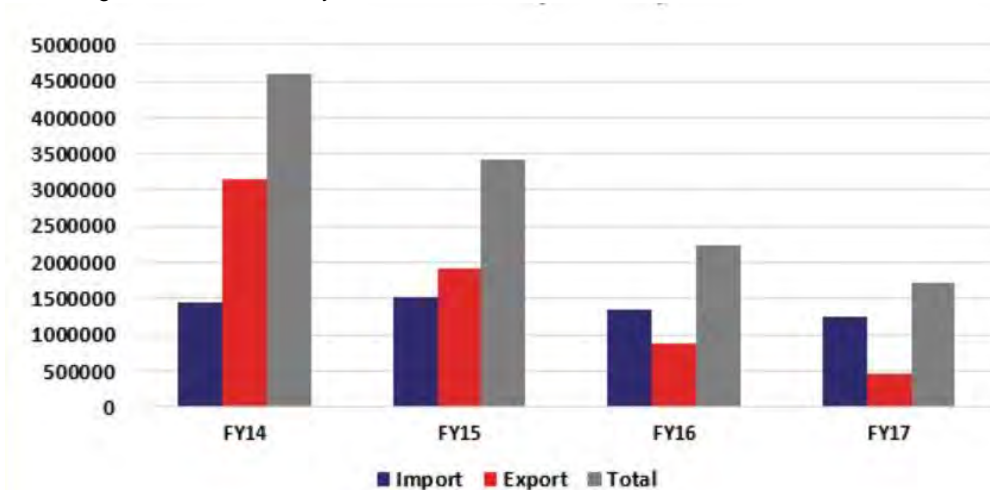


Figure 2 obtained from <https://www.darwinport.com.au/trade/trade-port-statistics/total-trade>

¹¹ Darwin Port Corporation, *Annual Report 2013-14*, page 7.

¹² Darwin Port Corporation, *Annual Report Darwin 2013-14*, page 46.

- 3.9 The year 2014-15 saw all port activity decrease noticeably, which continued for the next two years. The most substantial change has been the decrease in bulk mineral exports.¹³
- 3.10 The factors for this reduction in activity includes:
- the shut-down of the iron ore mine at Francis Creek and the temporary suspension of operations at the Bootu Creek manganese mine¹⁴
 - the relocation of offshore oil and gas supply vessels to the new Marine Supply Base
 - reductions in cattle exports
 - the phased reduction in the INPEX project's cargo import requirements.¹⁵
- 3.11 Both mines were major exporters through the port. This is consistent with the Darwin Port Corporation's prediction in 2013-14 about impacts on future trade figures due to the fluctuations in the global price of iron ore.¹⁶
- 3.12 In addition, DPO reported a decrease in cattle exports through the port following record breaking highs the previous years. DPO have indicated that it suspects this was due to cattle being exported out of other ports across Australia.¹⁷
- 3.13 Port activity resulting from the construction phase of the INPEX project also reached its peak in 2013-14. As the project now nears the completion stage, port activity has dropped. The port is now experiencing a gap between the construction and start-up phases for the project, resulting in a lull in port activity created by the project.¹⁸ Export of LNG is expected to begin in 2018.
- 3.14 These factors impacted the top trade commodities for the port. As depicted by Table 1, the shift occurred between 2014-15 and 2015-16.

Table 1: Commodities

Top Commodities for the Port of Darwin				
	2013-14	2014-15	2015-16	2016-17
1	Export - Dry Bulk	Export - Dry Bulk	Import - Petroleum Product	Import - Petroleum Product
2	Import - Petroleum Product	Import - Petroleum Product	Export - Bulk Minerals Manganese	Export - Bulk Minerals Manganese
3	Import - Dry Bulk	Import - Dry Bulk	Import Clinker, Gypsum, Sulphur or similar, Scrap Metal	Import - General Cargo
4	Import - Other	Export - Livestock	Import - General Cargo	Import Clinker, Gypsum, Sulphur or similar, Scrap Metal
5	Export - Livestock	Import - Other	Export - Livestock	Export - Livestock

¹³ Darwin Port, Total Trade, *Darwin Port* [website], <https://www.darwinport.com.au/trade/trade-port-statistics/total-trade> accessed 20 November 2017.

¹⁴ A. Dias, 'Darwin port operator confident of viability despite falls in manganese, iron ore and cattle shipments', *ABC News*, <http://www.abc.net.au/news/2015-12-16/darwin-port-operators-confident-despite-drop-in-shipments/7033484> accessed 19 November 2017.

¹⁵ Darwin Port Corporation, *Trade Report 2014-15*, page 2.

¹⁶ Darwin Port Corporation, *Annual Report 2013-14*, page 8.

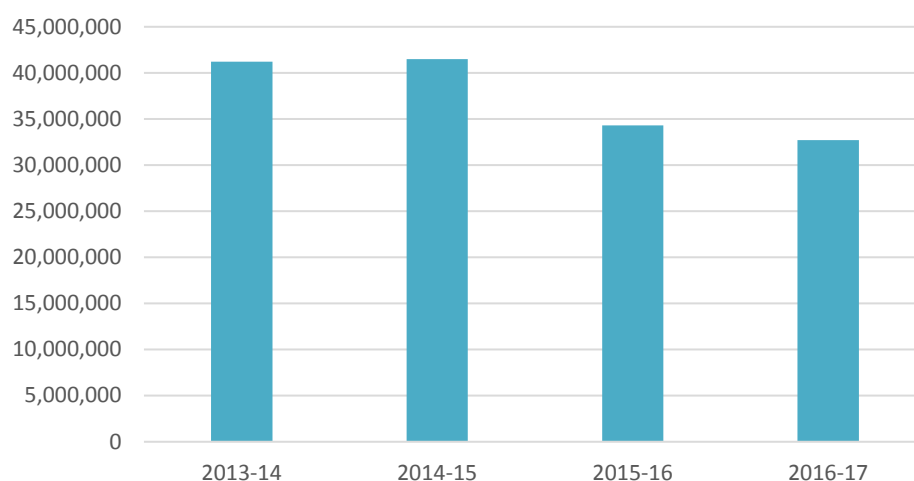
¹⁷ A. Dias, 'Darwin port operator confident of viability despite falls in manganese, iron ore and cattle shipments', *ABC News*, <http://www.abc.net.au/news/2015-12-16/darwin-port-operators-confident-despite-drop-in-shipments/7033484> accessed 19 November 2017.

¹⁸ A. Betts, 'Darwin port furore 'a risk' to China investment, as NT looks to survive downturn', *ABC News*, <http://www.abc.net.au/news/2016-04-14/raby-comments-china-port-deal-as-nt-buckles-down-to-survive/7325148> accessed 19 November 2017.

Revenue

- 3.15 Shipping and cargo revenue for 2013-14 was \$41.2 million.¹⁹ Revenue for the same services for 2014-15 was \$41.5 million. This is a slight increase, despite the decline in bulk cargo volume. This may be due to an increase in prices by the Darwin Port Corporation in February 2015, including the introduction of a new fixed berthage fee.²⁰
- 3.16 Following the change in port operators in late 2015, revenue for prescribed services²¹ for 2015-16 was \$34.3 million and \$32.7 million for 2016-17. Figure 3 provides a summary of revenue for shipping and cargo/prescribed services for the last four years:

Figure 3: Revenue for shipping and cargo (prescribed services)



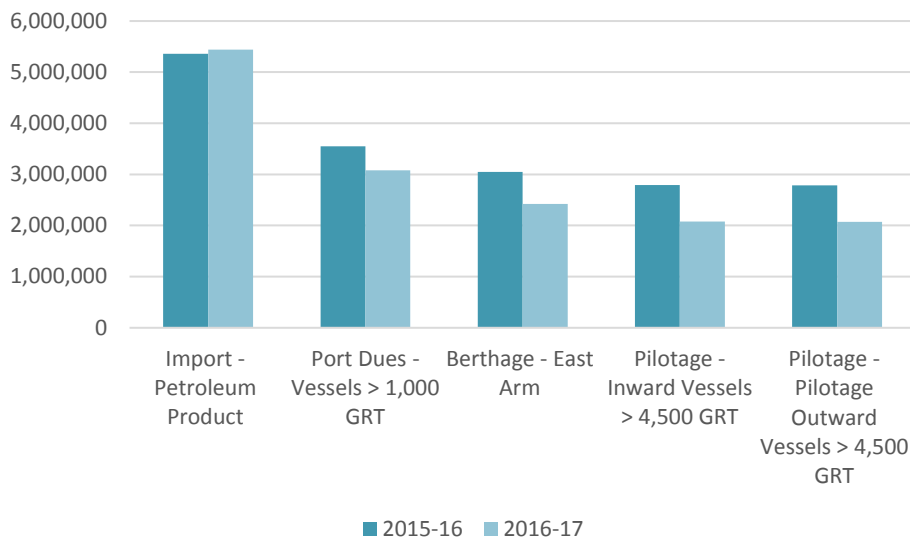
- 3.17 As illustrated by Figure 4, the top sources of revenue have remained the same across 2015-16 and 2016-17. However, the amount of revenue from four of the five main sources has decreased. The decrease in revenue is consistent with the decrease in vessel visits (Figure 1) and volumes (Figure 2).

¹⁹ Shipping and cargo revenue includes wharfage, berthage, pilotage and port dues: Darwin Port Corporation, *Annual Report 2013-14*, page 136.

²⁰ Darwin Port Corporation, *Annual Report 2014-15*, page 116 and 118.

²¹ Prescribed services include providing and allowing access for vessels at the designated port providing facilities for loading or unloading vessels at the designated port; providing for or facilitating the provision of pilotage services in the pilotage area within the designated port; and allowing entry of persons and vehicles to any land on which port facilities of the designated port are located: regulation 12 of the Ports Management Regulations.

Figure 4: Comparison of Main Sources of Revenue



Future Demand

- 3.18 The Commission has not undertaken any formal demand forecasting and DPO has no obligation to provide forward looking demand projections.
- 3.19 Nevertheless, INPEX is due to start exporting LNG from the port in 2018, which will increase vessel visits by around 150 to 200 visits per annum, but not volumes. Volumes are not impacted because INPEX operates its own port at Bladin Point, similar to ConocoPhillips.
- 3.20 Additionally, as indicated through discussions with stakeholders there does seem to be some level of interest and activity across the mining industry that may result in increased bulk exports over the coming years.

Appendices

Appendix A: Yearly Trade Statistics for the Port of Darwin

This section highlights the key trading information for each financial year, beginning with the two years prior to DPO commencing as the private port operator.

2013-14: Government port operator

2013-14 was a record breaking year for the port across volume, capacity and revenue. The main drivers for increases for this period were: the additional port activity generated by the INPEX project;²² increases in iron ore exports; and a rise in general and container cargo attributed to other local major projects.²³

Capacity

- In 2013-14, a total of 3,178 trading vessels visited Darwin,²⁴ which is a 43% utilisation of East Arm Wharf.²⁵
- This is an increase of 15% from the previous year and a record for the port.²⁶
- The INPEX project created a 107% increase in vessel calls over 2012-13 and 2013-14.²⁷

Volume (Trade by Commodity)

- The port had a throughput of almost 4.6 million tonnes of cargo in 2013-14. This is the highest total trade cargo throughput recorded since operations commenced at East Arm Wharf.²⁸ It represents a 7% increase on the previous year.
- This period saw a number of record breaking achievements for the port, including: a 53% increase for container and general cargo trade; a 10% increase in dry bulk exports; and the Australian record set for livestock exports which increased by 47% from the previous year.²⁹
- Dry bulk continued to be the main trade commodity, accounting for 66% of all exports, including 2.5 million tonnes of iron ore and manganese being shipped out of Darwin.³⁰ In 2013-14, iron ore was the port's largest single trading commodity, followed by the importation of petroleum products.³¹

²² Darwin Port Corporation, *Annual Report 2013-14*, page 7.

²³ Darwin Port Corporation, *Annual Report Darwin 2013-14*, page 46.

²⁴ Darwin Port, Vessel Visits, *Darwin Port* [website], <https://www.darwinport.com.au/trade/trade-port-statistics/vessel-visits> accessed 19 November 2017.

²⁵ Darwin Port Corporation, *Annual Report 2013-14*, page 45.

²⁶ Darwin Port Corporation, *Annual Report 2013-14*, page 4.

²⁷ Darwin Port Corporation, *Annual Report 2013-14*, page 7.

²⁸ Darwin Port Corporation, *Annual Report 2013-14*, page 46.

