Maritime Union of Australia

Submission to

Senate Standing Committee on Economics

Inquiry into

Privatisation of state and territory assets and new infrastructure

13 February 2015

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

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1. Introduction

1.1. The Maritime Union of Australia (MUA) represents over 15,000 workers in the shipping, stevedoring, port services, offshore oil and gas and diving sectors of the Australian maritime industry.

1.2. Members of the MUA work in a range of occupations across all facets of the maritime sector including on coastal cargo vessels (dry bulk cargo, liquid bulk cargo, refrigerated cargo, project cargo, container cargo, general cargo) as well as passenger vessels, towage vessels, salvage vessels, dredges, ferries, cruise ships, recreational dive tourism vessels and in stevedoring and ports. MUA members work on LNG tankers engaged in international Liquefied Natural Gas (LNG) transportation. In the offshore oil and gas industry, MUA members work in a variety of occupations on vessels which support offshore oil and gas exploration.

1.3. 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 vessel traffic control. MUA members also work in port services which are often sub-contracted, for example, tug boats, lines and mooring services (although this service is also provided by some port authorities), and in container and bulk and general stevedoring.

1.4. The MUA is a member of the International Transport Workers Federation (ITF) which is the peak global union federation for over 700 unions representing over 4.5 million transport and logistics workers worldwide.

2. Summary

2.1. The MUA is opposed to the privatisation of government assets built through significant public investment. In the case of ports, these assets provide significant public revenue and play a critical role in the Australian economy. MUA policy on this point was reaffirmed at our 2012 Quadrennial Conference.

2.2. This submission examines the impact that privatisation has had on Australian ports, especially in the Port of Brisbane. It shows that privatisation has resulted in the loss of millions of dollars of public revenue, that community interest agreements are in some cases not being adhered to, and that port jobs have been lost. It finds that port fees for both shipping and stevedoring companies have increased significantly in the port. Depending on whether stevedoring and shipping companies absorb or pass on these increases, this could affect both Australian consumers and exports.

2.3. Ports must balance the needs of many different and frequently opposing interests: the broader public, taxpayers, recreational harbour users, importers, exporters, truck companies, rail companies, shipping lines, stevedoring and logistics companies, and the port workforce. Wharves may be used for anything from groceries supplying isolated island communities to construction materials for multi-billion dollar oil and gas developments. Future port developments are expensive, and must reflect both developments in the Australian economy and developments in the global economy and trade patterns. Port boards and governance structures must reflect these different interests and be capable of making decisions in the broader public interest.

2.4. The privatisation of ports has in many cases narrowed or abolished the decision-making boards of port authorities. The boards of the new ownership entity only represent companies or investment funds that have invested in the privatised port. This submission demonstrates some of the problems that have arisen from this situation. We note that a public port authority has been retained despite the privatisation of the NSW ports of Port Botany, Newcastle, and Sydney. However, this is not the case in Brisbane and with Flinders Ports in South Australia.

2.5. A portion of the income from port privatisations does benefit Australian superannuation fund holders, and represents a beneficial investment for their retirement. The MUA is not opposed to not-for-profit superannuation funds investing in ports. Little consideration has been given, to date, for the possibility of not-for-profit superannuation fund investments in ports which retain majority public ownership. Such alternatives to the current models should be explored.

2.6. This submission recommends:

Recommendation 1: Ports should not be privatised

Recommendation 2: That the Committee investigate if the fees charged at the Port of Brisbane are subject to any government regulation or oversight, and if they are not, why this is the case.

Recommendation 3: In all cases, public port authorities must be maintained to deliver port services such as pilotage, vessel traffic control, safety, oil spill control, emergency response, and port maintenance such as dredging and land reclamation. This is the case for the privatised NSW ports, but not in Brisbane and South Australia. Public port authorities should also collect port fees, as is the case for Port Authority of NSW in relation to Port Botany and Sydney.

Recommendation 4: Require that a legible version of the Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010* be filed with ASIC.

Recommendation 5: That the Committee undertake a thorough investigation of the economics of the privatisation of the Port of Brisbane and Flinders Ports, with a view to determining whether the government has actually lost valuable revenue in the process.

Recommendation 6: That the Committee investigate how it was that the Port of Brisbane was able to appearently disregard the conditions for public access and community facilities specified in the Purchase Agreement. This is critical to evaluating future safeguards.

Recommendation 7: Port authorities must be able to balance competing interests of port users and the broader community and be able to make decisions in the public interest. Port boards must be structured to reflect this critical role.

Recommendation 8: Forecasts about future port trade must be subject to independent scrutiny, particularly if privatisation is being contemplated or incentivised.

Recommendation 9: The Port of Darwin is an essential piece of infrastructure this is relied on by thousands of people in Darwin and communities along the northern coast of Australia. It must not be sold or leased to private interests.

Recommendation 10: The Committee should examine whether port privatisation is incentivising private port owners to implement significant fee and rental cost increases.

Recommendation 11: The Committee should examine the potential for increased port fees and rental costs being charged by private port owners to be passed on to Australian consumers in terms of the cost paid for imported goods. The Committee should also examine whether such fees are likely to increase the cost of Australian exports and what impact this may have.

Recommendation 12: That there be a requirement on Governments when considering future asset sales, to undertake, and publish, a cost benefit analysis which considers forgone expected revenues against the expenditure of the asset sale proceeds.

Recommendation 13: Any asset sales must be accompanied by stronger, and enforceable Community Service Obligations (enforceable by imposition of financial penalties).

Recommendation 14: Many safeguards could be implemented. Section 14 of this submission makes detailed suggestions to improve transparency, Community Service Obligations, proper regulatory, governance and consultative arrangements, and improved reporting requirements.

Recommendation 15: There are many alternatives to the current model of privatisation. So far governments have not explored the use of not-for profit superannuation fund investments into publically owned infrastructure.

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3. Ownership and governance of Australian ports

3.1. Australian ports play a significant role in the domestic economy. $405 billion in international trade went through Australian ports in 2012-13.[1] This is in addition to the value of domestic trade.

3.2. Ports also play a role in keeping remote communities supplied with essential goods. This is particularly the case in the Northern Territory, Northern Queensland, and Tasmania. A number of Northern Territory communities supplied from Darwin are only accessible by sea for the wet season of three or more months during the year.

