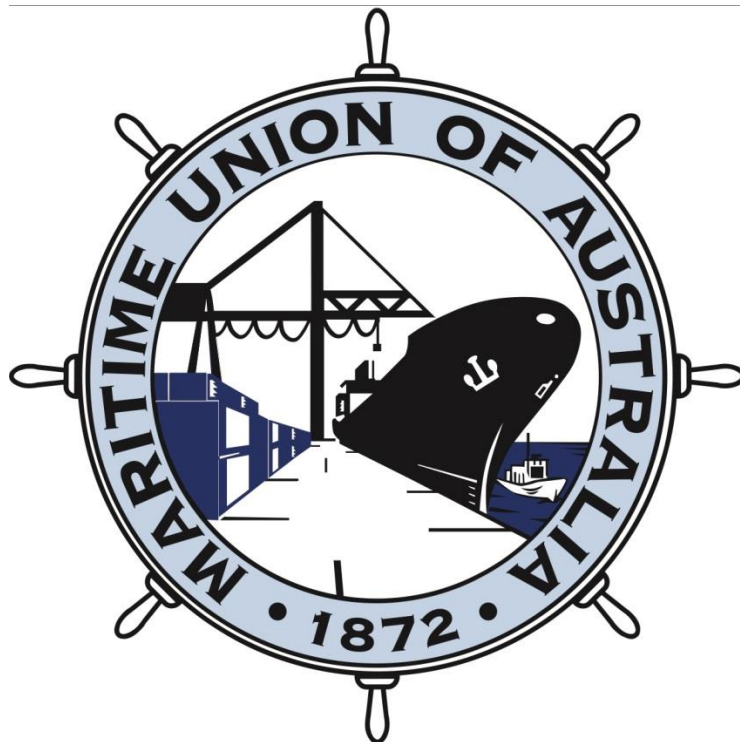


# Maritime Union of Australia Submission:

## Ports Access and Pricing Review



**6 April 2018**

*NT Utilities Commission*

This response has been prepared and submitted  
on the basis that it is a public document

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## 1. Background

- 1.1. The Maritime Union of Australia (MUA) represents some 13,000 Australian seafarers, stevedores, and other maritime workers, equating to more than 90% of Australia's maritime workforce. The MUA is an affiliate of the 4.5 million member International Transport Workers' Federation.
- 1.2. In ports, MUA members work directly for port authorities across Australia, including as safety officers, pollution control and oil spill response officers, emergency response personnel, dredging crew, pilot boat crew, and in vessel traffic control. MUA members also work in port services which are often sub-contracted, for example, tug boats, lines and mooring services (although these services are also provided by some port authorities), and in container and bulk and general stevedoring. MUA members also work as seafarers on ships that call in Australian and overseas ports
- 1.3. In the Northern Territory, the MUA represents over 350 members. These members work in the Port of Darwin as stevedores and port workers, in coastal shipping delivering essential goods to regional communities, in the offshore oil industry, as divers and on inshore workboats.
- 1.4. MUA members work directly for Darwin Port Operations (and for the previous Darwin Port Corporation), performing functions such as maintenance of port facilities, administration, safety management, pilotage, cargo services, services to ships (providing water for example), cargo and ship security, vessel traffic control, and operating small cranes for fishing boats. A few MUA members had their employment transferred to the Department of Transport and the Department of Lands and Planning in 2015 due to the sale of the port.
- 1.5. The MUA therefore has deep and holistic knowledge of port operations and comparisons between Darwin and other Australian and international ports. We have published our vision for the future of port regulation in the NT in the document *Planning for the Future: Agenda for safer ports and ships in the Northern Territory*, which is attached as Appendix A. We are keen to be involved in any discussion about port regulation in the NT.
- 1.6. In the Port of Darwin, the MUA also arranged for the ITF to provide \$150,000 in funding for the Darwin East Arm Port Seafarers Centre, opened in April 2013. It provides recreation facilities for seafarers visiting the Port and other maritime workers.<sup>1</sup> It remains operating on land controlled by Darwin Port Operations, and want to ensure that this Seafarers Centre is protected into the future. Unfortunately other private port operators, for example in Brisbane, have bulldozed community facilities on their land, even where this is protected by agreement (see paragraphs 3.14, 3.15 and Appendix D). We believe it is imperative that the Utilities Commission

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<sup>1</sup> Adam Giles, Media Release, New Seafarers Centre Opens, 4 April 2013.

gain a clear understanding of how this happened and how it can be prevented in the NT.

## 2. Summary

- 2.1. The MUA welcomes this inquiry by the Utilities Commission. In particular, we appreciate the effort that the Utilities Commission has put into identifying areas where the *Ports Management Act* (PM Act) can be improved, and the broad scope of the inquiry.
- 2.2. There is currently a crisis of marine governance in the NT, and the current structures are not fit for purpose. There is an increasing level of fragmentation of port governance, and most NT ports have no government oversight at all. One result has been a death of a seafarer in the Port of Darwin due to unsafe port facilities. The NT Coroner has examined the circumstances around the death and expressed frustration that “the regulatory authorities appear to be either slow or unwilling to denounce unsafe practices.”<sup>2</sup> It appears that no improvement has been made to unsafe port facilities and practices in the almost 15 months since his fatality.
- 2.3. This death illustrates the vast gaps that currently exist in the regulation of NT ports, and the drastic public consequences. The unauthorised construction of Port Melville is another shocking example (see p.10 of Appendix A)
- 2.4. In general, we believe the Utilities Commission needs to take much more consideration of the public interest in the role of ports in the Northern Territory. For example, the Port of Darwin plays a critical role in supplying basic goods to regional ports which can only be accessed by boat. The Port also supplies the whole NT with goods that can only be imported by sea, such as refined petroleum. When Darwin itself is cut off by road and rail, as occurred in 2012, the port has played a critical role in maintaining basic supplies. This role of the port is not addressed in the current Issues Paper.
- 2.5. It cannot be in the public interest for the same port fee structure to apply for the supply of basic goods to consumers and to remote communities and for the construction of multi-billion dollar oil and gas projects.
- 2.6. We welcome the improvements suggested in the Issues Paper, but broader change is needed. Even an improved role for the Utilities Commission will still leave considerable structural problems
- 2.7. We believe that there is a need for a Territory-wide Port Authority, and that the number of Designated ports overseen by this Port Authority must be considerably expanded. The current Regional Harbourmaster needs to have a much more hands-on

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<sup>2</sup> Judge Greg Cavanagh, NT Coroner, *Inquest into the death of Daniel Thomas Bradshaw* [2018] NTLC 005, 8 February 2018, p. 23.

role. Integration of port management with other maritime governance should occur through a NT Marine Safety and Regulation Board. There are also significant problems with the current Port Safety Plan. A Territory-wide audit of the safety of port infrastructure is necessary and overdue. There are a number of other amendments to the PM Act which we address in this submission. The MUA has outlined these changes in our 2017 document *Planning for the Future: Agenda for safer ports and ships in the Northern Territory* (Appendix A).