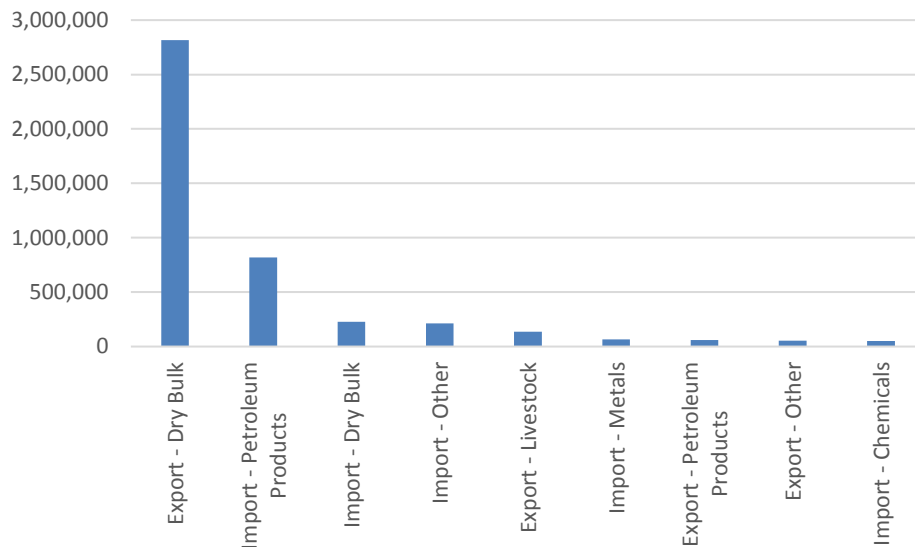
²⁹ Darwin Port Corporation, *Annual Report 2013-14*, page 4.

³⁰ Darwin Port Corporation, *Annual Report 2013-14*, page 7.

³¹ Darwin Port Corporation, *Annual Report 2013-14*, page 98.

Figure 5 sets out trade by commodity for 2013-14:

Figure 5: 2013-14 Trade by Commodity



Revenue

- The shipping and cargo revenue for 2013-14 was \$41.2 million.³²
- Profit before tax was \$17 million. This represents a 14% growth or an increase of \$6 million compared to the previous year.³³
- Total revenue for all port activities was \$57.7 million, which exceeded the year's target by 11%.³⁴

2014-15: Government port operator

This financial year saw a noticeable decrease in port activity. This was the result of a number of factors including: the cessation of iron ore exports; the relocation of offshore oil and gas supply vessels to the new Marine Supply Base; and the phased reduction in the INPEX project's cargo import requirements.³⁵

Capacity

- A total of 1,715 trading vessels visited the port,³⁶ which is almost 1,500 less than 2013-14. This has been attributed to changes to the INPEX construction phase.
- The average utilisation of East Arm Wharf was at 38%.³⁷
- However, whilst overall vessel visits were down for the period, there was an increase in some of the vessel types that visited the port. This included an

³² Shipping and cargo revenue includes wharfage, berthage, pilotage and port dues: Darwin Port Corporation, *Annual Report 2013-14*, page 136.

³³ Darwin Port Corporation, *Annual Report 2013-14*, page 4.

³⁴ Darwin Port Corporation, *Annual Report 2013-14*, page 4 and Darwin Port Corporation, *Annual Report 2014-15*, page 120.

³⁵ Darwin Port Corporation, *Trade Report 2014-15*, page 2.

³⁶ Darwin Port, Vessel Visits, *Darwin Port* [website <https://www.darwinport.com.au/trade/trade-port-statistics/vessel-visits> accessed 19 November 2017.

³⁷ Darwin Port Corporation, *Trade Report 2014-15*, page 2.

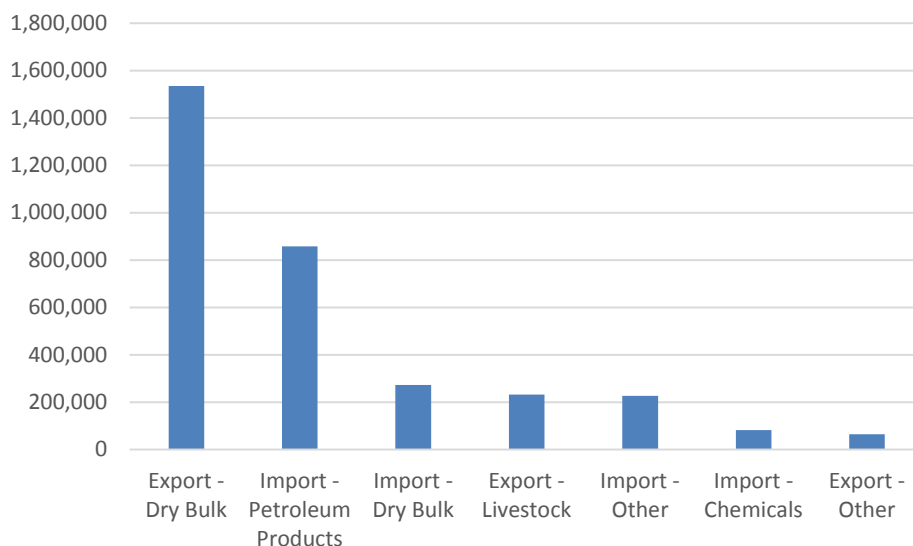
additional 65 cruise ships, 40% more livestock vessels, and a 125% increase in clinker import vessels.³⁸

Volume (Trade by Commodity)

- The port had a throughput of over 3.4 million total tonnes of cargo in 2014-15, which was over a million tonnes less than the previous year. This was mainly because of the downturn in iron ore and manganese exports (down 61% and 14% respectively).³⁹
- Whilst exports were down, there was a 5% increase in total imports, which was a record number of imports for the East Arm Wharf. This was predominantly because of increases in petroleum products and cement.⁴⁰
- 2013-14's Australian record for cattle exports was exceeded. 2014-15 saw an increase of 51%, with 613,437 head of cattle being exported.
- Bulk dry exports and petroleum product imports were again the two leading trade commodities, as indicated by Figure 6.

Figure 6 sets out trade by commodity for 2013-14:

Figure 6: 2014-15 Trade by Commodity



Revenue

- Shipping and cargo revenue for 2014-15 was \$41.5 million. This is a slight increase on the previous year, despite the decline in bulk cargo volume. This may be due to an increase in prices by the Darwin Port Corporation in February 2015, including the introduction of a new fixed berthage fee.⁴¹
- Profit before tax was recorded at \$12 million for 2014-15.⁴²

³⁸ Darwin Port Corporation, *Trade Report 2014-15*, page 1.

³⁹ Darwin Port Corporation, *Trade Report 2014-15*, pages 2 and 4.

⁴⁰ Darwin Port Corporation, *Trade Report 2014-15*, pages 1, 2 and 4.

⁴¹ Darwin Port Corporation, *Annual Report 2014-15*, page 116 and 118.

⁴² Darwin Port Corporation, *Annual Report 2014-15*, page 4.

- Total revenue for all port activities was \$60.1 million, an increase of \$2.4 million from the previous year, exceeding budget by 10%.⁴³

2015-16: Private port operator commences November 2015

Capacity

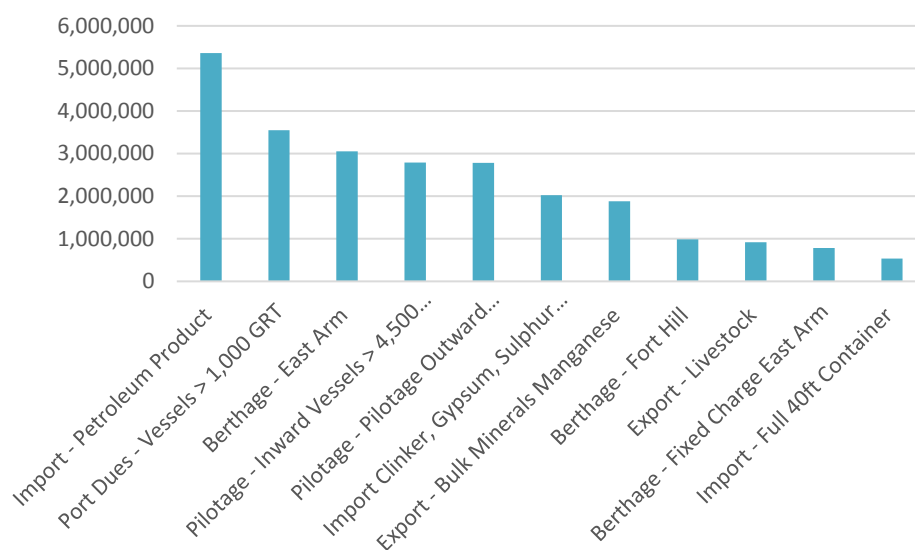
- The number of trading vessels continued to decline, with 1,320 vessels visiting the port this for this period.⁴⁴ The continued decrease in vessels is due to the winding down of the INPEX construction phase.

Volume (Revenue by Commodity)

- With the downturn in iron ore and manganese exports and decreased activity due to the nearing end of the construction phase for the INPEX project, there was a shift in the main trade commodities for the port.
- The main trade commodity for 2015-16 by a significant margin was imported petroleum products.
- Import clinker, gypsum, sulphur and export bulk minerals manganese were the other leading trade commodities, as illustrated by Figure 7.

Figure 7 sets out revenue by commodity for 2015-16:

Figure 7: 2015-16 Revenue by Commodity



Revenue

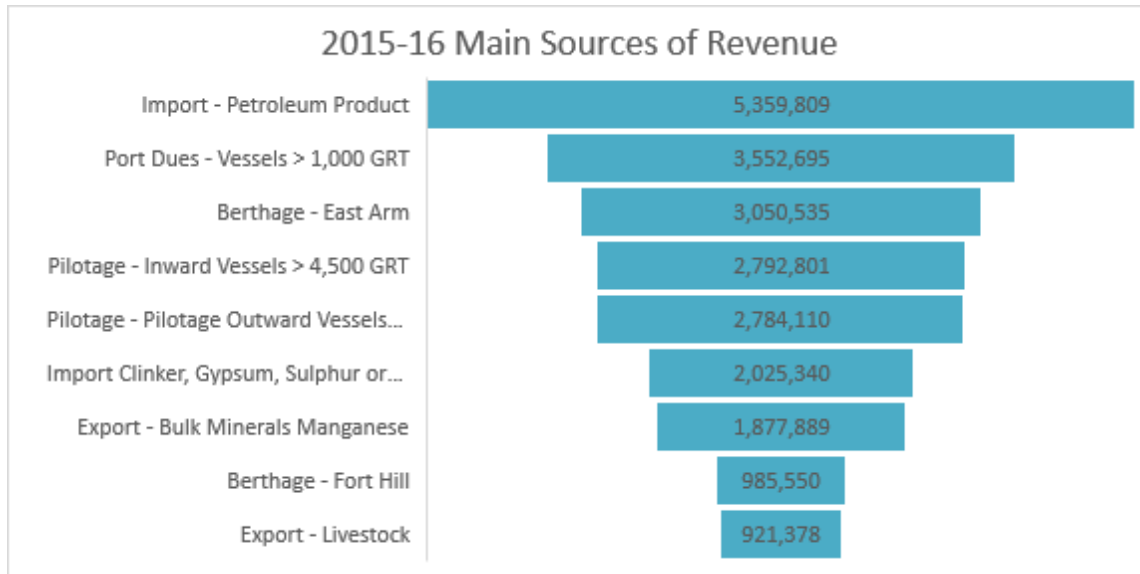
Total revenue for prescribed services was \$34.3 million. The main sources of revenue for DPO were imported petroleum products, followed by port dues and berthage at East Arm

⁴³ Darwin Port Corporation, *Annual Report 2014-15*, page 4 and 120.

⁴⁴ Darwin Port, Vessel Visits, *Darwin Port* [website <https://www.darwinport.com.au/trade/trade-port-statistics/vessel-visits>] accessed 19 November 2017.

Wharf. Whilst no longer the leading commodities, the export of bulk manganese and livestock remained in the top ten revenue sources, as depicted in Figure 8

Figure 8: 2016-16 Main Sources of Revenue



2016-17: First full year of trade following the commencement of the private port operator

Capacity

- A total 1,150 trading vessels visited the port,⁴⁵ which is slightly less compared to 2015-16.

