



Review of Port Competition and Regulation in NSW

Swire Shipping Ltd. welcomes the opportunity to make a submission regarding this important review. Swire Shipping Ltd. is a Multi Purpose shipping company operating world wide.

Swire Shipping Ltd. fully endorses the main purpose of the Competition and Infrastructure Reform Agreement which is to provide for a simpler and consistent national approach to the economic regulation of nationally significant infrastructure, including through recognition that, in the first instance, the terms and conditions of access to such infrastructure should be determined through commercial negotiation, and that economic regulation should only be used where it is warranted.

It is noted that the purpose of this review is to assess the regulation of port activity at major New South Wales ports in terms of the consistency with that Agreement and that the review excludes the ports of Mamba and Eden and excludes an evaluation of the safety functions of port operations which are required under their operating licenses.

As a general principle, Swire Shipping supports the maximum amount of competition between ports and between facilities within ports consistent with encouraging the required level of investment in order to meet economically efficient objectives.

Natural Monopoly Characteristics of Ports

The "Natural" consequence of the existence of a safe deepwater harbour is the development of industry and population concentrations creating the conditions for concentration of importers and exporters and clustering of businesses for competitive advantage.

Inherently Ports develop "natural" monopolies over time.

Thus whilst New South Wales is served by three ports in fact inter port competition is not a realistic proposition as the choices for the Shipping companies servicing the regions are restricted by the distances between the ports and the effective landside and distribution costs of transporting the cargo to their end use destination.

In addition NSW as in other Australian States there is very little competition between ports as they tend to be specialized in the provision of services

- e.g. Sydney in terms of the container and car trade, the break bulk and liquid bulk trades
- Newcastle is highly specialized in the terms and provision of services to the coal trade and other bulk trades
- Port Kembla is in a similar situation. It is appreciated that motor vehicles and some break bulk trade will be moving from Sydney to Port Kembla late in 2007 - 2008. There is also limited competition between facilities within ports given the strong stevedore duopoly that exists, for example, in respect to the handling of containers.

In addition, SSL would make the further point that decisions by the State Government, for example in shifting trade from Port Jackson to Port Kembla had been taken without consultation with the shipping industry and this has tended to undermine potential competitive outcomes which may have been achieved if the Government had considered industry advice on a broader scale.

The NSW State Govt. issued a directive in 2004 to close down White Bay and subsequently Darling Harbour which officially closes on 30th Sept.2007

The non competitiveness of individual ports is further exacerbated by the limited competition in the provision of services once within the port precinct. Examples of such basic services are Tuggage, Linesmen and Mooring services as well as stevedoring facilities.

High Entry and Exit costs

Provision of Port facilities necessarily takes into account the developmental aspirations of the region and populace over the long term. The position of facilities has significant impacts on economic activity and the environment.

Within ports the availability of suitable land for the development of facilities is very constrained.

Of the available land for terminals and wharves the exact arrangements for the leasing or granting of concessions and the manner and timeframe in which those leases are extended may in itself act as barriers in the development of alternative competitive services through the available facilities.

These factors make entry and exit from the port infrastructure provision less attractive as a new entrant would have to secure a large market share aspiration to satisfy the asset owners or banks on the viability of the project.

High Fixed compared to variable costs

Because Port infrastructure projects are high fixed vs variable costs they must be conceived for the longest time period for assets and pricing should reflect the user hinterlands capability to utilize the facilities. That is once ports are built the pricing focus should be to create arrangements that encourage usage and the development of business arrangements that ensure regular high utilization.

Government Policy to Keep Strategic Assets in Public Hands

In principle public ownership of strategic assets such as ports is useful as long as that policy does not prevent the development of privately owned assets to suit specific private enterprise developmental needs.

The manner in which Port facilities are made available to the user community is instrumental in encouraging / discouraging competition.

As a qualifying example: In New Zealand

- A comprehensive view on transport deregulation across rail / road carriers and ports has produced competitive land side movements
- More ports in closer geographic proximity
- Availability of more common user terminals at ports ensures competitive stevedoring not just for container ships but also for break bulk and bulk operators.
- More competition in the stevedoring arrangements
- Freedom of Association and contract for the labour market.

Have yielded a port services marketplace that is cost competitive as well as more productive

This is not the situation in NSW where the NSW business bear increased costs.

Competition: Port Corporations Stevedores and Shipping Services

First considering whether these sectors compete with other players in the same sector:-

Port Corporations

There is as far as we can tell no competitive position between ports except for some informal benchmarking of charges, Ports may infer that their Wharfage or conservancy charges are “the lowest” in the region etc however there does not appear to be a particular focus that would require the Port Corporations to drive efficient land utilization or overhead control to deliver lowest throughput costs per tonne.

Stevedoring Companies in NSW

There is evidence that Duopolies are less competitive than would be the price landscape if three or more providers existed in a marketplace. In the NSW stevedoring industry there is reasonable competition for container services but much reduced real c competition for the handling of project and breakbulk cargoes.

Stevedoring companies that do not provide a pan Australian Stevedoring service may be unable to provide the same degree of bundling and therefore be less effective in providing services at all ports visited by their shipping line customers.

In fact terminal arrangements may hamper the provision of services for non containerized products.