3.3. Historically, most Australian ports have been publically owned by arms-length Port Authorities governed by state legislation. Port Authorities provide services such as pilotage, vessel traffic control, safety, oil spill control, emergency response, and port maintenance such as dredging and land reclamation, as well as planning future port developments. Port Authorities charge fees to visiting ships for these services. In most cases, particularly in larger ports, port authorities act as a land lord, and lease land to stevedoring and other port service companies.

[1] Australian Government, *Statistical Report Australian Sea Freight 2012-13*, Bureau of Infrastructure, Transport and Regional Economics, 2014, p.vii.

3.4. In some cases, such as in the Port of Gladstone and Townsville, Port Authorities own commodity-handling terminals (for example, coal terminals). Users of these terminals pay a fee to the Port Authority for use of the infrastructure.

3.5. Some mining companies have also constructed their own ports through which to export commodities. Many of these ports are privately owned by the mining company, and remain 'single-user' ports.

3.6. Port infrastructure must also be carefully planned to connect with land-side infrastructure, either rail or road. Poor planning of port infrastructure and connections can result in significant bottlenecks in the import and export of goods and raw materials.

3.7. Port Authorities play a critical role in balancing the needs of importers, exporters, stevedoring and shipping companies, the public interest in harbour land and sea areas, and the regional area they serve. They play a critical 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. This infrastructure requires significant investment.

3.8. Considerable foresight is needed. For example, the NSW Maritime Services Board built the state's first container terminal in Balmain in Sydney Harbour, opened in 1969. Containerisation is widely viewed as essential to the current globalisation of the economy.[2] When the efficiencies to be gained through container handling and the scale at which the industry was developing became clear, the NSW Maritime Services Board built two container handling terminals in Port Botany. Opened in 1979, these terminals cost $150 million to be built ($665 million in current terms).[3] The Port Botany container terminals were the biggest construction project in the state, and were described as 'the most modern container port in Australia - possibly in the world. Certainly one of the biggest and best in the Southern Hemisphere.'[4]

3.9. Similarly, in 1976, a plan was completed to expand the Port of Brisbane by constructing entirely new facilities on the Fisherman Islands. A 5-kilometre causeway, two road bridges and a rail bridge were constructed, alongside significant dredging and landfill.

3.10. The point here is that if port authorities and governments had not had the foresight and capacity to make these and other similar investments at that time, the Australian economy would have been significantly constrained. Significant public funds were invested in the construction of these ports, which in turn provided an essential service to the economy and significant government revenue.

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[2] Marc Levinson, 2006, *The Box: How the Shipping Container Made the World Smaller and the World Economy Bigger*, Princeton University Press.
[3] According to Reserve Bank of Australia calculator at http://www.rba.gov.au/calculator/annualDecimal.html, accessed 11 February 2015.
[4] NSW Maritime Services Board, *All Aboard*, December 1979.

4. Privatisation of Australian ports

4.1. The privatisation of some of Australia's bigger public port authorities began in 2001 with the privatisation of South Australian ports into Flinders Ports.

4.2. The status of Australian ports which have been privatised since 2001 is listed in Table 1. Briefly, the Port of Brisbane was privatised in 2010, and then the NSW ports of Port Botany, Newcastle and Port Kembla were privatised in 2013-14.

Table 1: Major privatised ports in Australia – summary of ownership and financial position.

Port Year privatised and structure	**New entity**	**Sale price**	**Value of assets** FY 2013-14	**Revenue** FY 2013-14	**Profit before tax, depreciation, amortisation and finance costs**	**Dividends to shareholders**	**Margin before tax, depreciation, amortisation and finance**
Port of Adelaide, Port Lincoln, Wallaroo Port Pirie, Port Giles, Klein Point, Thevenard[5] 2001: Acquisition of port infrastructure, 99-year land lease and port operating license. Flinders Ports carries out all port services.	**Flinders Ports** *Shareholders* Infrastructure Capital Group (investment trust): 29% Motor Trades Association of Australia Super Fund: 21% EquipSuper: 19% State Super NSW: 17% Statewide Super: 14%	$186 million (2001)	$695.7 million	$212.1 million	$97.8 million	$22 million	46%
Brisbane[6] 30 Nov 2010: all equipment and machinery, dredging fleet, all employees of the Port of Brisbane Corp, Port operating rights, on a 99-year lease. Port of Brisbane deliver all port services	**Port of Brisbane Pty Ltd** *Q Port Holdings consortium:*[7] IFM Investors (combined super funds): 27% QIC: 27% Caisse de dépôt et placement du Québec: 27% Abu Dhabi Investment Authority: 20%	$2.1 billion (2010)	$983.6 million	$319 million	$108.3 million	$25.2 million	34%

[5] Flinders Port Holdings Pty Ltd, *Copy of Financial Statements and Reports for the year ending 30 June 2014*.
[6] From www.portbris.com.au and from Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014*.
[7] Global Infrastructure Partners, a New York based private equity fund, initially held a 27% share which they originally purchased for $575 million in 2010. They sold this stake for about $1 billion in November 2013 to the Canadian pension fund Caisse de dépôt et placement du Québec.

Port Botany **Port Kembla** May 2013: 99 year lease Most port services are delivered by the public entity the Port Authority of NSW, which also collects port fees.	**NSW Ports Consortium** IFM Investors (combined super funds): 45% 35% (combined) - Australian Super - CBUS - HESTA - HOSTPLUS Abu Dhabi Investment Authority: 19%	$5.07 billion Port Botany: $4.31 billion Port Kembla: $760 million					
Newcastle 30 May 2014: 98-year lease. Port of Newcastle: dredge, port officers. Port Authority of NSW (public): pilotage and spill control. Port of Newcastle collects most fees. Port Authority of NSW collects pilotage fees.	**Port of Newcastle Investments** Infrastructure Fund (managed by Hastings/Westpac): 50% China Merchants: 50%	$1.75 billion					

4.3. Table 1 makes clear that Flinders Ports and the Port of Brisbane have been very profitable for their owners.

4.4. We were not able to locate post-privatisation financial information with ASIC for the NSW ports, perhaps due to the relatively recent privatisation. The much higher prices paid for these ports is notable.