Volume (Revenue by Commodity)

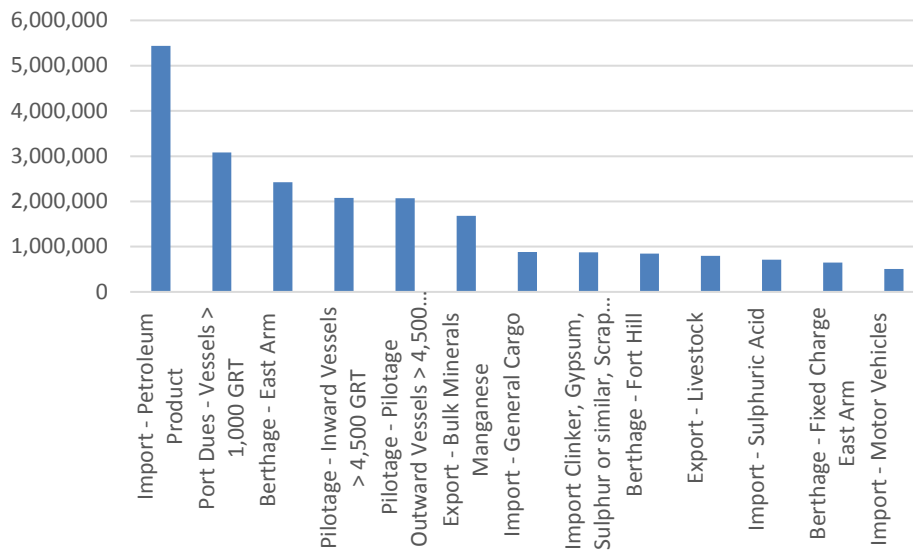
As set out in the Figure 9, imported petroleum products was still the leading trade commodity for the port. However, exported bulk manganese has now moved into second place, from third for last year. This is consistent with reports of recovering manganese prices.⁴⁶

⁴⁵ Darwin Port, Vessel Visits, *Darwin Port* [website <https://www.darwinport.com.au/trade/trade-port-statistics/vessel-visits> accessed 19 November 2017.

⁴⁶ C. Curtain, 'Moth-balled Tope End manganese mine Bootu Creek reopens as ore price recovers', *ABC News*, <http://www.abc.net.au/news/rural/2017-02-02/moth-balled-top-end-manganese-mine-bootu-creek-reopens/8235326> accessed 19 November 2017.

Figure 9 sets out revenue by commodity for 2016-17:

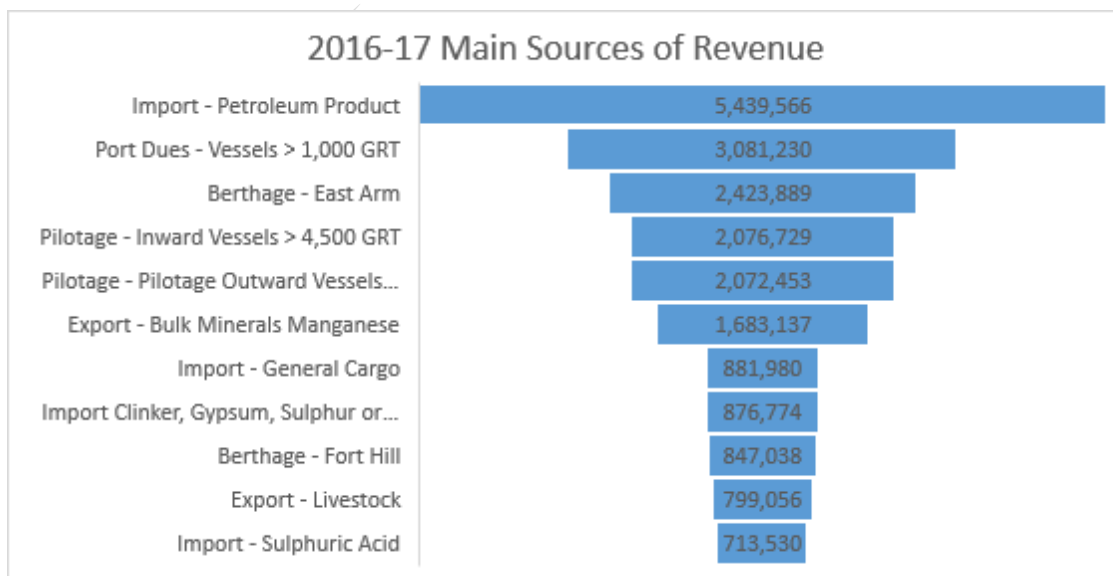
Figure 9: 2016-17 Revenue by Commodity



Revenue

- Total revenue for prescribed services was \$32.7 million. As shown in the Figure 10, the main revenue sources have remained the same since last year.
- This may indicate stabilisation of port activity following the considerable events that were experienced as a result of local major projects and fluctuations in the bulk minerals export market in previous years.
- As expected, the revenue growth from the spin offs from the construction of the INPEX project have now come to an end.⁴⁷ There may be some increases in revenue for port dues and pilotage with the start of exports from the INPEX project in 2018.

Figure 10: 2016-17 Main Sources of Revenue



⁴⁷ Darwin Port Corporation, *Annual Report 2013-14*, page 40.

Utilities Commission of the NT



Photo Source: Port of Darwin website

Darwin Port Price Benchmarking Study, 2017

Final Report (Rev F), 21st Feb. 2018



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The Darwin Port Price Benchmarking Study, 2017

1.1 Background

GHD Advisory has been engaged by the Utilities Commission of the Northern Territory (UC), the economic regulator of the Port of Darwin, to undertake a benchmarking study of port prices (or ship visit costs or charges) at the Port of Darwin against comparable interstate port prices. The findings and insights from this study are intended to inform the UC's 2018 Ports Access and Pricing Review in accordance with work tasks under Part 11 of the *Ports Management Act* (the Act) and Part 3 of the Ports Management Regulations (the Regulations).

UC has been responsible for the economic regulation of the Port of Darwin since November 2015. The economic regulation covers the pricing and access for Prescribed standard port services at the Port of Darwin as managed and published by the declared port operator - Darwin Port Operations Pty Limited (DPO). This benchmarking study is the first Darwin Port price benchmarking study undertaken for the UC.

The results in this study are indicative only and will vary given different assumptions used. Hence, reader caution is needed.

1.2 Scope and Approach

The scope of the study and the approach used was limited to:

- Comparing the main Prescribed standard port services charges (prices) of Darwin Port with the equivalent prices of seven inter-state comparator ports around the coast of Broome (WA), Port Hedland (WA), Fremantle (WA), Adelaide (SA), Cairns (QLD), Townsville (QLD) and Gladstone (QLD).
- Use of a common set of relevant commodity sectors (vessel cargoes) as comparators: Containers (general cargo), Dry bulk (cement imports), Liquid bulk – oils (fuel imports), Liquid bulk – gases (LNG exports), Motor vehicles (car imports), Livestock (cattle exports), Offshore Supply (general cargo), and Cruiseship (passengers).
- Use of a common set of 'model' ships applicable to the carriage of the comparator cargoes: Containership (1,808 TEU), two Handysize bulk carriers, Handysize products tanker, two LNG tankers (137,000 & 155,300 m³), Pure Car Carrier (4,900 CEU), Livestock Carrier (5,225 dwt), Offshore Supply Vessel (4,000 dwt), and a Cruiseship (2,272 PAX).
- Total port-call costs compared using a model ship call for a given cargo exchange quantity, and an assumed time in port.
- Port charges grouped into the main Prescribed port services of Port Dues (vessel GT based charges for port access via channels, port security levies, Fremantle Ports' Tonnage Rates, & MSQ Conservancy Dues), Pilotage (vessel safe navigation to/from port & pilot boarding station), Berthing (vessel time-at-berth based charges) and Wharfage (cargo handling/throughput based charges). Excluded costs – AMSA vessel levies (no differentiation by port), compulsory Torres Strait/GBR reef pilotage, vessel towage & line-handling at port and cargo stevedoring (these services are mainly contracted).
- Three-year price changes comparing published 2014 price data (1st July) with 2017 current prices (November).



Overview of Current Ports

2.1 The Comparator Ports

Out of the eight ports in the study, Darwin and Adelaide are both privately operated. Plans by previous state governments to privatise Fremantle Ports and the other main ports in Queensland are currently on-hold or have been abandoned.

Since July 2014, with the exception of Fremantle Ports, individual port authorities in WA have been merged into regional port authorities. Cairns Port is operated by a regional port authority (Ports North) and both Townsville and Gladstone additionally manage a smaller neighbouring port.

In general, the trade-mix at the ports covered in the study has not significantly changed since 2014. Some traditional minor dry bulk trades have stagnated or declined, while some large resources projects have since become operational leading to new trades (i.e. LNG exports). This implies that the volume-base for the ports' charging schemes is broadly the same as in 2014 with some exceptions including at Darwin Port (i.e. the recent significant decline in minerals exports).

Table 1 Summary of trade-mix at each comparator port, 2017

Trade Sector	Darwin (NT)	Broome (WA)	Port Hedland (WA)	Fremantle (WA)	Adelaide (SA)	Cairns (QLD)	Townsville (QLD)	Gladstone (QLD)
Containers	Yes	Minor	Yes	Yes	Yes	Minor	Yes	Yes
Motor Vehicles	Yes	-	-	Yes	Yes	Minor	Yes	Minor
Dry Bulks	Yes	-	Yes	Yes	Yes	-	Yes	Yes
Liquid Bulks - oils & chemicals	Yes	Minor	Yes	Yes	Yes	Minor	Yes	Yes
Liquid Bulks - gases (LNG/LPG)	Yes	-	#	Yes	-	-	-	Yes
Livestock	Yes	Yes	Yes	Yes	Yes	-	Yes	-
Offshore Supply	Yes	Yes	Yes	-	-	-	-	-
Cruise-ship Tourism	Yes	Yes	Minor	Yes	Yes	Yes	Yes	-
Other Commercial (incl. non-cargo)	Defence	Pearl/fish	Yes	Defence	Fishing	Def./Fish	Defence	Fishing

Legend:

Level of Sector minor or not applicable

Level of Sector significant regionally

Level of Sector significant nationally

Activity strategic nationally

(#) Significant at Dampier which is also managed by the Pilbara Ports Authority as from 2014.

Source: GHD analysis of port published trade statistics & Annual Reports.



Overview of Current Ports

2.2 Trade developments at the Comparator Ports

An overview of trade developments helps to provide an understanding of how this may, in part, influence (drive) changes in port pricing over recent years – see Table 2. Both Darwin and Broome have significant vessel visits, but much lower cargo trade volumes compared with the other ports. This is caused by a relatively high proportion of small Offshore Supply Vessels with limited cargo capacity visiting Darwin and Broome. Also, currently up to 3.5 million tonnes/year of LNG exports# from Darwin are not handled by the DPO – only the Port’s channels and pilots are used for this trade, whereas LNG (19.4 million tonnes in FY 2016-17) is handled by the Gladstone Ports Corporation.

Table 2 Summary of trade throughputs and vessel visits at the comparator ports, 2014-2017

Key Trade Performance Indicator	Darwin (NT)	Broome (WA)	Port Hedland (WA)	Fremantle (WA)	Adelaide (SA)	Cairns (QLD)	Townsville (QLD)	Gladstone (QLD)
Total Cargo Trade (Million tonnes)								
FY 2013-14	4.6	0.5	372.3	33.51	11.76	1.04	10.26	97.67
FY 2014-15	3.4	0.5	446.9	35.84	10.64	1.31	10.49	99.29
FY 2015-16	2.3	0.5	460.4	34.82	10.26	1.15	9.23	115.98
FY 2016-17	1.7	0.3	500.9	35.25	9.45	1.36	6.91	120.41
Commercial Vessel Visits (Number)								
FY 2013-14	3,178	1,050	N/A	1,874	1,194	856	635	1,643
FY 2014-15	1,715	1,000	N/A	1,804	1,168	872	643	1,541
FY 2015-16	1,320	1,014	2,746	1,837	1,216	836	618	1,753
FY 2016-17	1,150	837	2,937	1,813	1,222	857	576	1,788

Source: GHD analysis of port published trade statistics & Annual Reports.

N/A=Publically Not Available.

Note: Significant reduction in total vessel visits in FY 2014-15 due to cessation of or reduction in vessels used for the INPEX project.

Note: Total Cargo Trade is in mass tonnes.

Note: Port Hedland total trade for FY 2016-17 comprises 494.4 million tonnes iron ore exports & 6.51 million tonnes of other cargoes.

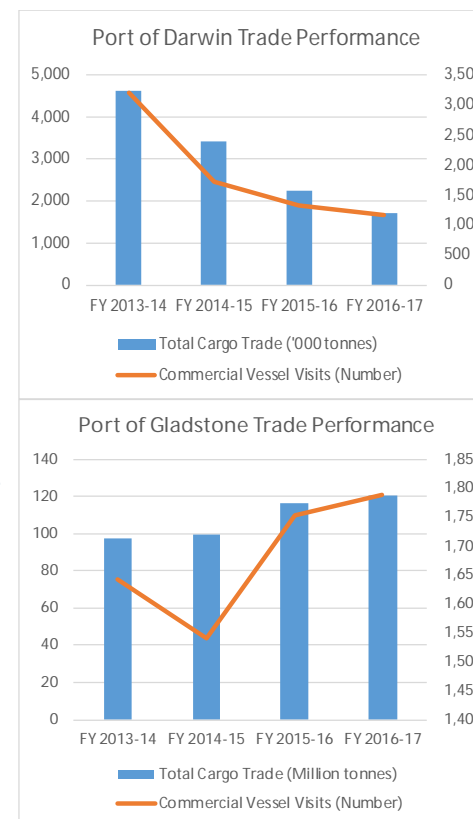
Note: Fremantle received additional 62 Defence vessel visits in FY 2015-16, and 92 visits in FY 2016-17.