- 2.8. Regional Port Authorities are the norm in other states with widely dispersed ports, such as Queensland, WA, South Australia, and NSW. The Port Authority of NSW offers an excellent example of the division of responsibility between a regional public port authority and a mix of privately operated and publicly owned ports (Section 3).

### **3. Ports and the public interest: Regional ports, consumer imports, and community facilities**

- 3.1. The Port of Darwin plays a unique role in the regional economy, it provides critical services to Darwin and regional areas, and keeps remote communities supplied with essential goods.
- 3.2. The port allows supplies to be delivered to Darwin and the NT even when road and rail connections are cut off due to extreme weather. This happened in the 2012 Edith River washout.
- 3.3. The Bureau of Meteorology and CSIRO predict more intense extreme rainfall events, rising sea level, rising height of extreme sea-level events and more intense tropical cyclones are projected.<sup>3</sup> This should be taking into account in future Port planning, regulation and considerations of safety and emergency provisions.
- 3.4. During the recent oil and gas boom and iron ore exports, the Port of Darwin was extremely busy. East Arm wharf is the only wharf large enough to accommodate a container ship importing supplies. However, this wharf is also heavily used by the oil, gas, and livestock industry.
- 3.5. In an emergency, the Port needs to be able to direct the use of East Arm wharf in the public interest. It is possible that this could delay other non-essential commercial shipments (for example, iron ore exports). The public must be confident that the access for ships carrying essential and potentially life-saving goods is prioritised by the port operator, and not be beholden to private interests who may be willing to pay a higher price in the event of an emergency.
- 3.6. In such an environment, monopolies can quickly arise and are known to take advantage of difficult situations. We understand that in the wake of the 2012 Edith

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<sup>3</sup> Bureau of Meteorology and CSIRO, Climate Change in Australia: Projections for Australia's NRM Regions.

River wash out, freight companies raised prices significantly.<sup>4</sup> We believe that the privatised port operator increases the likelihood for such monopolistic behaviour that is not in the public interest.

- 3.7. The Port of Darwin also hosts the region's main fuel import terminal. As a typical MR-size fuel tanker carries the equivalent of 1,000 road trucks worth of fuel, it is impossible to replace a shipment with road trucks. The nearest fuel refinery is 3,425km by road away in Brisbane. Access to the port fuel terminal must be maintained in the public interest.
- 3.8. Fuel prices are much higher in Darwin than in other Australian capitals, and in 2018 have ranged between 5 cents and 25 cents per litre more than in Sydney,<sup>5</sup> despite neither city having a fuel refinery and Darwin being much closer to the Asian refineries that supply most of Australia's fuel imports. Prices in the NT outside of Darwin are even higher.
- 3.9. In this context, we are concerned that Darwin Port Operations has targeted fuel imports for a port price increase. The necessity of and effect of this increase should be closely scrutinised. We note that the price per KL of imported fuel is second only to Broome in the ports surveyed and question whether this is in the public interest. We also note that the Issues Paper showed that fuel imports are the largest single source of revenue for DPO.
- 3.10. The Port of Darwin currently supplies essential goods to communities along the NT coast, and as far as coastal Queensland and West Australia. Some of these communities, such as the Tiwi Islands, do not have road access. Communities that do have road access are frequently cut off for three months or longer during the wet season. Access to wharf space for the supply of these communities must be maintained. The Territory government explains on its website that "the comparatively small population in the Northern Territory and vast freight distances do mean higher prices for many grocery lines and produce in some instances".<sup>6</sup> We are concerned that in a for-profit environment, the needs of oil, gas and iron ore companies will be prioritised over low-margin but essential community supplies and make the problem even worse.
- 3.11. The new and significantly increased fee structure brought in by the Darwin Port Corporation in 2015 just before the sale of the port has the potential to significantly penalise the smaller vessels and barges that carry essential cargoes to remote communities. In particular the new fee of \$2,000 per ship call is likely to be very

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<sup>4</sup> Betts, Alyssa "[Freight costs to soar after train crash](#)" *NT News*. 4 January 2012.

<sup>5</sup> ACCC, Report on the Darwin Petrol Market, November 2015. For current price comparison see [motormouth.com.au/news/mediadata.aspx](http://motormouth.com.au/news/mediadata.aspx)

<sup>6</sup> Northern Territory Government, [www.australiasnorthernterritory.com.au/Living/Pages/housing-cost-living.aspx](http://www.australiasnorthernterritory.com.au/Living/Pages/housing-cost-living.aspx)

inequitable in effect.<sup>7</sup> It does not appear that there is any exemption from this charge for smaller vessels. Because it is charged per visit rather than per cargo volume, it also creates an incentive for a less regular service to remote communities.<sup>8</sup>

- 3.12. We note that the price modelling undertaken by the Utilities Commission did not include the type of vessels which undertake these services (usually roll-on roll-off barges), and we urge to Utilities Commission to make this analysis and monitor prices and access for community supply ships on an ongoing basis. We are concerned about fee structures that may be encouraging community supply vessels to use unsafe wharves or reduce the frequency of community services. It appears that the PM Act treats price regulation for all port users equally, whether they are providing groceries and building supplies to the Tiwi Islands or supplying multinational oil and gas project construction.
- 3.13. Ports are widely used by members of the public accessing the foreshore and the water. Port Operators have a general responsibility to the public who use the harbour and live and work in the surrounding community, and they have a responsibility to their own port workers, who are also members of the community, and to the seafarers who pass through their facilities in the course of their very lengthy contracts on board ships.
- 3.14. In this context, we are concerned about the precedent set in the port of Brisbane, where vital community facilities were bulldozed to provide more profitable port cargo storage space, despite the apparent protection of these community services in the Purchase Agreement for the port (Appendix D).
- 3.15. The Seafarers' Welfare Centre plays a critical role in supporting the international seafarers that visit the Port of Darwin, on land controlled by DPO. The future of this facility must be secured.