4.5. It appears that at least initially, states did not receive full value for their assets. For example, Global Infrastructure Partners, a New York based private equity fund, purchased a 27% state in the Port of Brisbane for $575 million in 2010. They sold this stake for about $1 billion in November 2013 – almost doubling their investment. This indicates that the full value of the port is close to $4 billion – or double what the State of Queensland sold it for. However, the value is listed as less than $1 billion with ASIC in the FY2013-14 annual report.

4.6. Flinders Ports was sold by the state of South Australia on a 99-year lease for $186 million in 2001. In FY2013-14, it had a profit of $25 million and dividends of $22 million, which would pay off the original sale price in less than 4 years.

4.7. Table 1 also indicates the different structures used in port privatisations. The private Flinders Ports and Port of Brisbane operate all port services and collect all port fees. Port fees charged in South Australia are regulated by the Essential Services Commission of South Australia, and state legislation and a monitoring panel monitor the container terminal. In Queensland, the Qld Competition Authority (QCA) administers the Qld *Competition Authority Act 1997*. The QCA website says that under Queensland legislation it may regulate all the ports in Queensland if directed to do so, but only the business of the Dalrymple Bay Coal Terminal (DBCT) is subject to economic regulation at present.

Recommendation 2: That the Committee investigate if the fees charged at the Port of Brisbane are subject to any government regulation or oversight, and if they are not, why this is the case.

4.8. However, in NSW, the Port Authority of NSW is a public entity with branches in each port, essentially made up of parts of the previous public port authorities. In Sydney and Port Botany, the Port Authority of NSW collect all port fees[8] and provide all port services, including pilot cutters, pollution control officers, security and patrol officers, and passenger ship services. In Newcastle, the private Port of Newcastle collect fees and operate the port dredge and other services. However, in Newcastle the public Port Authority of NSW carries out pilotage and spill control. In Port Kembla the public Port Authority of NSW carries out pilotage, safety monitoring of ships, and vessel traffic control.

Recommendation 3: In all cases, public port authorities must be maintained to deliver port services such as pilotage, vessel traffic control, safety, oil spill control, emergency response, and port maintenance such as dredging and land reclamation. This is the case for the privatised NSW ports, but not in Brisbane and South Australia. Public port authorities should

[8] See *Sydney Ports Corporation Schedule of Port Charges effective 1 July 2014*.

also collect port fees, as is the case for Port Authority of NSW in relation to Port Botany and Sydney.

5. Case study: Port of Brisbane finances post-privatisation

5.1. We have undertaken a detailed comparison of the finances of the Port of Brisbane from before the time it was privatised. Since privatisation, and there has been a negative impact on public services and amenities delivered by the port, there have been a significant number of job losses. The port's owners are also making very high levels of profit.

5.2. In

5.3. Table 2, we compare financial reports for the Port of Brisbane before and after privatisation. The comparison is made somewhat difficult because parts of the Port of Brisbane Corporation annual report filed with ASIC immediately before the privatisation are illegible. It would be in the public interest for this situation to be remedied.

Recommendation 4: Require that a legible version of the Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010* be filed with ASIC.

5.4. Before privatisation, dividends were paid to shareholders (the state of Queensland) to the amount of $410.9 million in 2009 and $108.9 million in 2010.[9] This is in addition to the $232 million profit for the Port Corporation identified below for FY2010.

5.5. In 2009-10, $404 million in Port of Brisbane Corporation assets were transferred to other public entities. This meant that the new Port of Brisbane Pty Ltd began operation with a lower revenue.

5.6. Table 3 shows that two significant operating expenses were added to the new port operating company: 'Operating Lease from Port of Brisbane Corporation Limited' (only in the first year) and 'Operating Lease from QPH Property Trust' (continuing in subsequent years). The addition of these two items as a result of privatisation raised operating expenses for the port from $31.1 million to $159.3 million – a 412% increase in a single year. The result was that the previously very profitable public corporation made a slight loss as a private company in FY2010-11.

[9] Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*, p.6. Note that the report is marked on the front cover 'This is the best copy that can be obtained as the original is of a poor quality'. Although the financial tables are mostly legible, many of the notes to the tables are illegible.

Table 2: Port of Brisbane Pty Ltd historical value of assets, number of workers, revenue, profit before and after tax, depreciation, amortisation and finance costs, margin, and return on capital.

	Before privatisation FY 2009-10[10]	**Immediately after privatisation FY 2010-11**[11]	**FY 2013-14**[12]
Value of assets	$1.276 billion[13]	$865.5 million	$983.6 million
Number of workers	Not specified	268	184
Revenue	$420.3 million	$209.1 million	$319 million
Profit before tax, depreciation, amortisation and finance costs	$354.1 million	$11 million	$108.3 million
Profit after tax, depreciation, amortisation and finance costs	$232.3 million	Loss: $6.3 million	$71.8 million
Margin before tax (Profit/Revenue)	84%	5%	34%
Return on capital before tax	28%	-	11%

[10]Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*.
[11] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the period from 21 May 2010 to 30 June 2011* (filed with ASIC).
[12] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014* (filed with ASIC).
[13] Note that: 'During 2009-10 PBC transferred net assets totaling $404.2 million to various state entities ender transfer notices issued under the *Infrastructure Investment (Asset restructure and disposal) Act 2009*'. Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*, p.6.

Table 3: Operations expense for the Port of Brisbane, before and after privatisation.

	Before privatisation FY 2009-10[14]	Immediately after privatisation[15] FY 2010-11	FY 2013-14[16]
Primary operations expense	$31.1 million	$32.8 million	$32.2 million
Operating Lease from Port of Brisbane Corporation Limited	-	$67.3 million	-
Operating Lease from QPH Property Trust	-	$59.2 million	$155.5 million[17]
Total operations expense	**$31.1 million**	**$159.3 million**	**$181.4 million**

5.7. Table 2 and 3 demonstrate that very significant cost-cutting measures and increases to port revenue were structured into the privatisation of the port in order to make up the 412% increase in operating expenses.

5.8. The consequence was that significant increases were made to the fees charged to ships and rental fees charged to stevedores and other companies renting port land and facilities. Total port revenue increased by $110 million from 2010-11 to 2013-14 (53% - Table 2).

5.9. Table 4 outlines the increased charges to ships, showing at least a 53% increase in revenue from these fees between 2008-9 and 2013-14. Some of these increases are due to increased trade. However, we are doubtful that all of the increases can be attributed to increased trade.