Note: Adelaide Total Cargo Trade excludes Containers and is for Calendar Year (Jan.-Dec.).

Note: Gladstone received 298 LNG vessel visits in FY 2016-17 with 19.4 million tonnes of LNG exports.

Note: Port of Darwin received additional 102 Defence vessel visits in FY 2013-14, and 85 visits in FY 2014-15.

Source: ConocoPhillips website – EIS documents.



Overview of Current Ports

2.3 Financial developments at the Comparator Ports

An overview of financial developments may also help to provide further background on the potential influences and impacts of changes in port pricing over recent years – see Table 3.

Table 3 Summary of key financial performance at the comparator ports, 2014-2017

Financial Performance Indicator	Darwin (NT)	Broome (WA)	Port Hedland (WA)*	Fremantle (WA)	Adelaide (SA)	Cairns (QLD)**	Townsville (QLD)***	Gladstone (QLD)****
<i>Current Governance per Nov. 2017</i>	<i>Private (1)</i>	<i>StateCo (2)</i>	<i>StateCo (3)</i>	<i>StateCo (4)</i>	<i>Private (5)</i>	<i>StateCo (6)</i>	<i>StateCo (7)</i>	<i>StateCo (8)</i>
Operating Revenue (\$ million)								
FY 2013-14	\$57.78	\$20.81	\$326.58	\$204.48	N/A	\$52.38	\$76.02	\$691.20
FY 2014-15	N/A	\$22.15	\$497.95	\$229.75	N/A	\$53.59	\$75.95	\$453.00
FY 2015-16	N/A	\$24.55	\$406.91	\$223.34	N/A	\$56.62	\$75.07	\$478.90
FY 2016-17	N/A	\$17.97	\$422.63	\$214.06	N/A	\$53.82	\$69.26	\$470.90
Return on EBIT Assets (%)								
FY 2013-14	11.80%	6.60%	24.10%	12.60%	N/A	3.96%	5.38%	9.40%
FY 2014-15	N/A	5.20%	26.30%	15.10%	N/A	5.28%	4.86%	6.40%
FY 2015-16	N/A	7.80%	18.10%	14.70%	N/A	5.78%	4.65%	6.60%
FY 2016-17	N/A	-1.70%	9.70%	13.90%	N/A	3.56%	4.27%	5.80%
Capital Investments (\$ million)								
FY 2013-14	\$13.33	\$3.47	\$9.57	\$4.52	N/A	\$3.67	\$15.36	\$102.40
FY 2014-15	N/A	\$3.80	\$5.70	\$5.44	N/A	\$4.72	\$12.72	\$74.80
FY 2015-16	\$25#	\$11.32	\$14.36	\$0.46	N/A	\$1.24	\$19.95	\$67.90
FY 2016-17		\$5.22	\$53.30	\$2.86	N/A	\$4.57	\$30.42	\$58.50

StateCo = state-owned enterprise/corporation.

Source: GHD analysis of published Annual Reports available on the web.

For the Explanatory Notes to Table 3, please refer to Appendix C.

Port Charge Changes - recent

3.1 Inflationary (CPI) developments at the Comparator Ports

A comparison of the published ABS CPIs over the last five years for the relevant major cities shows that:

1. In 2014, due to the local impact of relatively significant construction projects, Darwin had the highest CPI level, but now has the lowest as these projects are completed.
2. Since 2015, Darwin has almost had zero CPI inflation, while the other comparator cities have annual CPI inflation rates of around 1-2%.

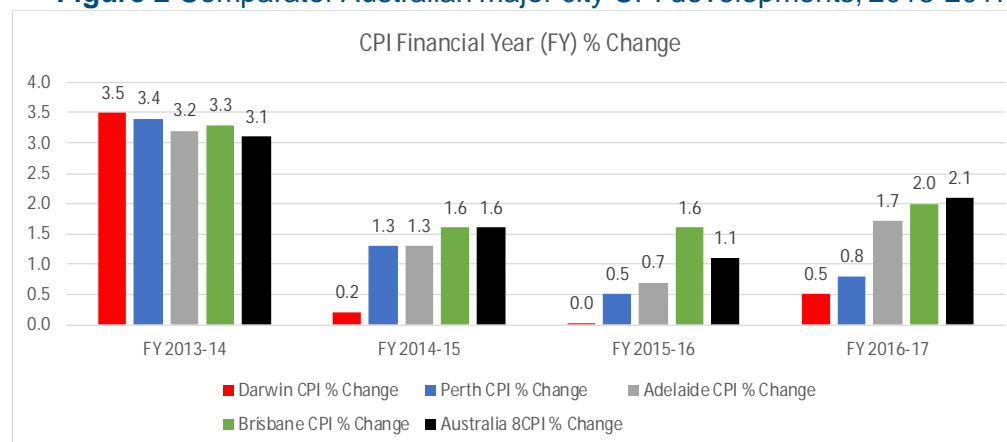
Table 4 Comparator Australian major city CPI developments, 2013-2017

End Period	Darwin (NT)		Perth (WA)		Adelaide (SA)		Brisbane (QLD)		Australia (8 cities)	
	CPI	% Change*	CPI	% Change*	CPI	% Change*	CPI	% Change*	CPI	% Change*
FY 2012-13	104.6	-	103.0	-	102.3	-	102.5	-	102.8	-
FY 2013-14	108.1	3.5	106.4	3.4	105.5	3.2	105.8	3.3	105.9	3.1
FY 2014-15	108.3	0.2	107.7	1.3	106.8	1.3	107.4	1.6	107.5	1.6
FY 2015-16	108.3	0.0	108.2	0.5	107.5	0.7	109.0	1.6	108.6	1.1
FY 2016-17	108.8	0.5	109.0	0.8	109.2	1.7	111.0	2.0	110.7	2.1

Source: ABS Quarterly Series All Groups CPI for Australian major cities.

(*) Change from previous period. FY = Financial Year.

Figure 2 Comparator Australian major city CPI developments, 2013-2017



Port Charge Changes – over last 3 years

3.2 Comparison of Port Charges – 2017 versus 2014 levels

A comparison of the published port charges of the comparator ports over the last three years (Nov. 2017 with 1st July 2014) shows that:

1. The period involved two port owners – the NT government until November 2015 and the private DPO from November 2015 until current. Hence, the analysed changes in port charges at Darwin Port cover two different port operators.
2. Darwin Port (with the two operators) has increased charges beyond CPI but not greater than 2% nominal with the exception of Fuel and Livestock wharfage. It may be the case that additional investment in fuel-related port infrastructure and operations has required the need for a greater cost recovery. A new large ship levy has been introduced for those vessels larger than 20,000 GT accessing the Bladin Channel. According to the DPO, this levy has been introduced to provide a recovery mechanism for investment in pilotage, harbour control and management facilities to support the safe management of large vessels within the Bladin Channel.
3. The increases in Ports Dues at Port Hedland (17%) and across all charges at Fremantle (7.2%) is significantly above local (Perth) CPI increases and the increases made at Darwin Port. The WA port charge increases may have been caused by a combination of possible new investments in port infrastructure and increasing operating costs. Adelaide has increased charges significantly more than Darwin Port – Adelaide's financials are not in the public domain.

Table 5 Three-year Comparison in Port Charges (2017 vs. 2014)

Comparator Port: 3-Year Nominal Charge Increase	Ports Dues	Pilotage	Berthing	Wharfage
Darwin (NT): Increase from 1st Feb. 2015 levels	0.8% New Bladin Channel Levy	1.9%	1.9%	1.9% 4.5% Fuel, 2.2% Livestock
Broome (WA)	-	-	-	-
Port Hedland (WA)	17.0%	0.0%	0.0%	0.0%
Fremantle (WA)	7.2%	7.2%	7.2%	7.2%
Adelaide (SA)	4.7%	9.8%	5.1%	10.6% Containers
Cairns (QLD)	6.1% Conservancy Dues on 2012 levels	-	-	-
Townsville (QLD)		10.6% on 2012 levels	-	-
Gladstone (QLD): Increase from 1st July 2015 levels		21.6% on 2012 levels	3.6%	3.6%

Sources: GHD analysis of published port authority charges/tariffs.



Port Charge Changes – over last 3 years

3.3 Individual Port Access Charges

A comparison of the published port charges of the comparator ports shows that for Individual Port Access Charges:

1. Darwin Port currently has the second lowest annual charge of \$50 with Broome the lowest (\$36.36) and Fremantle the highest (\$131.82). Cairns is the second highest at \$126. The charges were not readily available (visible) for the ports of Adelaide, Townsville and Gladstone.
2. These individual access charges (covering port induction and an issued MSIC) appear relatively low when compared with vessel port call costs. Over the last three years, levels of the individual access charges have remained generally constant (i.e. minimal price increases) due in part to some access charge options covering fixed periods of two to four years.

Sources: GHD analysis of published port authority charges/tariffs.



Port Call Costs Analysis for vessels and cargoes, 2017

This section presents the analysis of Port Call Costs for Equivalent Prescribed Services – Port Dues, Pilotage, Berthing and Wharfage, and the sum total - for the comparator ports, model vessels and related cargo sectors.

4.1 Containership Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for a Containership exchanging containers at the comparator ports is shown in Table 6 and Figure 3 below.

The modelling of port call costs for a Containership shows that:

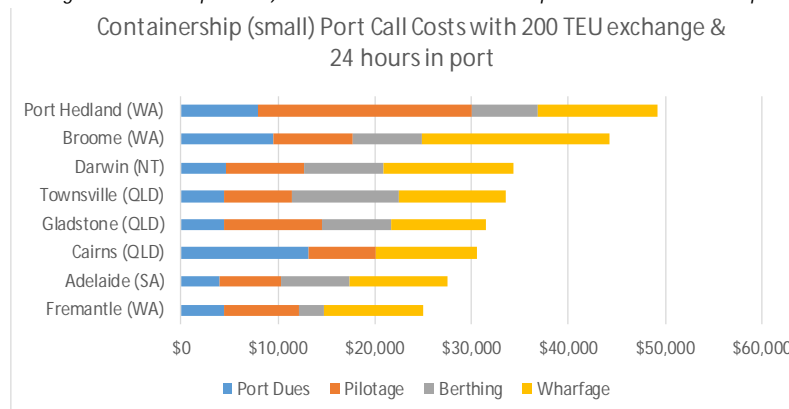
1. The ports with minor volumes of container throughput (the remoter ports of which Darwin is one) appear to be more expensive, possibly as a result of diseconomies of scale.
2. Darwin Port is the third ranking of most expensive port call costs for a containership and appears to be around 27% more expensive in total cost than the lowest cost port of Adelaide.
3. Port Hedland appears to be the most expensive port for a containership particularly due to the port’s relatively high vessel pilotage cost.

Table 6 Containership port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Cargo Tonne
Fremantle (WA)	\$4,544	\$7,624	\$2,630	\$10,272	\$25,069	73.0	\$10.45
Adelaide (SA)	\$3,984	\$6,340	\$7,027	\$10,116	\$27,466	80.0	\$11.44
Cairns (QLD)	\$13,113	\$7,003	\$0	\$10,452	\$30,568	89.1	\$12.74
Gladstone (QLD)	\$4,389	\$10,220	\$7,050	\$9,797	\$31,457	91.6	\$13.11
Townsville (QLD)	\$4,389	\$7,054	\$11,096	\$10,986	\$33,525	97.7	\$13.97
Darwin (NT)	\$4,578	\$8,106	\$8,253	\$13,388	\$34,324	100.0	\$14.30
Broome (WA)	\$9,566	\$8,204	\$7,031	\$19,479	\$44,279	129.0	\$18.45
Port Hedland (WA)	\$7,980	\$22,015	\$6,782	\$12,344	\$49,121	143.1	\$20.47

*Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).
 Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.*

Figure 3 Containership port call costs at comparator ports (2017)



Source: GHD modelling using published charges and vessel/cargo/port time assumptions.

Note: Fremantle's Tonnage Rate (a vessel GT based charge) is included in column "Port Dues" and not classified as "Berthing".



Port Call Costs Analysis for vessels and cargoes, 2017

4.2 Dry Bulk Carrier Port Call Costs for Equivalent Prescribed Services – import cargo

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for a Dry Bulk Carrier (Handysize - cement) unloading cargo at the comparator ports is shown in Table 7 and Figure 4 below.