**Recommendation 1:** Objectives must be inserted into the PM Act to reflect the critical public interest that ports serve and to guide regulation and decision-making. These objects should include:

- Public interest in receiving essential food and fuel supplies through ports
- Particular reliance on ports by remote coastal communities and Aboriginal communities
- Economic prosperity and viability of business
- Safety and security of maritime workers and all port users
- Protection of the marine environment

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<sup>7</sup> Darwin Port Corporation, New Port Tariffs – February 2015, 9 December 2014. An increase of 15% to daily berthage rates, and a 30% increase in wharfage rates for general cargo, containerised cargo, and livestock was also introduced at this time.

<sup>8</sup> Darwin Port Corporation, Schedule of Port Charges as at 1 February 2015.

**Recommendation 2:** An NT Maritime Safety and Regulation Board (MSRB) should be created to ensure that these new Objects of the PM Act are upheld and to coordinate maritime governance across the NT, including the Utilities Commission, but also other maritime bodies outlined in Appendix B.

**Recommendation 3:** There must be provisions in the PM Act for access to Port wharves for essential and emergency services. The Regional Harbourmaster and Port Operators must be accountable to the MSRB for ensuring this takes place as necessary, with penalties in place.

**Recommendation 4:** The Utilities Commission must inquire into whether port fees are affecting shipments of essential goods to communities along the coast of the NT, and the safety and frequency of such shipments. It must be evaluated whether such increases will have a disproportionate effect on coastal Aboriginal communities. Relevant services should be listed as 'prescribed services' if this is not already the case.

**Recommendation 5:** The Utilities Commission should examine the consumer impact of DPO fee increases on fuel imports.

**Recommendation 6:** That the Utilities Commission carefully investigate how it was possible for the Port of Brisbane to apparently disregard the conditions for public access and community facilities specified in the Purchase Agreement (Appendix D). This is critical to evaluating future safeguards in such transactions.

**Recommendation 7:** That provisions be included in the *Ports Management Act* to safeguard the Seafarers' Welfare Centre and any other community facilities reliant on DPO or other private operators. The Act must also provide a broader duty of care to other ports users and the port community and enforceable Community Service Obligations (enforceable by imposition of financial penalties).

## 4. An NT Maritime Safety and Regulation Board and Port Authority

- 4.1. Ports all along the NT coast sustain communities and boost local development. Regional communities that rely on marine access need support to develop this infrastructure and to ensure that the needs of communities are balanced with commercial users. Yet most NT ports are built and operated by private companies (for example mining or gas companies), with no government oversight at all. The new Northern Territory 'Regional Harbourmaster' that has jurisdiction only over the Port of Darwin, and then only at arm's length. There is no Advisory Council for either the Harbourmaster or the Darwin Port Operator. The Port Safety Plan covers only one port of many in the Northern Territory, with significant gaps in geographic jurisdiction and consultation.
- 4.2. Ports are an exceedingly complex and hazardous operational environment, with the potential for catastrophic environmental and human disaster if things go wrong. Very



large quantities of explosive and potentially polluting materials are transported on land and by ship, transferred between ships and wharves, and stored on Port land.

- 4.3. Historically, most Australian ports have been publicly owned by arms-length Port Authorities governed by state or Territory legislation. Port Authorities ensure port infrastructure is safe and well maintained, and that the right services are in place to ensure that the port can be used safely. Port Authorities play a critical role in balancing the needs of importers, exporters, stevedoring and shipping companies, the public interest and access to harbour land and sea areas, and the regional area they serve. They play a role in long-term planning and construction of port infrastructure specific to the future needs of the port and the state, and the types of ships and commodities the port handles and is expected to handle in the future.
- 4.4. The PM Act assumes that ports have a private operator in order to trigger regulation. In the case of the Port of Darwin, there is a dedicated port operator. In other ports, resource companies have built ports, which are then shared with other users and used to supply community needs. In some cases, port infrastructure is public and shared by various users. In all cases, there is a need to ensure that there is an appropriate balance between the needs of the community, safety and commercial interests.
- 4.5. There are many ports operating commercially across the 11,000km of the NT's coast. Yet only the Port of Darwin is a Designated Port subject to the PM Act.
- 4.6. The MUA is aware that safety breaches are occurring as a matter of regular practice at these ports, endangering the lives of the workers and surrounding communities.
- 4.7. Most remote ports have limited infrastructure, with sea cargo delivery often done by the crew of the landing barge. In some cases, it is reported that sea cargo is delivered by forklift through schools and across public areas. There are also instances of perishable cargoes being left at landings compromising health standards for such cargoes.
- 4.8. The 2014 wharf collapse in Hudson Creek and the subsequent death there in 2017 has highlighted the poor standard of some of the NT's maritime infrastructure. Some of this infrastructure has been constructed without proper building controls, putting worker and community safety at risk.
- 4.9. In other states with similarly dispersed ports a Regional Port Authority is in place to oversee port operations, such as the Far North Queensland Ports Corporation, the Pilbara Ports Authority, the Kimberly Ports Authority, the Port Authority of NSW, and Flinders Ports in South Australia. Details are in Appendix C.
- 4.10. It is our strong view that the current crisis of port governance can only be properly addressed by establishing an NT Maritime Safety and Regulation Board (Appendix B), with a view to establishing a Territory-wide Port Authority. This Port Authority would take on the role of the Regional Harbourmaster and regulate an expanded number of Designated Ports.