5.10. Details of the fees charged to ships are laid out in the Port of Brisbane *Schedule of Port Charges as at 1 July 2014*. There are also fees listed in the Schedule which we are unclear where they are accounted for, such as Security Charges.

[14]Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*.
[15] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the period from 21 May 2010 to 30 June 2011* (filed with ASIC).
[16] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014* (filed with ASIC).
[17] Note that $6.2 million is deducted from this figure for 'Capitalised internal development costs and costs incurred for QPH Property Trust'.

Table 4: Increase in Port of Brisbane revenue collected from ships between 2008-9 to 2013-14. Details of these charges are laid out in the Port of Brisbane *Schedule of Port Charges as at 1 July 2014*.

	Before privatisation FY 2008-9[18]	**Before privatisation FY 2009-10**[19]	**Immediately after privatisation**[20] **FY 2010-11**	**FY 2013-14**[21]	**% increase since 2008-9**
Harbour and river dues	$49.9 million	$54.2 million	$57.8 million	$72.6 million	**45%**
Wharfage	$34.5 million	$36.9 million	$40.4 million	$49.8 million	**44%**
Port access charge	-	-	-	$7.1 million	**Not previously listed**
Trade revenue (from ships)	**$84.5 million**	**$91.2 million**	**$98.1 million**	**$129.5 million**	**53%**

5.11. Details of the increased rental fees charged by the Port of Brisbane are outlined in Table 5. In particular, rental fees collected by the Port have increase by 111% between 2008-9 and 2013-14. Revenue collected from dredging services has also increased by 44%.

[18] Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*.
[19] Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*.
[20] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the period from 21 May 2010 to 30 June 2011*.
[21] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014* (filed with ASIC).

Table 5: Increased rental and other service fees charged by the Port of Brisbane to stevedores and other users of Port land, wharves, and dredging services.

	Before privatisation FY 2008-9[22]	Before privatisation FY 2009-10[23]	Immediately after privatisation[24] FY 2010-11	FY 2013-14[25]	% increase since 2008-9
Rental	$66.5 million	$86.6 million	$82.5 million	$140.2 million	**111%**
Services - dredging	$16 million	$14 million	$14 million	$23 million	**44%**
Services - other	$11.5 million	$13.2 million	$14 million	$15.5 million	**35%**

5.12. Table 6 shows the majors areas of revenue increase for the Port of Brisbane.

Table 6: Areas of increased revenue for the Port of Brisbane after privatisation.

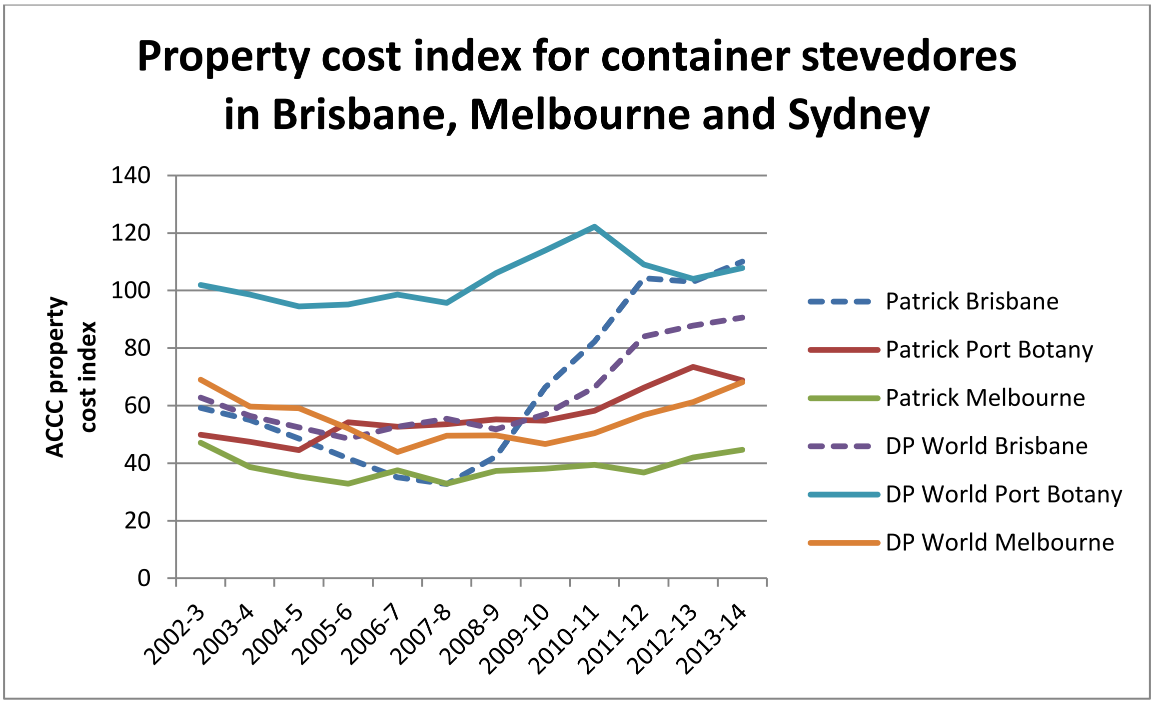
Areas of increased revenue	Change from FY 2010-11 to FY 2013-14
Fees from ships (Table 4)	$31.4 million
Rental charges (Table 5)	$57.7 million
Services – dredging (Table 5)	$9 million
Services – other (Table 5)	$1.5 million
Unknown	$10.4 milion
Total (Table 2)	$110 million

5.13. The Australian Competition and Consumer Commission (ACCC) monitors container terminal stevedoring and publishes an annual report.[26] As part of this report, it publishes cost indexes for the stevedoring companies, divided into labour costs, equipment costs, and property costs. It is our understanding that property costs are mainly composed of rental fees paid to port authorities.

[22] Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*. Note that the numbers in this column of the report are particularly difficult to read. We have made our best effort and cross-checked through adding up the column total, however, there may be small errors.
[23] Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*.
[24] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the period from 21 May 2010 to 30 June 2011* (filed with ASIC).
[25] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014* (filed with ASIC).
[26] Named the *Container Terminal stevedoring monitoring report,* available on the ACCC website.