The modelling of port call costs for a Dry Bulk Carrier (cement import) shows that:

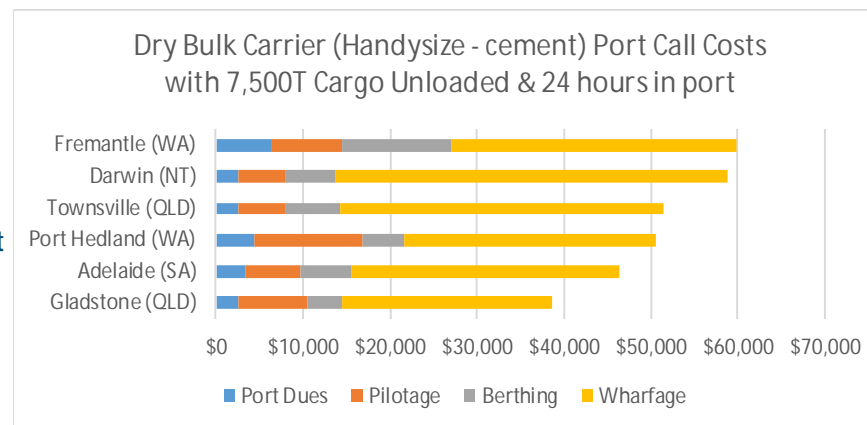
1. The ports with the larger volumes of dry bulk throughput appear to be less expensive, possibly as a result of economies of scale.
2. Darwin Port is the second ranking of most expensive port call costs for a dry bulk carrier with import cargo and appears to be around 34% more expensive in total cost than the lowest cost port of Gladstone. However, ports such as Gladstone and Port Hedland have significantly higher throughputs of bulk cargoes than Darwin which as a result may possibly offer advantages of economies of scale.
3. Darwin Port’s position for dry bulk (cement) import is particularly due to the port’s relatively high wharfage cost for dry bulk imports.

Table 7 Dry Bulk Carrier (cement import) port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Cargo Tonne
Gladstone (QLD)	\$2,530	\$7,927	\$4,063	\$24,063	\$38,584	65.6	\$5.14
Adelaide (SA)	\$3,432	\$6,340	\$5,709	\$30,975	\$46,455	79.0	\$6.19
Port Hedland (WA)	\$4,501	\$12,404	\$4,768	\$28,875	\$50,547	86.0	\$6.74
Townsville (QLD)	\$2,530	\$5,473	\$6,396	\$36,975	\$51,373	87.4	\$6.85
Darwin (NT)	\$2,638	\$5,388	\$5,613	\$45,150	\$58,789	100.0	\$7.84
Fremantle (WA)	\$6,311	\$8,317	\$12,554	\$32,679	\$59,861	101.8	\$7.98

*Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).
 Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.*

Figure 4 Dry Bulk Carrier (cement import) port call costs at comparator ports (2017)



Note: Fremantle’s Tonnage Rate (a vessel GT based charge) is included in the column “Port Dues” and not classified as “Berthing”.

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.



Port Call Costs Analysis for vessels and cargoes, 2017

4.3 Dry Bulk Carrier Port Call Costs for Equivalent Prescribed Services – export cargo

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for a Dry Bulk Carrier (Handysize – standard) loading cargo at the comparator ports is shown in Table 8 and Figure 5 below.

The modelling of port call costs for a Dry Bulk Carrier (mineral concentrates export) shows that:

1. The wharfage cost at Darwin is not visible (confidential / negotiated) despite wharfage for other cargoes being published as a standard charge and common-user access to the East Arm wharves.
2. If the wharfage charge is assumed to be around \$4 per cargo tonne#, then Darwin's total cost appears to be roughly equivalent to Adelaide and Townsville.
3. The ports with the larger volumes of dry bulk throughput, such as Port Hedland & Gladstone, appear to be less expensive, possibly as a result of economies of scale.
4. The Adelaide-Darwin railway provides two port gateways for freight. However, differences in market rail freight rates southbound versus northbound can influence the competitive position of the Port of Darwin versus Adelaide such that breakeven transport costs may not be equi-distant between Adelaide & Darwin.

Table 8 Dry Bulk Carrier (concentrates export) port call costs at comparator ports (2017)

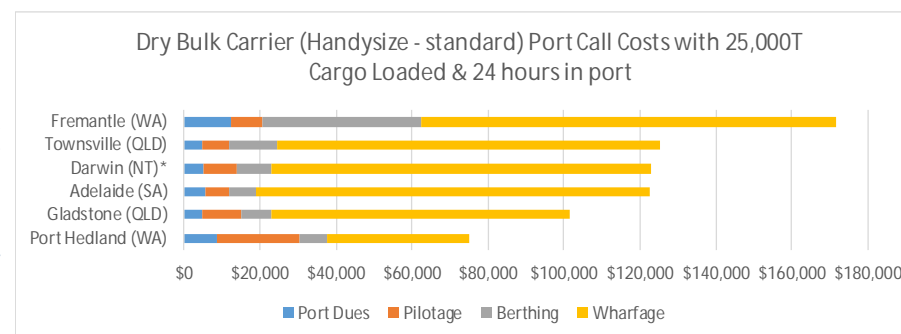
Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Cargo Tonne
Port Hedland (WA)	\$8,647	\$22,015	\$6,782	\$37,500	\$74,944	60.9	\$3.00
Gladstone (QLD)	\$4,934	\$10,244	\$7,925	\$78,663	\$101,765	82.7	\$4.07
Adelaide (SA)	\$5,493	\$6,340	\$7,412	\$103,250	\$122,495	99.5	\$4.90
Darwin (NT)*	\$5,145	\$8,902	\$9,026	\$100,000	\$123,073	100.0	\$4.92
Townsville (QLD)	\$4,934	\$7,070	\$12,472	\$100,750	\$125,226	101.7	\$5.01
Fremantle (WA)	\$12,309	\$8,317	\$41,848	\$108,930	\$171,403	139.3	\$6.86

Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

(*) Darwin Cost for Dry Bulk export incl. estimated Wharfage Cost as this is a confidential (negotiated) rate and not visible.

Figure 5 Dry Bulk Carrier (concentrates export) port call costs at comparator ports (2017)



(*) Darwin Cost for Dry Bulk export incl. an estimated Wharfage Cost since a confidential (negotiated) rate and not visible.

(#) Source: NT Government – “EAW Expansion Project DEIS, 2010”, Chapter 20 Economics, p368.

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.



Port Call Costs Analysis for vessels and cargoes, 2017

4.4 Products Tanker Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for a Products Tanker unloading cargo at the comparator ports is shown in Table 9 and Figure 6 below.

The modelling of port call costs for a Products Tanker shows that:

1. With the exception of Fremantle# (cheapest) and Broome (the most expensive), the ports appear to have relatively similar total costs.
2. Darwin Port is the second ranking of most expensive port call costs for a products tanker but closely followed by Port Hedland and Townsville.
3. Darwin Port’s position is particularly due to the port’s relatively high wharfage cost for fuel imports.
4. The standout (high cost) pilotage is for Port Hedland and the standout (high cost) wharfage charge is for Broome – more than double Darwin’s level.

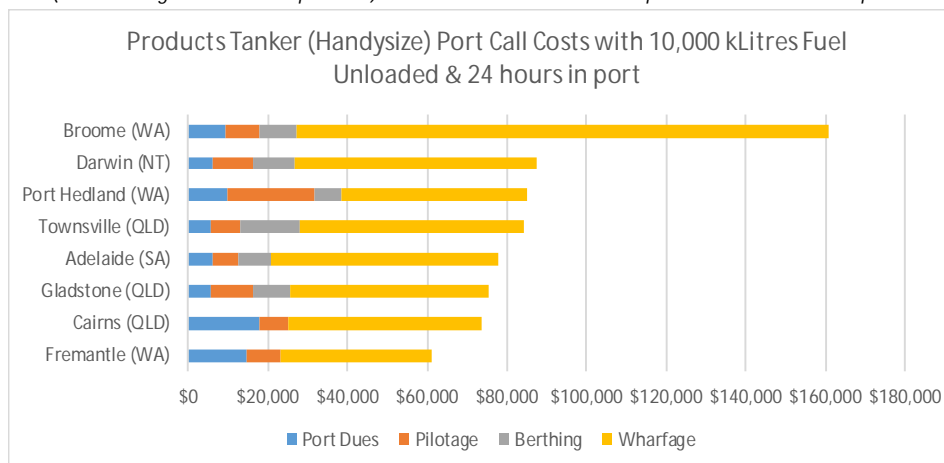
Table 9 Products Tanker port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Cargo KiloLitre
Fremantle (WA)	\$14,722	\$8,317	\$0	\$38,334	\$61,372	70.1	\$6.14
Cairns (QLD)	\$17,996	\$7,014	\$0	\$48,900	\$73,910	84.4	\$7.39
Gladstone (QLD)	\$5,901	\$10,236	\$9,478	\$49,672	\$75,287	86.0	\$7.53
Adelaide (SA)	\$6,323	\$6,340	\$8,098	\$57,200	\$77,960	89.0	\$7.80
Townsville (QLD)	\$5,901	\$7,065	\$14,918	\$56,560	\$84,444	96.4	\$8.44
Port Hedland (WA)	\$9,833	\$22,015	\$6,782	\$46,500	\$85,130	97.2	\$8.51
Darwin (NT)	\$6,154	\$10,316	\$10,399	\$60,700	\$87,568	100.0	\$8.76
Broome (WA)	\$9,566	\$8,204	\$9,452	\$133,545	\$160,767	183.6	\$16.08

Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

Figure 6 Products Tanker port call costs at comparator ports (2017)



Source: GHD modelling using published charges and vessel/cargo/port time assumptions.

(#) Fremantle’s Tonnage Rate (a vessel GT based charge) is included in the column “Port Dues” and not classified as “Berthing”.



Port Call Costs Analysis for vessels and cargoes, 2017

4.5 Pure Car Carrier Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for a Pure Car Carrier unloading motor vehicles at the comparator ports is shown in Table 10 and Figure 7 below.

The modelling of port call costs for a Pure Car Carrier shows that:

1. Total port call costs appear to almost double from the lowest level (Fremantle#) to the highest level (Darwin) possibly due to the larger volumes handled at Fremantle (economies of scale).
2. Darwin Port appears to have the most expensive port call costs for a car carrier with the next port (Townsville) 14% cheaper.
3. Darwin Port's position is particularly due to the port's relatively high pilotage cost for the vessel and wharfage cost for vehicles.
4. The standout (lowest cost) wharfage is for Townsville – Darwin has wharfage cost three times as expensive.

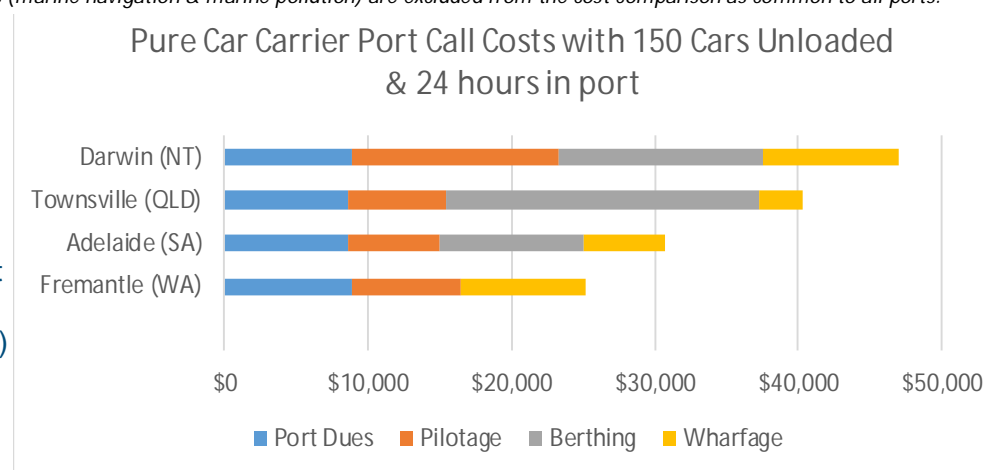
Table 10 Pure Car Carrier port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Vehicle
Fremantle (WA)	\$8,913	\$7,624	\$0	\$8,625	\$25,162	53.6	\$167.75
Adelaide (SA)	\$8,646	\$6,340	\$10,017	\$5,730	\$30,733	65.5	\$204.89
Townsville (QLD)	\$8,610	\$6,890	\$21,766	\$3,062	\$40,329	85.9	\$268.86
Darwin (NT)	\$8,979	\$14,276	\$14,244	\$9,450	\$46,949	100.0	\$313.00

Note: QLD ports include MSO Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

Figure 7
Pure Car Carrier port call costs at comparator ports (2017)



(#) Fremantle's Tonnage Rate (a vessel GT based charge) is included in the column "Port Dues" and not classified as "Berthing".

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.

Port Call Costs Analysis for vessels and cargoes, 2017

4.6 Livestock Carrier Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for a Livestock Carrier loading cattle at the comparator ports is shown in Table 11 and Figure 8 below.

The modelling of port call costs for a Livestock Carrier shows that:

1. Total port call costs appear to vary with the highest (Broome) almost double the lowest (Fremantle#).
2. Darwin Port appears to be competitive with the second lowest total cost but cheapest of the northern Australia ports. This likely reflects Darwin’s strong national position in this export trade.
3. Broome’s position as the most expensive is counter-intuitive to its strong position in this trade.
4. The standout (lowest cost) wharfage is for Port Hedland – Broome has double the cost. This may reflect a competitive dynamic at Port Hedland with Fremantle for the Pilbara’s livestock export business.