- 4.11. The best model to match the NT's current split between public and private ownership is the Port Authority of NSW. It is a public port authority with responsibility for a number of large privatised ports, as well small regional ports such as Eden and Yamba which are not privatised. The Authority performs a significant number of regulatory and statutory functions and services, such as Harbourmaster, Vessel Traffic Control including vessel booking, Pilotage services, Marine security, safety and emergency response, Maritime security plan and functions, Dangerous Goods regulation and enforcement.<sup>9</sup>
- 4.12. As has taken place in Port Botany, we believe that common-user functions of a regulatory, statutory nature, such as pilotage, vessel traffic control, maintenance of navigation aids, dangerous goods management, and maritime security, safety and emergency response be retained as Government operated services/functions. The Utilities Commission can refer to the transcript of the NT Parliament Port of Darwin Committee from April 1 2015 about the many complications that can arise if these common—user regulatory functions are delivered by for-profit monopoly entity which may also have other operations in the port.
- 4.13. The PM Act unnecessarily disperses Port regulatory functions across a range of for-profit organisations and Government agencies. We believe this is inefficient and ineffective, and will result in outcomes that are both unfair and unsafe.
- 4.14. The MUA supports the creation of the role of the Regional Harbourmaster. However, in the PM Act, the Regional Harbourmaster's responsibilities are significantly removed from the day-to-day operations of the Port. We are concerned that this has the potential to create conflicts when the Regional Harbourmaster exercises its step-in authority – which will inevitably be in difficult and confusing emergency situations. By having the common-user functions of a regulatory, statutory nature (such as pilotage, vessel traffic control, maintenance of navigation aids, dangerous goods management, and maritime security, safety and response) directly provided by the agency the Regional Harbourmaster works in and is responsible for, this will maintain the Regional Harbourmaster's direct connection to port operations. It means that in the event of an emergency, the Regional Harbourmaster and workers in their agency have an intimate, daily knowledge of port operations which will greatly assist their ability to deal with port emergencies.

**Recommendation 8:** Creation of a Territory-wide Port Authority to include the Regional Harbourmaster to oversee both the private port of Darwin and an expanded list of Designated Ports.

**Recommendation 9:** An initial audit of all NT maritime infrastructure must be carried out under the supervision of the Maritime Safety and Regulation Board and in consultation with maritime unions to identify shortfalls in WHS, engineering, and environmental standards.

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<sup>9</sup> Port Authority of NSW, Joe James, A port manager's perspective on privatisation impacts, p. 6, 8.

**Recommendation 10:** The PM Act should be amended to include regular audits and reviews of NT maritime infrastructure.

## 5. Other improvements to the PM Act

- 5.1. Employers in the NT have used various mechanisms to avoid engaging licensed stevedores in this hazardous industry. If this undermining of stevedore work continues, experienced stevedores will be forced to seek work elsewhere, and a reliance on new inexperienced workers will put the efficiency of the port at risk as well as the lives of those workers.
- 5.2. For example, logistics company QUBE recently used their non-stevedore company QUBE Energy and employed cheaper casual labour from outside the port to receive pipe on the wharf and prepare it for loading on vessels. Between vessels, the stevedore workers were left without work. The duty to prevent these types of actions should rest on the Port Operator through chain of responsibility obligations (see our response to Q 3b).
- 5.3. The growth of trade through the Port of Darwin is important to the Northern Territory economy. To grow we need to gain recognition globally as an efficient and safe trading hub which can only be done with strong unambiguous stevedoring regulation that ensures we have the best stevedores in the world.
- 5.4. Port safety is vital to stevedore workers and their families, and also to the reputation of the port and therefore the NT economy. After extensive consultation across the maritime industry, the Code of Practice for Managing Risks in Stevedoring was officially approved by Safe Work Australia in December 2016. The Code was recently adopted into Queensland safety regulation.
- 5.5. New stevedoring and towage entrants can destabilise safe working arrangements in place and can create a race to the bottom with considerable safety implications.
- 5.6. Any application for additional stevedoring licences must include a clear economic case, showing increased trade exists to support an additional operator, that an additional operator will be viable, and will deliver positive employment and labour standards outcomes.
- 5.7. At present, or even at somewhat improved levels of trade, issuing a third general stevedoring licence would not be viable in the Port of Darwin. There would be very severe consequences for the existing stevedoring workforce, in terms of casualisation and job losses. Part 6 of the PM Act must be tightened up to include strict conditions for evaluating the conditions under which additional licences should be issued – for example, bulk and general cargo (not including bulk liquid cargos) increasing by more than 100% from the peak levels reached in 2013-14. A clear economic case must be made that an additional operator will be viable and that an additional licence will deliver positive employment and labour standards outcomes. A cost benefit analysis

should be undertaken that shows an overall net economic gain in terms of employment, return on capital and cost reductions to the consumers of the NT.

- 5.8. The PM Act should specify that the port operator cannot also be a stevedoring operator – a more detailed rationale is given in our response to Q 1d.
- 5.9. The MUA opposes Division 5 of the PM Act, which provides for separate ‘Pilotage Services Providers’ (potentially in completion with each other), independent of the port operator and of the Regional Harbourmaster. The delivery of pilotage services should be done by the agency supervised by the Regional Harbourmaster.
- 5.10. We note the PM Act is silent on the provision of towage services, and believe this port function should be included in the regulatory oversight provided in the Act. Governments (through port authorities) typically invite private sector provision of towage services. We strongly recommend the development of a clear and transparent licensing regime that meets ACCC competition requirements, given the relatively low volume traffic in the port of Darwin.
- 5.11. We note that the Ports Management Act 2014 (s99) gives the regional harbourmaster the authority to place navigation aids on Aboriginal land without consultation and without a permit to enter Aboriginal land. This provision must be amended.
- 5.12. One mechanism for public control over the privatised Port of Darwin is the current Darwin Port Safety Plan. The MUA is particularly concerned that the current level of emergency response, fire fighting capacity, and oil spill response by the Darwin Port Corporation be maintained, and increased as traffic to the port increases. We view the current provisions as a minimum to provide the level of protection required by the complex and hazardous nature of port operations. The first Port Safety Plan had a significant number of sections labelled ‘Commercial in Confidence’, which the MUA criticised. The latest version, approved in June 2017 by the Regional Harbourmaster remains deficient in several areas.
- 5.13. Unfortunately, the requirements for the Port Safety Plan in the PM Act do not sufficiently reflect the duties that the Port has as a ‘person conducting a business or undertaking’ (PCBU) under the *NT Work Health and Safety (National Uniform Legislation) Act 2011*.
- 5.14. Under the *Work Health and Safety (National Uniform Legislation) Act 2011* a PCBU has a duty to consult, cooperate and coordinate activities with other duty holders (s46). It also has a duty to consult ‘with workers who carry out work for the business or undertaking who are, or are likely to be, directly affected by a matter relating to work health or safety’ (s47). Suggestions for how to undertake this consultation are contained in the *Safe Work Australia Work Health and Safety Consultation, Co-operation and Co-ordination Code of Practice (2011)*.
- 5.15. Despite the requirement to consult workers, the current Port safety plan does not include port workers or maritime unions as stakeholders in the port. Neither the Port of Darwin Health and Safety Committee nor the Maritime Union of Australia were consulted in the development of the plan.