5.14. We have plotted the ACCC's 'total property cost index' for the Patrick and DP World container terminals in Brisbane, Sydney and Melbourne in Figure 1. Both Brisbane terminals are marked in dashed lines. While DP World Port Botany is a high outlier, the other container terminals have relatively similar property costs between 2002-3 and 2008-9. From 2009-10, property costs for both container terminals in Brisbane increase significantly.

Figure 1: Total property cost index for container stevedores in Brisbane, Melbourne and Sydney.



Source: ACCC, *Container Terminal stevedoring monitoring report no.16*, October 2014. Appendix C: Company trends in cost components, p. 67-72.

5.15. A three-year moratorium on job cuts was agreed as part of the privatisation process in Brisbane. After this three year period was over, significant job cuts and outsourcing were undertaken. Table 2 shows a significant reduction in the Port of Brisbane workforce as reported to ASIC, from 268 workers to 184 – a decline of 84 jobs or 31% of the workforce. These are only the workers directly employed by the port and does not include the stevedoring workforce.[27] These numbers are sourced from the Port's ASIC filings, and also reflect the MUA's experience in the Port, where a significant number of Port employees are MUA members.

5.16. Job losses have taken place through workers leaving and not being replaced. Maintenance work was contracted out. The port's land reclamation area, where dredge spoils and soil for the expansion of the Port beyond Berths 12-13 are managed, was shut down for a period. These workers have now been replaced with workers who have been contracted out. Jobs

[27] From ASIC Form 388 filed with financial statements and reports. Question 2 c) asks 'How many employees are employed by the large proprietary company and the entities that it controls?'

have been lost in administration, maintenance, reclamation, procurement (of stores & equipment), catering, and in other ancillary areas.

5.17. We understand that there are proposals to privatise the ports of Darwin, Melbourne, and Fremantle. Given the remit of this inquiry, to examine the incentives created by the government to privatise state or territory assets and recycle the proceeds into new infrastructure, a serious examination must be made of whether privatisations, such as the example of the Port of Brisbane, are actually in the public interest.

5.18. We have offered some evidence above of the significant financial gain for private companies now running private ports, gain that has come at the expense of the users of port facilities and the workers in those port facilities.

5.19. We are a union that represents maritime workers – we are not professional economic analysts. We respectfully ask the committee to make further investigation of the finances of the Port of Brisbane and Flinders Ports to determine whether such privatisations are in the public interest. Given that the Port of Brisbane Corporation paid its shareholders, the Queensland Government, $519.8 million dollars in dividends the two years before it was privatised, we suggest that the $2.1 billion received for a 99-year lease of the Port was not a good deal at all. Likewise, the price of $186 million for a 99-year lease for Flinders Ports compares rather poorly to the $47 million that Flinders Ports generated in net profit and dividends in 2013-14 alone.

5.20. Below, we explore further the impacts of the port restructuring associated with privatisation on Australian consumers, importers, exporters, and the communities who use harbour land and sea areas.

Recommendation 5: That the Committee undertake a thorough investigation of the economics of the privatisation of the Port of Brisbane and Flinders Ports, with a view to determining whether the government has actually lost valuable revenue in the process.

6. Impact of privatisation on Australian ports: Community facilities

6.1. There is a concerning example of a lack of consultation with communities and a loss of public amenities which do not generate a profit in the Port of Brisbane. 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, Obervation 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 with was taken to the profit and loss account.[28]

6.2. The savings of $3.5 million, referred to above is reflected in the 'Provisions – Current and Non-Current' section on pg. 20 of the 2014 annual report, as well as under 'Provisions' and 'Non-Current Liabilities' in the Statement of Financial Position on pg. 7. It appears that these monies were kept as profit for port owners.

6.3. The original "Visitors Centre, Obervation Cafe, Shorebird Roost and adjoining car park" are visible in the red circle in Figure 2 below.

Figure 2: 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 Obervation 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.

6.4. 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 sold and taken off-site.

[28] Port of Brisbane Pty Ltd, *Special Purpose Financial Report for the year ended 30 June 2014* (filed with ASIC), p.11.

- 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*).

6.5. 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'.[29] 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.[30]

Figure 3: Photo of the former Visitors Centre and lake still available on the Visit Brisbane tourist website. The site has now been bulldozed and filled by the Port of Brisbane despite community objections.

[29] 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, accessed 12 February 2015.
[30] See http://dynamic.architecture.com.au/awards_search?option=showaward&entryno=20024414, accessed 12 February 2015.

6.6. 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 6.1 above).

6.7. An online petition against the demolition of the Visitors Centre organised by the Bulimba Creek Catchment Area Committee attracted 2,659 signatures.[31]

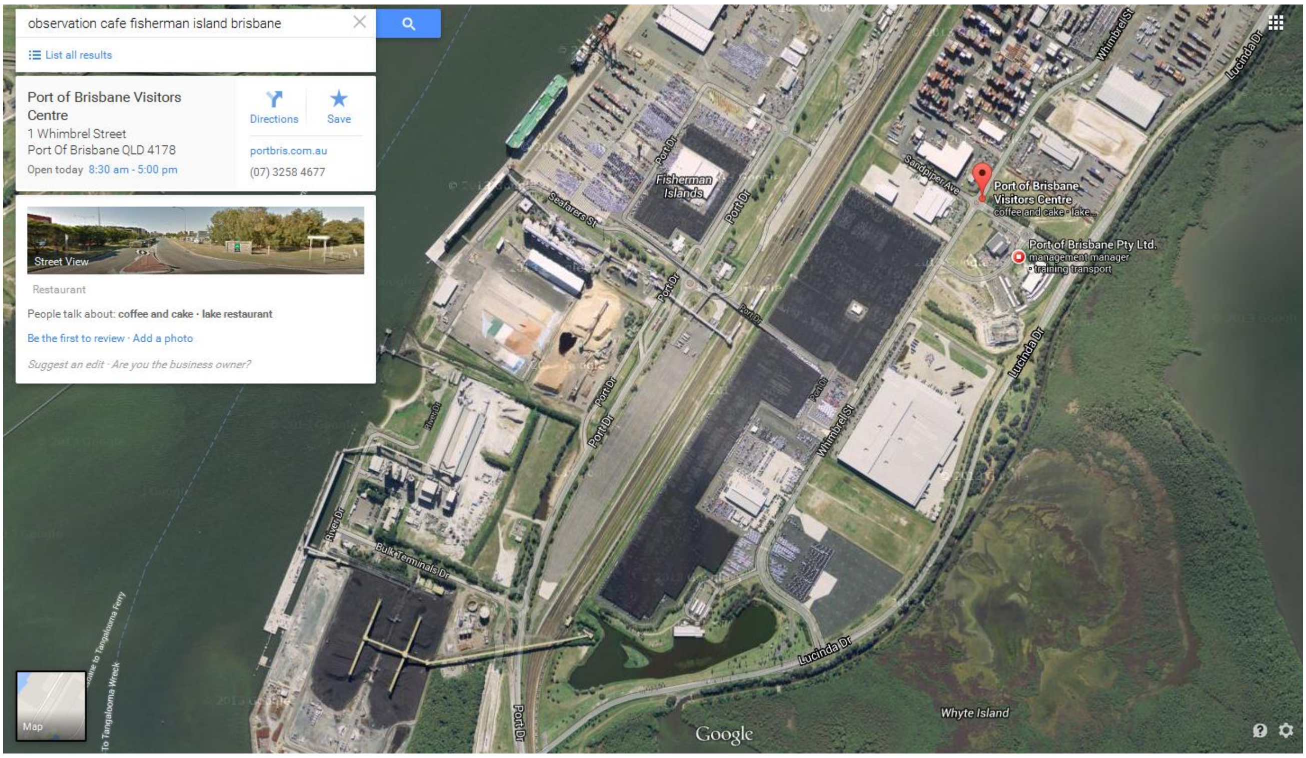
6.8. The former site of the Visitors Centre is shown in Figure 4 and Figure 5. The area is now paved right to the pond and a new fence has been installed across the former public access road. A visitors centre and cafe are now located in the high rise main administration building, in a much less amenable area of the Port, as indicated in Figure 6.