(#) Fremantle’s Tonnage Rate (a vessel GT based charge) is included in the column “Port Dues” and not classified as “Berthing”.

Table 11 Livestock Carrier port call costs at comparator ports (2017)

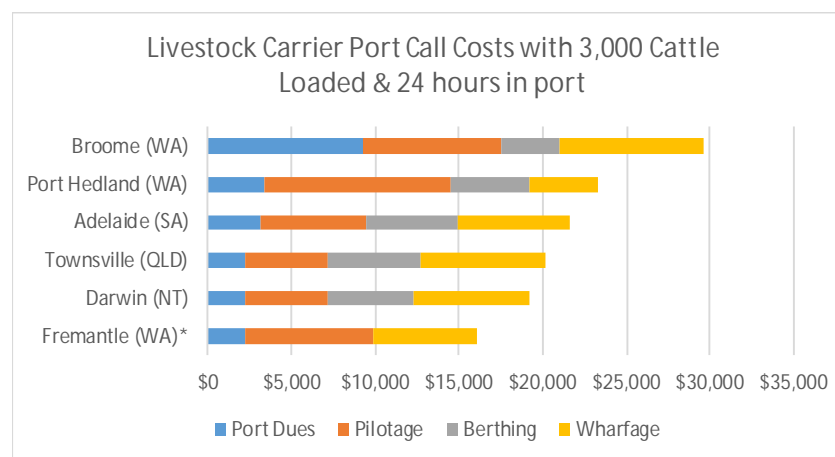
Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Head
Fremantle (WA) *	\$2,266	\$7,624	\$0	\$6,172	\$16,061	83.5	\$5.35
Darwin (NT)	\$2,282	\$4,888	\$5,129	\$6,930	\$19,229	100.0	\$6.41
Townsville (QLD)	\$2,188	\$4,968	\$5,532	\$7,470	\$20,159	104.8	\$6.72
Adelaide (SA)	\$3,139	\$6,340	\$5,467	\$6,720	\$21,666	112.7	\$7.22
Port Hedland (WA)	\$3,342	\$11,148	\$4,768	\$4,050	\$23,308	121.2	\$7.77
Broome (WA)	\$9,284	\$8,204	\$3,505	\$8,564	\$29,557	153.7	\$9.85

(*) Fremantle Wharfage based on cattle equivalent of rate for sheep with assumed conversion factor.

Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

Figure 8 Livestock Carrier port call costs at comparator ports (2017)



Source: GHD modelling using published charges and vessel/cargo/port time assumptions.



Port Call Costs Analysis for vessels and cargoes, 2017

4.7 LNG Tanker (medium & large) Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for LNG tankers loading liquefied gas at the comparator ports is shown in Tables 12 and 13 below.

The modelling of port call costs for LNG tankers shows that:

1. There is little transparency in total costs due to private wharves and negotiated (non-standard) charges at some ports. The number of ports involved in this trade is small – Dampier, recently Gladstone, and increasingly Darwin (with INPEX due to come on-stream in 2018).
2. Darwin Port appears to have lower port dues cost than Dampier, but Gladstone's is not fully transparent.
3. Darwin's recent new Bladin Channel levy for large vessels >20,000 GT will add an extra 10-16% to the Port Dues Cost if transited by a vessel.
4. Darwin's pilotage cost for LNG tankers is higher when compared to Gladstone. MSQ requires 2 pilots onboard at Gladstone for local safety reasons.
5. However, 'visible' port call costs appear to be relatively low when compared with the value of a large LNG shipment possibly valued around \$ 25-30 million based on a product value of \$428 per tonne of LNG#.

Table 12 LNG tanker (medium size) port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index
Darwin (NT) - not using Bladin Channel	\$24,426	\$35,930	Private wharves	Private wharves	\$60,356	100.0
Darwin (NT) - using Bladin Channel*	\$27,772	\$35,930	Private wharves	Private wharves	\$63,702	-
Dampier (WA)**	\$38,747	\$10,560	Private wharves	Private wharves	\$49,306	81.7
Gladstone (QLD)***	\$23,422	\$31,968	Private wharves	Private wharves	\$55,390	91.8

(*) Bladin Channel Large Vessel Levy applies when transited by tanker above 20,000 GT. Currently, vessels have yet to use the Bladin Channel.

(**) Dampier Pilotage for LNG tankers is private. As an estimation, Pilotage tariffs (re. Argonaut) for Dampier Cargo Wharf have been used.

(***) Port Dues assume MSQ Conservancy Dues only. For pilotage, MSQ have safety requirement of 2 pilots on-board vessel per movement.

Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

Table 13 LNG tanker (large size) port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index
Darwin (NT) - not using Bladin Channel	\$30,222	\$44,055	Private wharves	Private wharves	\$74,277	100.0
Darwin (NT) - using Bladin Channel*	\$34,362	\$44,055	Private wharves	Private wharves	\$78,417	-
Dampier (WA)**	\$47,941	\$10,560	Private wharves	Private wharves	\$58,501	78.8
Gladstone (QLD)***	\$28,980	\$31,785	Private wharves	Private wharves	\$60,765	81.8

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.



(#) Source: ABS export trade statistics for FY2016-17.

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Port Call Costs Analysis for vessels and cargoes, 2017

4.8 Offshore Supply Vessel Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for an Offshore Supply Vessel exchanging cargoes at the comparator ports is shown in Table 14 below.

The modelling of port call costs for an Offshore Supply Vessel shows that:

1. There is little transparency in total costs due to private wharves (i.e. the Marine Supply Base at Darwin), pilotage exemptions, and negotiated (non-standard) charges at some ports. The number of relevant ports involved in this trade is small – Darwin, Broome, and Port Hedland.
2. Darwin Port appears to have the lowest port dues cost.
3. Wharfage cost at Port Hedland appears significantly lower than at Broome.

Darwin's Marine Supply Base is outside the regulatory regime. The costs for berthing and wharfage at Darwin's Marine Supply Base are set by the operator of the Marine Supply Base ASCO.

Table 14 Offshore Supply Vessel port call costs at comparator ports (2017)

Comparator Port:	Port Dues	Pilotage (assumed exempt)	Berthing	Wharfage	Total Port Call Cost	Total Port Call Cost Index	Visible Cost per Cargo Tonne
Darwin (NT)	\$833	\$0	Marine Supply Base (ASCO)	Marine Supply Base (ASCO)	-	-	\$1.67
Broome (WA)	\$3,389	\$0	\$1,280	\$9,200	-	-	\$27.74
Port Hedland (WA)	\$1,639	\$0		\$3,850	-	-	\$10.98

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

Note: Assumed \$0 pilotage cost as vessels are typically navigated by Masters with pilotage exemption due to small size of the vessel & regularity of calling at the port.

Port Call Costs Analysis for vessels, 2017

4.9 Cruiseship Port Call Costs for Equivalent Prescribed Services

Based on published charges and the modelling assumptions, the current (2017) port call cost (vessel only) for a Cruiseship visiting at the comparator ports is shown in Table 15 and Figure 9 below.

The modelling of port call costs for a Cruiseship shows that:

1. Total port call costs appear to vary with the highest (Darwin) double the lowest (Fremantle#).
2. There are currently no wharfage costs (passenger charges per head) at the comparator ports unlike other capital-city ports such as Sydney.
3. Darwin’s high total cost position is mainly caused by the relatively high cost of pilotage which is linked to the high gross tonnage of Cruiseships.

Table 15 Cruiseship port call costs at comparator ports (2017)

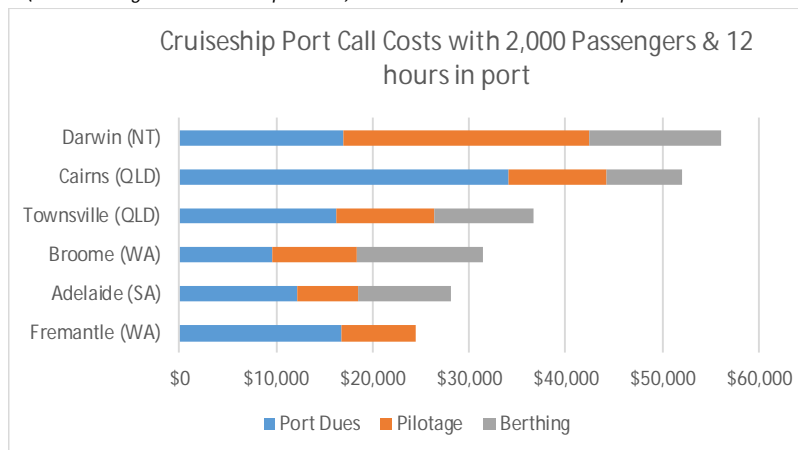
Comparator Port:	Port Dues	Pilotage	Berthing	Wharfage*	Total Port Call Cost	Total Port Call Cost Index	Total Port Call Cost per Passenger
Fremantle (WA)	\$16,836	\$7,624	\$0	\$0	\$24,459	43.7	\$12.23
Adelaide (SA)	\$12,199	\$6,340	\$9,678	\$0	\$28,216	50.4	\$14.11
Broome (WA)	\$9,566	\$8,874	\$13,024	\$0	\$31,464	56.2	\$15.73
Townsville (QLD)	\$16,263	\$10,122	\$10,250	\$0	\$36,635	65.4	\$18.32
Cairns (QLD)	\$34,083	\$10,046	\$7,839	\$0	\$51,968	92.8	\$25.98
Darwin (NT)	\$16,960	\$25,464	\$13,565	\$0	\$55,988	100.0	\$27.99

(*) Based on a Passenger Fee per head where charged by a Port.

Note: QLD ports include MSQ Conservancy Dues per vessel visit & excl. compulsory GBR/Torres Strait Reef pilotage (AMSA).

Note: AMSA levies (marine navigation & marine pollution) are excluded from the cost comparison as common to all ports.

Figure 9
Cruiseship port call costs at comparator ports (2017)



(#) Fremantle’s Tonnage Rate (a vessel GT based charge) is included in the column “Port Dues” and not classified as “Berthing”.

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.



Port Call Costs Analysis for vessels, 2017

4.10 Comparison of Pilotage Costs per vessel visit

Based on published charges and the modelling assumptions, the current (2017) Pilotage Costs for the model vessels visiting at the comparator ports is shown in Table 16 and Figure 10 below.

Comparison of Vessel Pilotage Costs shows that:

1. Pilotage Costs appear to vary quite significantly between different ports and vessel types due to localised factors such as length & difficulty of channels, and the cost of pilots and boat crews.
2. Pilotage at the Queensland ports is managed by a government agency (MSQ). Other ports either operate own pilots or sub-contract.
3. Darwin has relatively high pilotage costs for large cubic type vessels with a high gross tonnage (i.e. car carriers and cruiseships).

Table 16 Comparison of Pilotage Costs per vessel visit (2017)

Comparator Vessel & Port:	Containership (Small size)	Dry Bulk Carrier (Handysize - cement)	Dry Bulk Carrier (Handysize - standard)	Products Tanker (Handysize)	Pure Car Carrier (Medium size)	Livestock Carrier (Large size)	LNG Tanker (Medium size)	LNG Tanker (Large size)	Cruiseship (Medium size)
Darwin (NT)	\$8,106	\$5,388	\$8,902	\$10,316	\$14,276	\$4,888	\$35,930	\$44,055	\$25,464
Broome (WA)	\$8,204	-	-	\$8,204	-	\$8,204	-	-	\$8,874
Port Hedland (WA)*	\$22,015	\$12,404	\$22,015	\$22,015	-	\$11,148	\$10,560	\$10,560	-
Fremantle (WA)	\$7,624	\$8,317	\$8,317	\$8,317	\$7,624	\$7,624	-	-	\$7,624
Adelaide (SA)	\$6,340	\$6,340	\$6,340	\$6,340	\$6,340	\$6,340	-	-	\$6,340
Cairns (QLD)	\$7,003	-	-	\$7,014	-	-	-	-	\$10,046
Townsville (QLD)	\$7,054	\$5,473	\$7,070	\$7,065	\$6,890	\$4,968	-	-	\$10,122
Gladstone (QLD)	\$10,220	\$7,927	\$10,244	\$10,236	-	-	\$31,968	\$31,785	-

(*) Dampier Pilotage for LNG tankers is private. As an estimation, Pilotage tariffs (re. Argonaut) for common-user Dampier Cargo Wharf have been used.