5.16. It is of concern that in the Port Safety Plan, qualified crew are not required on commercial vessels in the harbour, only masters. Qualified crew are essential to ensuring that maritime operations are safe. Safe operational manning and internationally recognised STCW qualifications should be required for port operations (not minimum safe manning).

5.17. The 2017 death of a seafarer at an unsafe wharf in Hudson Creek highlights the geographic gaps in the jurisdiction of the Port Safety Plan, and the PM Act. Hudson Creek is within the Port of Darwin boundaries, but is not a “Darwin Port Workplace”. The Plan states “Darwin Port is responsible for the safe and efficient management, control and operation of the facilities and services of the Port of Darwin” (p.6) and includes a map of the entire port (p.8) but also states that the Plan applies only to “Darwin Port Workplaces and stakeholders of Darwin Port” (p.6). The NT Coroner has robustly criticised the regulatory and organisation failure in the response to the death.<sup>10</sup>

**Recommendation 11:** To avoid doubt when discussing the stevedoring industry, the PM Act should be amended to define stevedoring as per the *Stevedoring Industry Award 1999*. This includes preparing goods for transport by vessel from the port. A future MSRB could consider individual cases where flexibility may be needed. The Port Operator should have chain of responsibility obligations to ensure contractors adhere to the definition (see also our response to Q 3b).

**Recommendation 12:** The NT Work Health and Safety (NUL) Act 2011 should be amended to call up the Code of Practice for Managing Risks in Stevedoring and other relevant codes of practice for maritime work.

**Recommendation 13:** Insert strict criteria in Part 6 of the PM Act for the Minister and the Marine Safety and Regulation Board to examine and approve additional stevedoring licence applications, linked to significant increases in trade through the port. Any application for additional stevedoring licences must include a clear economic case, showing that increased trade exists to support an additional operator, that an additional operator will be viable, and will deliver positive performance and labour standards outcomes.

**Recommendation 14:** Consultation should be required with Aboriginal land holders on the placement of navigational aids and consideration given to any relevant sacred sites.

**Recommendation 15:** The Port Safety Plan must be reviewed and amended in consultation with port workers and the Maritime Union of Australia to reflect proper consultation and inclusion of workers, in accordance with current WHS law and safety best practice.

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<sup>10</sup> Judge Greg Cavanagh, NT Coroner, *Inquest into the death of Daniel Thomas Bradshaw* [2018] NTLC 005, 8 February 2018.

**Recommendation 16:** The Port Safety Plan must also apply to port facilities such as those at Frances Bay and Hudson Creek in Darwin.

**Recommendation 17:** Insert strict criteria for towage licences into Part 6 of the PM Act for the Minister and Marine Safety Regulation Board to examine and approve towage licences, modelled on the revised requirements for stevedoring licences.

## 6. Improving current regulation: Issues paper 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?**

We view the currently regulatory framework for ports in the NT as totally insufficient. It must be maintained and improved. The regulation in place in the NT is much weaker than what applies, for example, in South Australia, where the South Australia Essential Services Commission sets port fees, in NSW or in Victoria.

Given that the Port of Darwin is far more isolated and more likely to be relied on in emergency situations and for essential goods, stronger regulation should apply in the NT. The best outcome would be a Territory-wide Port Authority, which could then set prices and lease port land to private operators. This is the model in NSW detailed in paragraphs 4.11 and 4.12.

Within the current more decentralised model, the regulation of port rents and vertical integration of private operators have emerged from the experience of other recent privatisations as two significant areas for caution.

The ACCC has kept a close eye on the impact of port privatisations, and has been critical of the regulatory framework in place in most states.<sup>11</sup> Most recently, evidence has emerged of excessive rent increases charged by private port operators to container terminal stevedores in Melbourne, Sydney, and Brisbane. This is discussed in the most recent ACCC report for 2016-17.<sup>12</sup> Financial evidence collected by the ACCC shows 'property costs' increasing on a national level as a result. These costs do not represent any benefit to port operations, productivity, or safety, they become profits siphoned off to the private port operator.

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<sup>11</sup> See statements in the ACCC's annual Container Stevedoring Monitoring Report, especially ACCC, *Container Terminal Stevedoring Monitoring Report no.16*, October 2014, p.43-48.

<sup>12</sup> ACCC, *Container Stevedoring Monitoring Report 2016-17*, p. 10, 45,47.

**Recommendation 18:** that the Utilities Commission have the power to regulate rental fees charged by private port operators.

**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?**

Not all private port operators have expanded their businesses upstream or downstream. However, we encourage the Utilities Commission to look to the example of Flinders Ports, the private port operator across South Australia. Flinders Ports does have a decent record of investing in port infrastructure. However, the logic of privatisation does mean that this investment appears to have been made in an unbalanced way that disadvantages other port users. Flinders Ports appears to be using the significant profit it generates to expand into stevedoring and logistics functions, and into potentially owning other ports (for example it was one of the bidders for the Port of Darwin).

In 2010, Flinders Ports established a bulk stevedoring and logistics company Flinders Logistics. This company is currently tendering for contracts against established stevedoring companies Patrick and Qube. In 2014 it won a contract from Qube in Port Pirie. While Flinders Logistics does have industry-standard enterprise agreements and does not appear to be using these circumstances to reduce the wages and conditions of workers, changes in contracts can create significant instability and potential job losses for workers.

In 2012, Flinders Ports gained full control of the Flinders Adelaide Container Terminal by purchasing the remaining 60% share from DP World, who previously managed the terminal. This is the only container terminal in South Australia.