Figure 4: Former public access road to the former Visitors Centre.

[31] 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, accessed 12 February 2015.

Figure 5: View of the former Visitors Centre site, showing paving right to the water's edge.

Figure 6: New location of the visitors centre and cafe in the Port's main administration building indicated with the red marker. The lake and original Visitors Centre and Cafe overlooking it have now been bulldozed and filled in to create more car storage areas.



Source: Google Maps, viewed on 12 February 2015.

Figure 7: Port of Brisbane administration building, site of the re-located Visitors Centre and cafe.

Recommendation 6: that the Committee investigate how it was that the Port of Brisbane was able to appearently disregard the conditions for public access and community facilities specified in the Purchase Agreement. This is critical to evaluating future safeguards.

7. Impact of privatisation on Australian ports: Flinders Ports

7.1. Flinders Ports has a not had the job losses suffered at the Port of Brisbane. It had a smaller revenue than the Port of Brisbane in 2013-14 (Table 1), but employed 590 people as compared to Brisbane's 184.[32] The higher employment at Flinders is due to:

- The company operating 6 separate ports
- The company expanding from a port authority/landlord role into container and bulk stevedoring services, which is labour-intensive
- The company not taking an aggressive approach to contracting out port services and implementing job reductions.

[32] Flinders Port Holdings Pty Ltd, *Copy of Financial Statements and Reports for the year ending 30 June 2014*, p.1.

7.2. Flinders Ports appears to be using the significant profit it generates (Table 1) to expand into stevedoring functions, and into owning other ports. It is currently bidding for the lease for the Port of Darwin. In 2010, it established a bulk stevedoring and logistics company Flinders Logistics. This company is currently tendering for contracts against established stevedoring companies Patrick and Qube. It recently 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.

7.3. 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.

7.4. 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.

7.5. It appears to MUA members in South Australia that Flinders Ports focuses its capital investments on 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.

7.6. Another outcome of the port privatisation process in South Australia is a monopoly over the South Australian grain terminals by the multinational company Viterra (a wholly owned subsidiary of Glencore). Before the privatisation of Flinders Ports, the grain terminals were part of the public port authority. It is the MUA's understanding that the Viterra/Glencore monopoly over grain export terminals has created difficulty for South Australian farmers.

8. Impact of privatisation on Australian ports: Ports in NSW

8.1. The privatisation of Port Botany, Port Kembla and Newcastle is still in its early stages, and there are not many changes to report at this stage. Most (but not all) MUA members that worked for the public port authorities in these ports are now employed by the public entity the Port Authority of NSW.

8.2. In Port Botany, one immediate impact of privatisation has been felt in the recently-expanded Bulk Liquid Berths. The public entity Sydney Ports previously operated these berths. When the Bulk Liquid Berths were transferred to the private entity NSW Ports, the decision was made to contract-out the operation of the Bulk Liquid Berths. The company chosen by NSW Ports was OPEC Systems, an anti-union company whose workers are employed on much worse terms and conditions than the workers who previously operated the Bulk Liquid Berth. The MUA is currently attempting to improve the situation of these workers.

8.3. The Port Authority of NSW remains a public agency with responsibility for emergency response, fire-fighting, oil spill response, vessel traffic control, pilotage, and other functions. Some of the previous port authority functions were transferred to other parts of the NSW government, and some functions (especially land and asset management) to the private entity NSW Ports. Due to the huge amount of traffic on Sydney Harbour, ranging from passenger ferries to petroleum tankers, cruises ships to thousands of swimmers and beach-goers, the port has a high level of safety and emergency services. However the Port Authority of NSW now operates with a reduced budget and responsibilities, with its main sources of revenue transferred to the private entity NSW Ports. There are concerns about whether the reduction in revenue will be able to continue supporting the same level of safety and emergency services.

9. Impact of privatisation on Australian ports: Port companies

9.1. Shipping companies and organisations such as Maersk and Shipping Australia have made complaints about the increasing port fees, and about consolidation among companies owning different Australian ports.[33]

9.2. Stevedoring and logistics companies and organisations including Qube, Asciano, DP World, AAT and the Freight and Trade Alliance have raised concerns about the impact of port privatisation on rents.[34]

9.3. The ACCC has raised concerns about the impacts of privatising Australian ports.[35]

10. Impact of privatisation on Australian ports: Planning and governance

10.1. It is the experience of MUA branches that their ability to participate in the governance of ports has been reduced in privatised ports. In both the Port of Brisbane and Flinders Ports, the only port committee that the MUA has a place on is the Maritime Security Committee. These committees were enacted in the mid-2000s as a result of changes to maritime security procedures in ports.