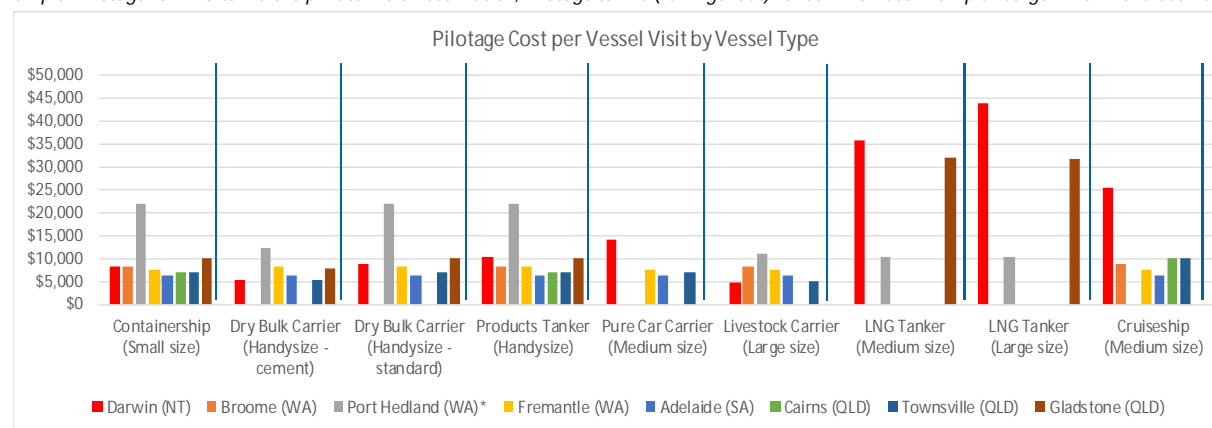


Figure 10 Comparison of Pilotage Costs (2017)

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.



Port Call Costs Analysis for vessels and cargoes, 2017

4.11 Summary of Total Port Call Costs by Cargo Sector

Based on published charges and the modelling assumptions, the current (2017) port call cost (ship and cargo) for the various cargo sectors at the comparator ports in terms of total unit cost of a port call is shown in Table 17 and Figure 11.

The modelling of total port call unit costs shows that overall:

1. Darwin is only the most expensive for motor vehicle imports and cruiseship visits.
2. Total port call unit costs tend to be higher for cargoes which are unloaded/loaded as part ship-loads (i.e. the vessel makes several calls along the Australian coast). Examples are Containers, Fuel and Motor Vehicles. Darwin also tends to have smaller volumes.
3. Assuming an estimated \$4 per tonne for wharfage, Darwin dry bulk export total port call unit cost may be reasonably competitive.
4. The relationship of total port call unit cost to Cargo Value is analysed in section 4.12 below.

Figure 11 Summary of total port call costs at comparator ports (2017)

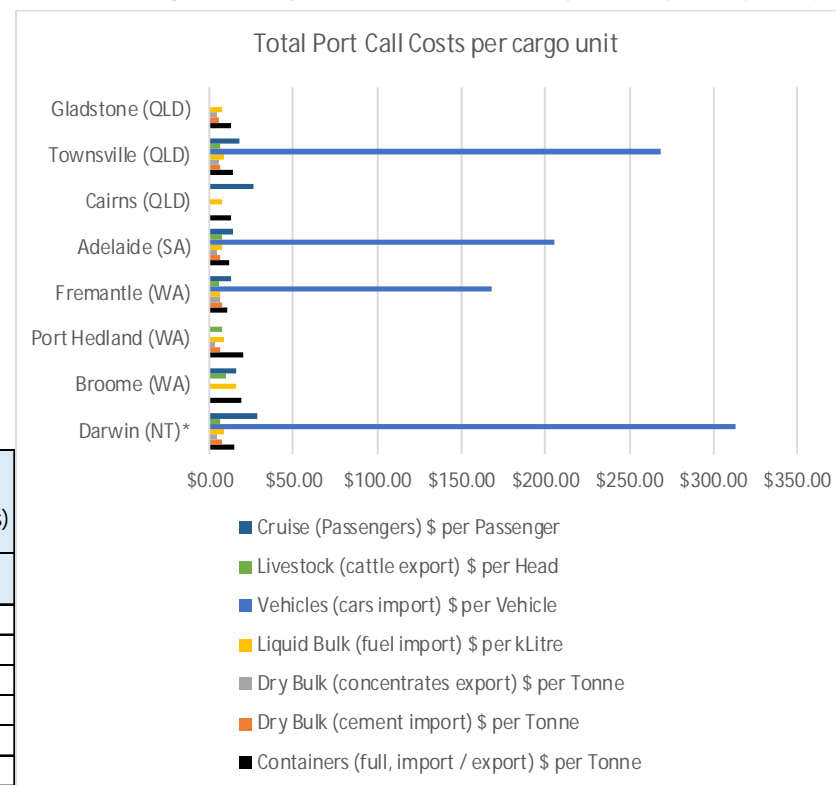


Table 17 Summary of total port call costs at comparator ports (2017)

Comparator Port:	Containers (full, import / export)	Dry Bulk (cement import)	Dry Bulk (concentrates export)	Liquid Bulk (fuel import)	Vehicles (cars import)	Livestock (cattle export)	Cruise (Passengers)
	\$ per Tonne	\$ per Tonne	\$ per Tonne	\$ per kLitre	\$ per Vehicle	\$ per Head	\$ per Passenger
Darwin (NT)*	\$14.30	\$7.84	\$4.92	\$8.76	\$313.00	\$6.41	\$27.99
Broome (WA)	\$18.45	-	-	\$16.08	-	\$9.85	\$15.73
Port Hedland (WA)	\$20.47	\$6.74	\$3.00	\$8.51	-	\$7.77	-
Fremantle (WA)	\$10.45	\$7.98	\$6.86	\$6.14	\$167.75	\$5.35	\$12.23
Adelaide (SA)	\$11.44	\$6.19	\$4.90	\$7.80	\$204.89	\$7.22	\$14.11
Cairns (QLD)	\$12.74	-	-	\$7.39	-	-	\$25.98
Townsville (QLD)	\$13.97	\$6.85	\$5.01	\$8.44	\$268.86	\$6.72	\$18.32
Gladstone (QLD)	\$13.11	\$5.14	\$4.07	\$7.53	-	-	-

Note: Insufficient standard (public domain) data for comparison of Offshore Supply & LNG sectors.

(* Darwin Cost for Dry Bulk export includes an estimated Wharfage Cost as this is a confidential (negotiated) rate and not visible.

Source: GHD modelling using published charges and vessel/cargo/port time assumptions.

Port Call Costs Analysis for vessels and cargoes, 2017

4.12 Total Port Call Costs compared with Cargo Values

Based on published charges and the modelling assumptions, a comparison of current (2017) unit cargo port call costs versus unit Cargo Values is shown in Table 18 below.

Table 18 Total Port Call Costs as % of Cargo Values, per Nov. 2017

The comparison shows that:

1. Total Port Call Costs seldom exceed 5% of Cargo Value with Cement and Fuel incurring the highest percentages due to combination of relatively low cargo unit values and part ship-loads.
2. Darwin's key export cargo trades of livestock (cattle), LNG and bulk mineral ores/concentrates appear to have total port call costs representing less than 1% of their shipment values, noting that some of the costs for dry bulk exports and LNG are not visible (transparent) and are excluded from the analysis.
3. The results of the analysis are only an indicative snapshot as shipment (commodity) values can fluctuate widely on global markets, while the port call costs remain comparatively static and known. For instance, the Cargo Value of Livestock is currently at record highs.

Comparator Port:	Containers (full, import / export)	Dry Bulk (cement import)	Dry Bulk (concentrates export)	Liquid Bulk (fuel import)	Vehicles (cars import)	Livestock (cattle export)	Cruise (Passengers)
Cargo Unit	Tonne	Tonne	Tonne	KiloLitre	Vehicle	Head	Passenger
Assumed Cargo Unit Value	\$2,000	\$150	\$1,793	\$513	\$20,500	\$1,266	\$1,500
Darwin (NT)*	0.7%	5.2%	0.3%	1.7%	1.5%	0.5%	1.9%
Broome (WA)	0.9%	-	-	3.1%	-	0.8%	1.0%
Port Hedland (WA)	1.0%	4.5%	0.2%	1.7%	-	0.6%	-
Fremantle (WA)	0.5%	5.3%	0.4%	1.2%	0.8%	0.4%	0.8%
Adelaide (SA)	0.6%	4.1%	0.3%	1.5%	1.0%	0.6%	0.9%
Cairns (QLD)	0.6%	-	-	1.4%	-	-	1.7%
Townsville (QLD)	0.7%	4.6%	0.3%	1.6%	1.3%	0.5%	1.2%
Gladstone (QLD)	0.7%	3.4%	0.2%	1.5%	-	-	-

Comparator Port:	LNG** (export, medium)	LNG** (export, large)
Cargo Unit	Tonne	Tonne
Assumed Cargo Unit Value	\$428	
Darwin (NT)***	0.2%	0.2%
Dampier (WA)	0.2%	0.2%
Gladstone (QLD)	0.2%	0.2%

Sources: GHD modelling using published charges and vessel/cargo/port time assumptions. Cargo Unit Values are based on ABS and peak industry body Australian trade statistics (value and quantities) for FY 2016-17 with import value per Customs Value terms and export value per FOB terms. The Containerised Cargo Unit Value is a typical Australian capital-city ports industry number for a container with furniture/domestic appliances. Concentrates are the average of copper and zinc ores/concentrates. The Cruise Value is based on the price of a typical 8-10 night peak season cruise-holiday ticket per person as advertised on a number of Australian cruise operator websites.

Notes:

(*) Darwin Cost for Dry Bulk export includes an estimated Wharfage Cost as this is a confidential (negotiated) rate and not visible.

(**) The Cost for the ports is only for visible charges (rest confidential).

(***) Darwin LNG calculation based on current situation with vessels not using the Bladin Channel.

Conclusions of the Study

5.1 Key findings of the analysis

The key findings of the 2017 Darwin Port Price Benchmarking Study are:

- Over the last three years (covering two different port operators), the published port charges for prescribed services at Darwin Port have experienced only relatively minor increases when compared to the other inter-state ports studied and taking account of local CPI changes. Although uncertain, the main reasons for this may possibly be due to a combination of declining total trade at Darwin Port (caused by bulk mineral exports), the lack of significant new large-scale investments in port infrastructure compared with other ports, and unchanging financial return requirements post privatisation of the port.
- Currently, wharfage charges for dry bulk exports (i.e. mineral ores/concentrates) are not published by Darwin Port as a prescribed service (i.e. there are no published standard charges for this export cargo segment, while other ports do provide standard tariffs albeit subject to negotiation).
- Darwin Port appears to have relatively high levels of Pilotage cost for large (high gross tonnage) vessels calling at the port. This is particularly true for pure car carriers, cruiseships and LNG tankers. The driver behind these high pilotage costs may be linked to a possibly more complex/lengthy pilotage task, and a possible need for more and higher-trained/experienced pilots for the increasing number of large (and more hazardous) vessels calling at the Port.
- In terms of ‘visible’ total port call costs in 2017, Darwin Port appears generally not to be the most expensive of the comparator ports for the various cargo sectors with the exception of motor vehicle imports and cruiseship visits. For cruiseship visits, Darwin Port is closely followed by Cairns. Darwin Port is strongly cost competitive for livestock vessels which confirms its key national position in this export trade. Overall, Darwin Port call costs currently appear to only represent a minor percentage of cargo shipment values.
- The relative position of total port call costs of Darwin Port appears to have improved over the last three years (since 2014) due to the lower rate of increase in port charges compared with the other inter-state comparator ports.

The above findings are based on published (public domain) port charges, study assumptions used, and as such need to be treated as indicative as variations may occur between published and some commercial (confidential) price agreements with ship- and cargo- owners. The findings are also about showing where port costs are visible or not.



Glossary – terms and abbreviations

Term	Description
AMSA	Australian Maritime Safety Agency.
ASCO	ASCO is the current operator of Darwin's Marine Supply Base located at the East Arm port precinct.
CEU	Car Equivalent Unit – standard measure of vehicle carrier ship size capacity.
CPI	Consumer Price Index – a measure of inflation.
Def.	Defence.
DPO	Darwin Port Operations Pty Limited – the current (private) Darwin Port operator.
Dwt	Deadweight – measure of a ship's weight carrying capacity and size (maximum cargo weight plus other consumables such as fuel, and other on-board supplies).
FY	Financial Year – 1 st July to 30 th June.
GBR	Great Barrier Reef.
GT	Gross Tonnage – measure of a ship's overall internal volume.
Handymax	Smaller size of dry bulk carrier and tanker ship typically in the size range 20-50,000 deadweight and up to 200 metres in length.
LNG	Liquefied Natural Gas – methane.
LPG	Liquefied Petroleum Gas - butane, propane, etc.
MSIC	Maritime Security Identification Card – for individuals accessing secure port areas.
MSQ	Maritime Safety Queensland – a Queensland government agency.
M3	Cubic metres.
NT	Northern Territory.
PAX	Passenger (cruiseship).
QLD	Queensland.
SA	South Australia.
TEU	Twenty-foot Equivalent Unit – standard measure of shipping container size and numbers.
UC	Utilities Commission of the Northern Territory.
WA	Western Australia.
\$	Australian Dollars.
%	Per centage.