One result of the expansion of Flinders Ports into stevedoring is that it is effectively both a landlord and a competitor to Patrick and Qube. The ACCC has warned against such an outcome in ports.<sup>13</sup>

It appears to MUA members in South Australia that Flinders Ports focuses its capital investments on port areas in which it owns and operates, and neglects those areas of the port that it rents to companies which are now its competitors. It is noticeable that both the amenities and wharf area rented by Patrick and Qube in the Port of Adelaide are in a much worse state of repair than those areas in which Flinders Ports operates stevedoring companies.

While most stevedores are complaining about private port operators causing increases to the property costs through rent, the ACCC observes 'Flinders Adelaide property costs per TEU is the lowest among all the stevedores operating in Australia. Its property costs have been consistently falling since 2012-13 when it was acquired by Flinders Port Holdings.'<sup>14</sup>

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<sup>13</sup> ACCC, *Container Terminal Stevedoring Monitoring Report no.16*, October 2014, p.43-48.

<sup>14</sup> ACCC, *Container Stevedoring Monitoring Report 2016-17*, p. 51

**Recommendation 19:** The PM Act should specify that the port operator cannot also be a stevedoring operator.

### *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?**

See Q 2b

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

The regime in place is far too narrow in scope. In Section 3 we described the importance of the port for the whole of the NT, and especially for remote coastal communities. Objectives must be inserted into the PM Act to reflect the critical public interest that ports serve and to guide regulation and decision-making (Recommendation 1).

**Q 2c: Are there any effective alternatives?**

A Territory-wide Port Authority is needed to coordinate safe operations, maintenance and development of ports and to deliver common services.

### *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?**

Yes. No company operating in a port should be allowed to opt out of regulatory oversight.

**Q 3b: Are there any effective alternatives?**

Any future port operator should be strongly encouraged to adopt minimum standards for any companies contracted for port services. This is particularly important given the hazardous nature of port operations and the potential impact of any incident on the community, environment, and port workers. Such standards could incorporate port operator's *WHS Act* duties and they can and should also go further.

The principle that organisations are responsible for the behaviour, standards and operations of their subcontractors is established in other industries, such as the 'Chain of responsibility'



required in the Australian trucking industry to prevent contractors from being held to unsafe standards.<sup>15</sup> Principles of ‘responsible contracting’ are established in the Australian cleaning industry for similar reasons.

In infrastructure, and particularly in large infrastructure assets owned by pension funds (like ports), CalPERS, one of the largest pension funds in the USA, sets standards in the area of responsible contractor policy. CalPERS has a substantial Responsible Contractor Program that it has maintained and upgraded since 1998.<sup>16</sup> This program:

- Encourages fair wages and benefits for workers employed by its contractors and subcontractors
- Designates particular companies as Responsible Contractors
- Seeks input from unions in developing Responsible Contractor lists, while maintaining an open bidding process.
- Requires annual reporting on compliance
- Includes a neutrality policy that requires managers not to support or oppose efforts by workers to organise union representation for their workplace.

CalPERS explains the benefits of its Responsible Contractor Program as follows:

This policy encourages positive labor relationships, and is consistent with CalPERS reputation as a responsible investor. Labor risk is mitigated by reducing the likelihood of strikes, demonstrations and other labor actions related to the provision of construction and services in CalPERS-owned assets. The time and cost to administer the Policy should be balanced by the mitigation of labour and reputational risk. As such, the policy contributes to the Real Estate and Infrastructure Units abilities to secure appropriate risk adjusted returns.<sup>17</sup>

#### *Issue 4: Regulated services*

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

Yes

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

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<sup>15</sup> See for example, the *Heavy Vehicle National Law*, the National Heavy Vehicle Regulator, About the Chain of Responsibility, [www.nhvr.gov.au](http://www.nhvr.gov.au), and *Transport Industry – Mutual Responsibility for Road Safety (State) Award and Contract Determination (No.2)* Re [2006] NSWIRCComm 328 at [16].

<sup>16</sup> The current version is *California Public Employees’ Retirement System Statement of Investment Policy for Responsible Contractor Program, February 13, 2012*. This version will be upgraded on July 1, 2015. They are available on the CalPERS website.

<sup>17</sup> CalPERS Investment Committee, 16 March 2015, Agenda Item 6c – Revision of the Responsible Contractor Policy and Integration of the Legacy Policy, p.6-7.

Experience in other privatised ports shows that rental and other charges related to access to port land should be include in regulated 'prescribed services'.

Towage operators should be licenced in the same way that stevedores are licenced.

Bunkering, waste removal, and the supply of electricity and water should be including as 'prescribed services'.

Any services related to the supply of essential goods to remote coastal communities should be prescribed, and monitored to ensure use of the port for this purpose is facilitated.

### *Issue 5: Price monitoring*

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

No. Objectives must be inserted into the PM Act to reflect the critical public interest that ports serve and to guide regulation and decision-making (Recommendation 1). These must be overseen by a public and accountable body such as the proposed MSRB (Recommendation 8).

### *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?**

Yes, it should be included in the Act, and it could be overseen by a future MSRB with reference to the future Objectives of the PM Act (Recommendation 1).

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

Yes, with effective penalties, especially where the public interest objectives of the PM Act have been breached (Recommendation 1).

### *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?**

Due to the wider public purpose of ports that we outline in Section 3, we don't believe that the Competition Principles are the appropriate tool for assessing the access regime. An operator delivering essential goods and services to remote communities should not have to compete for use of the port on the same basis as a multi-billion dollar oil and gas company.

Objectives must be inserted into the PM Act to reflect the critical public interest that ports serve and to guide regulation and decision-making (Recommendation 1).

*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?**

At a minimum. It would be preferable for a Territory-wide regulatory agency such as the Utilities Commission or a future MSRB or Port Authority to develop access policies for private operators to adhere to.

*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?**

At a minimum. However, it would be preferable for the review of the access policy to be carried out by the Utilities Commission, not the private operator. It should involve a public consultation.

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

Revisions should be required by order of the Minister, MSRB, or the Utilities Commission, and particularly in cases where future public interest Objectives of the PM Act have been breached (Recommendation 1).

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

Revisions should be required by order of the Minister, MSRB or the Utilities Commission, and particularly in cases where future public interest Objectives of the PM Act have been breached (Recommendation 1).

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

Yes.