10.2. Port users, including shipping lines and stevedoring companies, were previously represented on port boards of directors. On some occasions, unions also had representatives on boards. In

[33] Michael Bleby and Jenny Wiggins, Port sales slammed: Privatisation: NSW exporters will suffer in the long term: Maersk, *The Australian Financial Review*, Wednesday 2 July, 2014. Jemma Castle, NSW ports and Brisbane have owners-in-common, *Lloyds List Daily Commercial News*, 19 April 2013.

[34] Michael Bleby and Jenny Wiggins, Port sales slammed: Privatisation: NSW exporters will suffer in the long term: Maersk, *The Australian Financial Review*, Wednesday 2 July, 2014. Jemma Castle, DP World's Brisbane surcharge increase 'not about rent', *Lloyds List Daily Commercial News*, 27 March 2013. Jemma Castle, A superfund future for Botany and Kembla, 26 June, 2013. AAT, Tariff review, 29 April 2010, http://www.aat.auz.biz/News/AAT%20Pricing%20Notification%20290410.pdf.

[35] ACCC, *Container Terminal stevedoring monitoring report no.16*, October 2014.

privatised ports, directors tend to be exclusively representatives of investment funds who own the ports.

10.3. Potentially, this can make for a limited degree of maritime experience on port boards, with decision making about the port focus more towards immediate return on investments, rather that the long-term thinking that established and developed port facilities in the first place.

10.4. Another result of the dominance of port boards by investment funds rather than port users and community representatives has been a rapid turnover of board members. New Company directors were appointed for the privatised Port of Brisbane on 30 November 2010. Since that time, 13 separate forms to change company directors have been filed with ASIC. There are currently a total of six Directors for the Port of Brisbane, including the Company Secretary. Of these six, three have been appointed since December 2013. Only two are part of the original Directors appointed on November 30, 2010. Carleen Fitzsimon is the fourth Company Secretary since November 2010.[36] None of the current Directors served as directors of the previous Port of Brisbane Corporation Ltd.[37]

Recommendation 7: Port authorities must be able to balance competing interests of port users and the broader community and be able to make decisions in the public interest. Port boards must be structured to reflect this critical role.

10.5. The fragmentation of ports into different private owners will significantly preclude opportunities for integrated national planning of freight and logistics transport, especially for shipping to connect ports.

10.6. A focus on trying to obtain a high sale value for ports can encourage over-optimistic assessments of future trade through ports and the expansion required in ports. Such over-optimistic assessments can increase the potential sale price of ports. Combined with emphasis on encouraging internal competition within ports, this dynamic has the potential to encourage chaotic port development. A prime example is the three automated container terminals operating side-by-side in Brisbane. Hundreds of millions of dollars has gone into purchasing the latest automated stevedoring equipment for these terminals. However, the three Brisbane container terminals currently handle about 1 million TEU per year – which is less than a single container terminal in Melbourne. Many in the maritime industry doubt that the situation is sustainable.

Recommendation 8: Forecasts about future port trade must be subject to independent scrutiny, particularly if privatisation is being contemplated or incentivised.

10.7. In turn, a high sale value can increase the pressure on private ports to cut jobs and port services and public amenities if the forecasts are not accurate. While it appears that early sales of Australian ports significantly undervalued the ports, there are concerns that the recent sales of NSW ports may have over-valued those ports.

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[36] ASIC Historical Company Extract, Port of Brisbane Pty Ltd. 11 February 2015.
[37] Port of Brisbane Corporation Limited, *Annual Financial Report for the year ended 30 June 2010*.

11. Impact of privatisation on Australian ports: Darwin

11.1. Some ports, like Darwin, provide critical services to regional areas. There are currently proposals to privatise the port of Darwin. We are very concerned about the impact this could have.

11.2. During floods, road and rail services to Darwin can be cut off. This happened in the 2012 Edith River washout. During such events, the Port of Darwin is critical for the transport of supplies.

11.3. Due to an oil and gas boom and iron ore exports, the Port of Darwin is currently 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 iron ore industry. In an emergency, the Port needs to be able to direct the use of this wharf in the public interest. It is possible that this could delay other non-essential shipments. The public must be confident that the Port Authority is willing to uphold the public interest in the future and not be beholden to private interests in the event of an emergency.

11.4. The Port of Darwin currently supplies essential goods to communities along the coast to Queensland and West Australia. Some of these communities, such as the Tiwi Islands, do not have road access. Those 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. We are concerned that in a for-profit environment, the needs of oil, gas and iron ore companies would be priorities over low-margin but essential community supplies.

11.5. 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 River wash out, freight companies raised prices significantly.[38] We believe that privatising the port would increase the likelihood for such monopolistic behaviour that is not in the public interest.

Recommendation 9: The Port of Darwin is an essential piece of infrastructure this is relied on by thousands of people in Darwin and communities along the northern coast of Australia. It must not be sold or leased to private interests.

12. Impact of port privatisation on Australian consumers

12.1. Earlier in this submission, we documented significant increases in port fees and rental costs in the Port of Brisbane. Shipping lines and stevedoring companies have also raised concerns about increased fees.

Recommendation 10: The Committee should examine whether port privatisation is incentivising private port owners to implement significant fee and rental cost increases.

[38] Betts, Alyssa “Freight costs to soar after train crash" *NT News*. 4 January 2012.

Recommendation 11: The Committee should examine the potential for increased port fees and rental costs being charged by private port owners to be passed on to Australian consumers in terms of the cost paid for imported goods. The Committee should also examine whether such fees are likely to increase the cost of Australian exports and what impact this may have.

13. Costs and benefits

13.1. One of the Committee's Terms of Reference is:

(d) the process for evaluating potential projects and for making recommendations about grants payments, including the application of cost-benefit analyses and measurement of productivity and other benefits;

Recommendation 11: That there be a requirement on Governments when considering future asset sales, to undertake, and publish, a cost benefit analysis which considers forgone expected revenues against the expenditure of the asset sale proceeds.

Recommendation 12: Any asset sales must be accompanied by stronger, and enforceable Community Service Obligations (enforceable by imposition of financial penalties).