Key modelling assumptions

Comparator Vessels and Cargoes: Key Assumptions for Vessel Port Call Cost Analysis

Comparator Vessel Sector References	Assumed Vessel Main Particulars			Comparator Vessel Cargo Assumptions				Vessel Operating Assumptions (where relevant)				
	Size Class*	Length Overall (metres)	Gross Tonnage	Cargo Sector	Exchange	Units	Quantity per Port Call	Time in Port (hours)	# Tugs In	# Tugs Out	Pilotage (In & Out)	Calls at Port in 6 months
Vessel 1 - Containership (Small, geared)	1,808 TEU	179.63	20,902	Containers (general cargo)	Import & Export	TEU	200	24	2	2	Yes	3
Vessel 2a - Dry Bulk Carrier (Handysize - cement)	20,200 DWT	145.00	12,047	Dry bulk (cement)	Import	Tonnes	7,500	24	3	2	Yes	1
Vessel 2b - Dry Bulk Carrier (Handysize - standard)	33,700 DWT	180.00	23,494	Dry bulk (mineral concentrates)	Export	Tonnes	25,000	24	3	2	Yes	1
Vessel 3 - Products Tanker (Handysize)	46,000 DWT	179.88	28,100	Fuel (petroleum)	Import	Kilolitres	10,000	24	3	2	Yes	1
Vessel 4 - Pure Car Carrier (Medium)	4,900 CEU	176.00	41,000	Motor Vehicles	Import	Vehicle	150	24	2	2	Yes	1
Vessel 5 - Livestock Carrier (Large)	5,225 DWT	134.80	10,421	Livestock (cattle)	Export	Head	3,000	24	2	2	Yes	1
Vessel 6a - LNG Tanker (Medium)	137,000 Cu.M	290.00	111,533	LNG (gas)	Export	Tonnes	62,000	48	4	3	Yes	1
Vessel 6b - LNG Tanker (Large)	155,300 Cu.M	288.00	138,000	LNG (gas)	Export	Tonnes	70,000	48	4	3	Yes	1
Vessel 7 - Offshore Supply (Medium)	4,000 DWT	81.70	3,804	Offshore Supply	Import & Export	Tonnes	500	168	0	0	No	13
Vessel 8 - Cruiseship (Medium)	2,272 PAX	261.31	77,441	Cruise Tourism	-	PAX	2,000	12	2	2	Yes	3

(*) TEU = Twenty-foot Equivalent Unit (measure of container size by length & ship container capacity); DWT = Deadweight (measure of ship carrying capacity). Cu.M = Cubic Metres carrying Capacity. CEU = Car Equivalent Unit (measure of vehicle size & ship vehicle capacity); PAX = Passenger (head). Assumed Containership TEU Exchange being Empties

LNG = Liquefied Natural Gas (methane).

Source: GHD analysis of port published trade statistics & Annual Reports.

Key modelling assumptions

Reference vessels used for modelling

Data for Vessel 1 - Containership (Small, geared):

Source: Clarksons SIN for m/v "Kota Nasrat" / IMO 9494620 / Operated by PIL-Mariana/PAE / Calling Darwin & Townsville.

Data for Vessel 2a - Dry Bulk Carrier (Handysize - cement carrier):

Source: Clarksons SIN for m/v "Glory River" / IMO 9373606 / Operated by K.G. Jebsen / Calling Townsville.

Data for Vessel 2b - Dry Bulk Carrier (Handysize - standard):

Source: Clarksons SIN for m/v "DL Jasmine" / IMO 9629665 / Operated by Daelim Corporation / Calling Townsville.

Data for Vessel 3 - Products Tanker (Handysize):

Source: Clarksons SIN for m/v "Challenge Paragon" / IMO 9403310 / Operated by NYK / Calling Townsville.

Data for Vessel 4 - Pure Car Carrier (Medium):

Source: Clarksons SIN for m/v "Istra Ace" / IMO 9318503 / Operated by Ray-Stamco / Calling Townsville.

Data for Vessel 5 - Livestock Carrier (Large):

Source: Clarksons SIN for m/v "Greyman Express" / IMO 9733777 / Operated by Vroon / Calling Townsville & Darwin.

Data for Vessel 6a - LNG Tanker (Medium):

Source: Clarksons SIN for m/v "Pacific Notus" / IMO 9247962 / Operated by TEPCO / Calling Darwin (Wickham Point).

Data for Vessel 6b - LNG Tanker (Large):

Source: Clarksons SIN for m/v "Oceanic Breeze" / IMO 9698111 / Operated by K-Line / To Call Darwin (Bladin Point).

Data for Vessel 7 - Offshore Supply (Medium):

Source: Clarksons SIN for m/v "MMA Brewster" / IMO 9737216 / Operated by MMA / Calling Darwin.

Data for Vessel 8 - Cruiseship (Medium):

Source: Clarksons SIN for m/v "Sun Princess" / IMO 9000259 / Operated by Princess / Calling Darwin & Broome.

Key modelling assumptions

Cargo Unit to Revenue Tonnes: Assumed Conversion Factors

Cargo Sector	Revenue Tonnes basis	Cargo Units	Conversion Factor
Containers - 20ft Full	Tonnes	TEU	20
Containers - 20ft Empty	Internal cubic	TEU	30
Dry bulk	Tonnes	Tonnes	1
Liquid Bulk (fuel)	Kilolitres	Kilolitres	1
Liquid Bulk (fuel)	Kilolitres	Tonnes	0.8
Motor Vehicles (cars)	Cubic metre	Vehicle	12
Motor Vehicles (cars)	Tonnes	Vehicle	1.5
Livestock (cattle)	Head	Head	1
Cattle-to-sheep ratio	-	Head	7
LNG	Tonnes	Tonnes	1
Offshore Supplies	Revenue Tonnes	Tonnes	2
Cruise Passengers	Head	Head	1

Port charges data sources

Websites of:

Comparator Ports

ABS

Argonaut Marine Group (Dampier)

Various Industry Peak Bodies (Minerals/mining, Car Importers, Cement, London Metal Exchange)

Cruiseship operators (Australian websites)

Clarksons Shipping Intelligence Network (SIN)

MSQ

NT Government and NT Utilities Commission

Report Reference - Notes to Table 3 on Page 4

N/A = Publically Not Available.

(#) DPO quoted a \$25 million capital spend at Port of Darwin of which \$11 million for refrigeration in 2016 (source: DCN, 12th May 2017).

(1) Privatised per 16th Nov. 2015 by the NT Government. Landbridge Group, through their subsidiary Darwin Port Operations Pty Ltd (DPO), is the current operator of Darwin Port.

(2) Broome Port Authority became Kimberley Ports Authority per 1st July 2014, which will include at a future date the management of the ports of Derby, Wyndham, Yampi Sound, and proposed James Price Point.

(3) Port Hedland Authority became Pilbara Ports Authority per 1st July 2014, which now includes the ports of Port Hedland, Dampier and Ashburton, and future ports of Anketell, Balla Balla and Cape Preston East.

(4) Fremantle Ports Authority manages both the Fremantle Inner Harbour and Kwinana Outer Harbour.

(5) Since the privatisation of ports by the SA Government in 2001, Flinders Ports has operated Port Adelaide together with Port Lincoln, Port Pirie, Thevenard, Port Giles, Wallaroo and Klein Point.

(6) Ports North (FNQ Ports Corp.) manages the commercially trading ports of Cairns, Cape Flattery, Karumba, Mourilyan, Skardon River, Quintell Beach and Thursday Island.

(7) Port of Townsville Ltd manages the ports of Townsville and Lucinda.













(8) Gladstone Ports Corp. manages the ports of Gladstone, Rockhampton and Bundaberg.

(*) Since FY 2014-15, Financials incl. the ports of Dampier & Ashburton.

(**) Financials incl. all the commercially trading ports of Ports North.

(**) Financials incl. the Port of Lucinda.

(***) Financials incl. the ports of Rockhampton and Bundaberg.

Rev No.	Author	Reviewer		Approved for Issue		Date
		Name	Signature	Name	Signature	
A (Draft)	G. Reynolds	W. Van Lint		W. Van Lint		11/12/2017
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C (Final)	G. Reynolds	W. Van Lint		W. Van Lint		25/01/2018
D (Final)	G. Reynolds	W. Van Lint		W. Van Lint		12/02/2018
E (Final)	G. Reynolds	W. Van Lint		W. Van Lint		16/02/2018
F (Final)	G. Reynolds	W. Van Lint		W. Van Lint		21/02/2018

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Appendix C – List of Issues and Questions

Issue 1: Market power

- Q 1a: Since the commencement of the regime, have there been any major changes in the market that may alter the need for regulatory oversight to continue?
- Q 1b: Are there any expected future developments that may change the need for regulatory oversight?
- Q 1c: Is there any evidence that additional constraints on the potential for the port operator to exercise market power are needed in the regime?
- Q 1d: Is the regime's approach to addressing the potential for the exercise of market power sufficient, given the possibility that a port operator may expand its business operations into upstream or downstream markets?

Issue 2: Impact of the regime

- Q 2a: Does the access and pricing regime promote the economically efficient operation of and investment in major ports, and competition in upstream and downstream markets?
- Q 2b: What are the benefits and costs of the access and pricing regime?
- Q 2c: Are there any effective alternatives?

Issue 3: Exemption of services provided under lease

- Q 3a: Is the application of regulation 12(2) too wide in allowing the port operator to lease prescribed services, and thus potentially setting these services outside of the regime?
- Q 3b: Are there any effective alternatives?

Issue 4: Regulated services

- Q 4a: Is it necessary to regulate all of the current prescribed services?
- Q 4b: Are there any services not currently prescribed that should be?

Issue 5: Price monitoring

- Q 5: Is price monitoring alone a sufficient form of price regulation?

Issue 6: Threat of regulatory intervention

- Q 6a: Should arbitration be included in the *Ports Management Act* or Regulations rather than the port operator's access policy?
- Q 6b: Should the regulator have flexibility to use other forms of price regulation where price monitoring is insufficient? If so how?

Issue 7: Assessing the access the regime

Q 7: Are the criteria for certification (clause 6 of the Competition Principles Agreement) an appropriate tool for assessing the access regime for the purposes of this review?

Issue 8: Consultation on the initial access policy

Q 8: Should the legislation be changed to include the requirement for consultation by the private port operator with port users on the initial access policy?

Issue 9: Amending the access policy

Q 9a: Should the port operator publicly report on the outcome of the review of the access policy and should this report be assessed or approved by the Commission?

Q 9b: Should the port operator be required to revise the access policy and, if so, in what circumstances?

Q 9c: Should the Commission have the power to require amendments be made to the access policy and, if so, in what circumstances?

Q 9d: Is it necessary to amend the regime to ensure there is an access policy in place at all times?

Issue 10: Decision-making framework for approving the access policy

Q 10: In considering whether to approve a draft access policy, should the scope of the matters the Commission may have regard to be changed?

Issue 11: Conflict with other agreements

Q 11: Should the regime include guidance on how to resolve a conflict between the access policy and other agreements the port operator is bound by?

Issue 12: Hindering access and unfairly differentiating

Q 12a: Should the access policy allow the port operator to create exceptions to the hindering access and unfairly differentiating provisions through the access policy?

Q 12b: Should the legislation expressly permit the Commission to take the hindering access and unfairly differentiating provisions into account when considering a draft access policy for approval?

Q 12c: Would it be beneficial for the Commission to have the power to consider the merits of the port operator's priority/queueing policy and how it operates in practice?

Issue 13: Matters to be taken into account by an arbitrator

Q 13a: Regarding dispute resolution, should the legislation specify the matters that must be taken into account by the arbitrator?

Q 13b: If so, is there a preferred decision-making framework?

Issue 14: Reporting breaches with the access policy

- Q 14a: Under the regime, should port users and industry stakeholders be able to report a material instance of non-compliance with the access policy to the Commission?
- Q 14b: Regarding the access policy, should the port operator report to the Commission on broader information such as the access sought, provided, refused or the time it takes for negotiations?
- Q 14c: Should the Chief Executive Officer of the port operator sign a compliance certificate?
- Q 14d: Should the regime include penalties to be imposed on the private port operator if it fails to report any material instances of non-compliance with its access policy?

Issue 15: Access to meaningful information

- Q 15a: Regarding prices for prescribed services, should the regime include powers for the Commission to obtain information from the private port operator about profit, cost and investment levels?
- Q 15b: Should the regime specifically require the port operator to keep separate accounts and records about prescribed services, rather than the Commission relying on its information gathering powers under the *Utilities Commission Act*?
- Q 15c: Should the regime include powers for the Commission to initiate an independent audit of the port operator's compliance with the regime?
- Q 15d: Is it appropriate for the Commission to have an investigative function for breaches of the port operator's obligations under the regime?

Issue 16: Standards of service

- Q 16: Should the Commission be able to specify or insist on a commitment to service standards for prescribed services by the port operator?