### *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?**

Yes the current scope is far too narrow. The primary matters the Utilities Commission should have regard to should be the future public interest Objectives of the PM Act (Recommendation 1). The Utilities Commission should also have regard to comments from port users, port workers, communities served by ports and other stakeholders.

### *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?**

Ports legislation, the access policy and public interest and safety should always take priority, in particular over any private or leasing documents. Port users and the broader port community should have the opportunity to raise disputes and have them heard through an arbitration process overseen by a public body.

Draft port operating agreements should be made public and there be an opportunity for stakeholders to make submissions on those agreements before execution. If that is not possible due to commerciality factors, the non-commercial-in-confidence provisions in those agreements should be published by the Minister. As many provisions as possible should be placed in legislation rather than in the Agreements. The ACCC has warned that it is 'insufficient' to rely on contracts to address pricing and access issues because 'a contract can be varied at any time and any breaches of the contract may be waived or insufficiently enforced...the ACCC as Australia's national competition regulator, cannot enforce the contract despite the fact that non-compliance can have significant effects on competition'.<sup>18</sup>

### *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?**

No this should not be allowed unless it is expressly in the public interest, for example, in emergency weather events or for essential community supplies. For examples of why not please see our answer to Q 1d.

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<sup>18</sup> ACCC, *Container Stevedoring Monitoring Report no. 16*, October 2014, p. 23.

**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?**

Yes, unless it is expressly in the public interest, as outlined in our response to Q 12a.

**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?**

Yes, and the Utilities Commission and a future MSRB should be able to assess how it meets the future public interest Objectives of the PM Act (Recommendation 1). Decisions about how port maintenance is prioritised should also be taken into account, for the reasons outlined in our response to Q 1d.

*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?**

Yes.

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

Objectives must be inserted into the PM Act to reflect the critical public interest that ports serve and to guide regulation and decision-making (Recommendation 1), under the oversight of a future MSRB (Recommendation 8).

*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?**

Yes, and if the report is made by an employee they should be offered whistle-blower protection.

**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?**

Yes

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

Yes

**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?**

Yes.

*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?**

The information publicly provided by Darwin Port Operations is a disgrace. The MUA regularly has cause to research the information publicly provided by Australian port operators, and we have never seen such poor public disclosure. The PM Act should require an annual public report be placed on the DPO website with full financial information in accordance with normal corporate reporting standards, as well as trade information broken down by commodity and tonnage (or other relevant unit) and provided on a quarterly basis.

This information should be provided in a form where there should be able to be a continuity of comparison with the previous Port Comparison, as the Utilities Commission has attempted to provide in Appendix A of the 2018 Ports Access and Pricing Review document.

Published information should include:

- Financial information (current year and previous to show trends) including:
  - Revenue sources
  - Profit and loss
  - Return on capital
  - Return on investment
- Capital investment information
- Employment, disaggregated to permanent and non-permanent
- Outsourced/contracted functions including commissioned research, and associated details on the employment aspects of outsourced functions
- Schedules of fees and charges
- Governance information – Directors and consultative bodies (composition, meetings/attendance, issues)
- Performance and productivity measures

- A clear policy on rental charges to port tenants

**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*?**

Yes, and this information should be regularly published in annual reports on the DPO website.

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

Yes

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

Yes, and the outcomes of any investigation should be shared with other relevant agencies through a future MSRB.

#### *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?**

Yes, and service standards should be guided by future Objectives inserted into the PM Act to reflect the critical public interest that ports serve and to guide regulation and decision-making (Recommendation 1).

## **Appendix A: Planning for the Future: Agenda for Safer Ports and Ships in the Northern Territory**

Please see this 2017 document attached as a PDF.

## **Appendix B: Composition of a future NT Maritime Safety and Regulation Board**

We believe an NT Maritime Safety and Regulation Board (MSRB) should be created with a view to the creation of an NT Regional Port Authority. The MSRB should have responsibility for:

- Ensuring the future Objects of the Ports Management Act are upheld
- Reviewing and approving the Port Safety Plan
- Overseeing the work of the Regional Harbourmaster
- Receiving reports about investigations of maritime incidents, with a view to implementing recommendations
- Approving Designated Ports and ensuring that appropriate governance processes are in place to support local circumstances.
- Approving new Stevedoring and Towage Licences
- Reporting to the Ministers with responsibility for the PM Act and for NT WorkSafe
- Commission and receive Port Safety Plan Compliance Audits (s34, PM Act)
- Reviewing the adequacy of 'minimum safe manning' and non-STCW compliant qualifications for the complex and remote conditions in the Northern Territory.
- Regularly auditing and reviewing the condition of all NT maritime infrastructure
  
- Members of the NT Maritime Safety and Regulation Board should include:
  - o A delegate of The Maritime Union of Australia
  - o One workplace Health and Safety Representative elected under the WHS Act, elected by workers across Designated Ports
  - o One NT WorkSafe delegate
  - o A member of the NT WorkSafe maritime compliance unit
  - o One Australian Maritime Safety Authority delegate
  - o An elected Traditional Owner from Designated Port areas
  - o The Environment Centre NT
  - o The NT Utilities Commission



## Appendix C: Other regional port authorities covering multiple remote ports

**Port Authority of New South Wales:** is a state-owned corporation that manages the navigation, security and operational safety needs of commercial shipping in Sydney Harbour, Port Botany, Port Kembla, Newcastle, Eden and Yamba. The Port Authority has the role of Harbour Master in all NSW ports and delivers pilotage and emergency response and oil spill operations. It manages the safe movement of shipping, harbour approaches and channels, and port security and safety including dangerous goods regulations. The Port Authority's statutory objectives and functions are derived from the provisions of the *State Owned Corporations Act 1989 (NSW)*, *Ports and Maritime Administration Act 1995 (NSW)* and the Port Safety Operating Licence issued under section 12(2) of the *Ports and Maritime Administration Act 1995*.

**Far North Queensland Ports Corporation Limited, trading as Ports North:** a Queensland Government Owned Corporation responsible for the development and management of the declared Ports of Cairns, Cape Flattery, Karumba, Mourilyan, Skardon River, Quintell Beach, Thursday Island, Burketown and Cooktown. Regulated under the Queensland *Transport Infrastructure Act 1994* (Chapter 8).