14. Safeguards

14.1. One of the Committee's Terms of Reference is:

"(c) what safeguards would be necessary to ensure any privatisations were in the interests of the state or territory, the Commonwealth and the public;"

14.2. It must first be carefully determined whether the sale or lease of a public asset is in the long-term interests of the public. The MUA opposes privatisation on the basis that it is not. There are a number of safeguards that Governments could use to improve the structure of tenders and obligations on successful bidders.

14.3. Firstly, by increasing transparency of the tender process. Tender documents, including all economic and financial data should be publicly available at no cost, as should the details of bidder's and all non commercial-in-confidence details of their tenders. In addition, tenderers should not be prohibited from conferring with third parties. In fact third party discussions should be encouraged, even required. Tenderers should be required to include in their tenders, the third party discussions or consultations they have undertaken.

14.4. Second, by imposition of unambiguous Community Service Obligations to apply to the successful bidder. Government tenders should include transparent and specific Community

Service Obligations (CSOs) that the successful bidder will be bound to implement. To guard against backsliding by a successful bidder, the CSO should be made enforceable by, inter alia, imposition of clear and substantial financial penalties for non compliance. The CSO should include a public complaints procedure.

14.5. Thirdly, by adoption of consistent and stringent regulatory arrangements. There should be a clear separation and clarification, post sale or lease, of the regulatory arrangements to apply for the future and clear identification of what aspects of the privatised entity is being regulated. In the case of port leases/sales, the pre-existing port corporation that managed the port asset on behalf of its Government shareholders, is also the regulator. There appears to have been too little attention has been paid to the powers and functions of the post sale/lease regulatory arrangements. We propose that COAG, in a transparent consultation with stakeholders, existing regulators and the ACCC, develop a set of best practice regulator guidelines for implementation by the States/Territories.

14.6. Fourth by establishment of transparent and appropriate governance arrangements for the privatised operating entity. Government tenders should require a commitment on bidders that if successful, they will operate the privatised entity under a formal governance structure that provides for representation from (i) the users (or their representative organisation) of the services that the entity provides; (ii) the government representing consumers/citizens; and (ii) the workforce (or their representative organisation/s).

14.7. In addition to the appropriate representation on formal governance arrangements, Government should require successful bidders to commit to establish consultative bodies to advise the formal governance body (usually a board). These consultative bodies should provide for consultation with key stakeholders. In the case of port sales/leases, this would include stakeholders such a service providers e.g. stevedoring and pilotage operators, users e.g. ship, truck and train owners/operators, representatives from the workforce, regulatory agencies such as economic, transport and WHS regulators.

14.8. Fifth, by improved reporting requirements. Successful bidders should be required to provide and publish detailed annual reports covering:

- Financial information (current year and previous to show tends) including:
  - Revenue sources and how they correspond to port operations
  - Profit and loss
  - Dividends paid
  - Return on capital
  - Return on investment
- Capital investment information
- Employment, disaggregated to permanent and non permanent
- Outsourced/contracted functions including commissioned research and associated employment involved,
- Schedules of fees and charges
- Governance information – Directors and consultative bodies (composition, meetings/attendance, issues)
- Performance and productivity measures

15. Alternatives for funding infrastructure development

15.1. One of the Committee's Terms of Reference is:

> "(f) alternative mechanisms for funding infrastructure development in states and territories;"

15.2. The current period is characterised by an abundance of capital and capital sources to complement taxpayer (Government) capital sources to finance infrastructure assets. The MUA is an advocate for increased utilisation of not-for-profit (NFP) superannuation and pension fund investment in infrastructure, under the right funding model that delivers both a community and national interest benefit while at the same time delivering secure returns on that investment for the benefit of those NFP superannuation fund members.

15.3. The key challenge for Governments is to offer the best options to the institutional investor market, including the NFP industry super funds, to attract capital (i) to partner Governments in building/renovating existing public infrastructure assets that Governments wish to retain in public ownership; (ii) to purchase/lease former Government infrastructure assets that Governments wish to privatise; and (iii) to construct/operate new infrastructure assets under private or joint venture (PPP) arrangements.

15.4. So far, Governments have focussed primarily on functions (ii) and (iii) and have not done this very well. Invariably, sale/lease privatisations have not been appropriately structured at the tender stage. In our view, the market offer process needs to include a tailor-made or specific purpose element, (probably involving a superannuation fund select tender offer) to attract pension fund investment and/or debt financing, and to ensure transaction costs (bid costs and commissions/fees) are minimised. Governments are yet to effectively find a satisfactory solution to the risk/reward balance for greenfield projects where commencement of the income stream can be deferred. Function 1 is completely immature in Australia, and is likely to remain so while the public bond rate is falling, which ironically is coinciding with a period where there is depletion of public finances, thereby heightening the need for private finance to support Government infrastructure priorities.

15.5. The MUA believes that this dilemma for Governments will not be solved until there is wider public acceptance of the distortion and inherent volatility in capital markets and therefore public acceptance of the need for Governments to intervene in capital markets to incentivise investment into productive, transformative and employment generation activity, principally through a new approach to industry policy, requiring supportive economic and social infrastructure.

15.6. The MUA believes that it is important that Australia develops and supports those industry sectors that are considered vital to the economic and social future of the nation, which generate and sustain quality, secure jobs, which support the health, welfare and education needs of our citizens and which can be transformed to generate lower carbon emissions, as part of the nation's commitment to positively respond to human induced climate change. It is our belief that Governments that oversee the performance of mixed and diverse economies like Australia's have a responsibility to facilitate the growth and sustainability of industry, and to prioritise policy responses that facilitate those sectors which will contribute to the economic, social and environmental health of the nation.

15.7. We consider that adoption of a sectoral approach to the economy and to prioritise resource allocation to those priority sectors, supported by appropriate economic and social infrastructure, particularly to support those sectors where Australia exhibits comparative advantage in a globalised world, is an essential and necessary role of Government.

15.8. We advocate for establishment of a national industry transformation body to advise the Government on prioritisation of industry sectors and associated infrastructure requirements, the policy responses required to facilitate the growth of those sectors and to coordinate the collaboration across Government and the private sector to foster innovation, investment, capital formation, productivity improvement, export facilitation, lower carbon emissions, employment and skill development in identified priority sectors.

15.9. Under such a model, facilitated by the safeguards we outline in section 8, the ownership and financing of nationally significant assets that that are currently giving rise to considerable community anxiety, could be more effectively addressed.