**Pilbara Ports Authority:** governed under the West Australian *Port Authorities Act 1999* and operates as a corporatised entity with a board of management that reports to the State Government of Western Australia's Minister for Transport. It is mandated to oversee operations of the Port of Dampier, Port of Port Hedland, Port of Ashburton area and the future ports of Anketell and Cape Preston East.

**Kimberly Ports Authority:** oversees the operations of the Port of Broome and is governed under the West Australian *Port Authorities Act 1999*. It operates as a corporatised entity with a board of management reporting to the Minister for Transport. Plans are in place to bring smaller ports currently regulated under the West Australian *Shipping and Pilotage Act 1967* and the *Marine and Harbours Act 1981* under the responsibility of the Kimberly Ports Authority, including the Port of Wyndham, Cockatoo Island, Koolan Island, the Port of Derby, and potentially a new Port of Browse at James Price Point.

**Flinders Ports:** is a privately owned entity that operates the Port of Adelaide as well as Port Lincoln, Port Pirie, Thevenard, Port Giles, Wallaroo and Klein Point. Regulated by the *South Australian Harbours and Navigation Act* with fees set by the South Australia Essential Services Commission.

## Appendix D: Impact of privatisation on community facilities

1. There has been a concerning loss of public amenities which do not generate a profit in the Port of Brisbane following the 99-year lease. We recommend that the Utilities Commission carefully investigate the incident outlined below when considering amendments to the Ports Management Act to ensure that the events below are not repeated in the Northern Territory.
2. The 2013-14 Port of Brisbane annual report contains the following statement:

### Provisions – Community Facilities

The purchase agreements for PBPL under the 99-year lease, consistent with the public access provided at the Commencement Date, must allow the general public access to the existing public facilities within the Port Area, including the Visitors Centre, Observation Cafe, Shorebird Roost and adjoining car park. A provision has been made for the operating costs of these community facilities.

Management undertook a review of the provision during the year and it was determined the provision was surplus to the net present value of future cash flows. Subsequently the provision was reduced by \$3,478,000 which was taken to the profit and loss account.<sup>19</sup>

3. It appears that the savings of \$3.5 million referred to above was included in the profit that port owners accrued in 2013-14.
4. The original “Visitors Centre, Observation Cafe, Shorebird Roost and adjoining car park” are visible in the red circle in Figure 1 below.

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<sup>19</sup> Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014* (filed with ASIC), p.11.

**Figure 1:** Community facilities which the Port of Brisbane was required to operate according to the 99-year purchase agreement of the Port, comprising the Visitors Centre and Observation Cafe overlooking the large pond at the top of the red circle, the adjoining car park and picnic facilities, and the Shorebird Roost across the road.



**Source:** Google Maps, viewed on 12 February 2015.

5. Despite the fact that the Port of Brisbane freely admits that it is a requirement in the purchase provisions of the Port for that it maintain public access and public amenity to the areas listed above, the following has taken place during FY2013-14:
  - The Visitor's Centre buildings overlooking the lake and bird habitat, which provided educational services about the port and maritime trade to school children and other members of the public, have been removed.
  - The Cafe in the Visitors Centre was a quality restaurant with full catering services. It overlooked the lake, birds and harbour. Most of the catering staff have been laid off and the cafe has been moved to the Port Administration Building. It is now a cafe serving light snacks with considerably reduced services.
  - The picnic area next to the Visitors Centre has been removed.
  - The land which accommodated the Visitors Centre and Cafe has been bulldozed, fenced off, and has been paved right up to the pond for the purpose of storing new cars being delivered to the port.
  - The new car storage area generates additional revenue for the Port of Brisbane (see Port of Brisbane *Schedule of Port Charges as at 1 July 2014*).
  
6. The original Visitors Centre area was a Brisbane destination. It is still listed as such on the Visit Brisbane website, described as 'picturesque' and 'with abundant bird life', and

where you could 'learn about the operations of a working port'.<sup>20</sup> The building itself won a High Commendation for Sustainable Architecture and a High Commendation for Commercial Building Architecture from the Australian Institute of Architects in 2002.<sup>21</sup>

**Figure 2:** Photo of the former Visitors Centre and lake still available on the Visit Brisbane tourist website. The site has now been bulldozed and turned into a carpark by the privatised Port of Brisbane despite community objections.



7. The MUA are not aware of any public consultation about these changes. The Port of Brisbane freely admit that the changes were made after 'Management undertook a review' for which the only criteria appears to be 'the net present value of future cash flows' (see 1 above).
8. An online petition against the demolition of the Visitors Centre organised by the Bulimba Creek Catchment Area Committee attracted 2,659 signatures.<sup>22</sup>

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<sup>20</sup> Port of Brisbane Visitors Centre, at [www.visitbrisbane.com.au/brisbane/things-to-do/tours-and-transport/port-of-brisbane-visitors-centre?sc\\_lang=en-au](http://www.visitbrisbane.com.au/brisbane/things-to-do/tours-and-transport/port-of-brisbane-visitors-centre?sc_lang=en-au), accessed 12 February 2015.

<sup>21</sup> See

[http://dynamic.architecture.com.au/awards\\_search?option=showaward&entryno=20024414](http://dynamic.architecture.com.au/awards_search?option=showaward&entryno=20024414), accessed 12 February 2015.

<sup>22</sup> Petitioning Port of Brisbane Pty Ltd: Request - Port of Brisbane - Save an iconic lake at Fisherman's Island, QLD. At [www.change.org/p/port-of-brisbane-pty-ltd-request-port-of-brisbane-save-an-iconic-lake-at-fisherman-s-island-qld#share](http://www.change.org/p/port-of-brisbane-pty-ltd-request-port-of-brisbane-save-an-iconic-lake-at-fisherman-s-island-qld#share), accessed 12 February 2015.

9. The former site of the Visitors Centre is shown in Figure 3 and Figure 4. The area is now paved right to the pond and a new fence has been installed across the former public access road. A visitors centre and cafe are now located in the high rise main administration building, in a much less amenable area of the Port, as indicated in Figure 6.

**Figure 3:** Former public access road to the former Visitors Centre.





**Figure 4:** View of the former Visitors Centre site, showing paving right to the water's edge.



**Figure 6:** Port of Brisbane administration building, site of the re-located Visitors Centre and cafe.