Shipping service providers

In the international shipping environment under the freedom of navigation arrangements have no barriers to entry and are able to deploy assets into shipping routes in a unregulated manner (different from airlines with landing rights limitations and airspace provisions)

This has meant that despite the existence of liner conferences and high replacement cost of ships and relatively low margin in the management of shipping services the trading community are able to access a variety of shipping services at competitive costs.

Equally when considering whether there is competition between sectors, some shipping lines do in fact have terminals and stevedoring operations, but in principle even for such vertically integrated operations the businesses are run as independent operations.

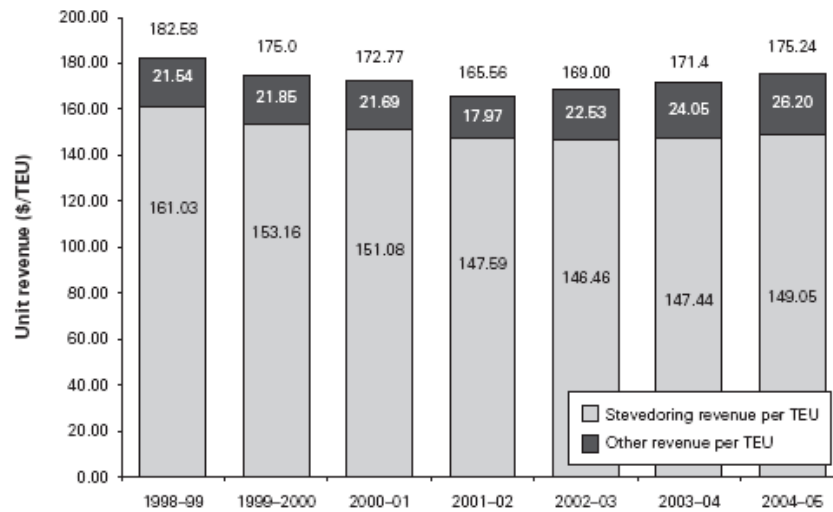
SSL has been support for a third stevedore where it is commercially viable to do so and as container volumes grow in the future, it is expected that the volumes will support a third stevedore at Port Botany. A third stevedore has been selected for Fisherman Islands and it is also possible that by 2015, there may be the opportunity for a third stevedore to become a force in Melbourne and Fremantle.

Market Power

Considering Price

The tables appended from the ACCC Nov 2005 monitoring report demonstrate that Non Stevedoring income (generated from Storage, VBS Systems, on costs etc) is on the upward spiral.

Figure 3-ii Components of total revenue per TEU, 1998–99 to 2004–05



Source: Data supplied by stevedoring companies.

3.2.3 Other revenue—revenue from ancillary services

As noted, revenues categorised as ‘other’ revenues include berth hire, storage, container re-positioning, asset sales, vehicle booking systems and ‘other’ non-defined or unidentified activities.

Table 3-ii shows that, as was the case in the previous two years, ‘other’ revenue accounted for most of the rise in unit revenues in 2004–05.

Table 3-ii Change in total, stevedoring and other revenue per TEU

	Change in revenue					
	2001–02 to 2002–03		2002–03 to 2003–04		2003–04 to 2004–05	
	(\$/TEU)	%	(\$/TEU)	%	(\$/TEU)	%
Stevedoring revenue per TEU	-1.13	-0.8	+0.97	+0.7	+1.61	+1.09
Other revenue per TEU	+4.56	+25.4	+1.52	+6.8	+2.14	+8.91
Total revenue per TEU	+3.43	+2.1	+2.49	+1.5	+3.75	+2.19

Source: Data supplied by stevedoring companies.

Storage revenue

An increasingly important component of 'other' revenues in recent years has been derived from container storage services. Historically, stevedores have provided a free storage period. Storage fees are applied if containers are not collected from the terminals within the fee-free period.

Data in table 3-iv shows that storage revenue has increased significantly in recent years.

Table 3-iv Storage revenue, total and per TEU

	2001-02	2002-03	2003-04	2004-05	% change	
					2001-02 to 2004-05	2003-04 to 2004-05
Storage revenue						
Total (\$000)	15 438	21 775	26 559	33 243	115.3	25.2
Unit (\$/TEU)	4.94	6.01	6.75	7.74	56.7	14.7

Source: Data supplied by stevedoring companies.

This has enabled Australian Stevedoring companies to produce in recent years excellent returns compared with their counterparts in the Pacific Rim. Of particular interest is the NZ Infrastructure return having almost the opposite trend of their Australian counterparts

Aus Stevedores: 10% 1999 to 23% 2005

LPC: 29% 1999 to 13% in 2005

PSA Corporation 9% 1999 to 16% 2005.

Table 3-v Rates of return—earnings before interest and tax/average assets

Rate of return on average assets (%)	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05
Average rate of return for Australian stevedores	10.57	13.24	15.21	19.29	25.80	27.75	23.06
Average EBIT/total assets ASX/S&P 200							8.8
PSA Corporation (Singapore)	9.90	12.30	14.89	8.10	13.66	16.03	na
South Port Ltd	6.70	9.50	10.70	14.89	14.32	11.74	11.17
Port Otago Ltd (New Zealand)	18.82	15.70	16.40	9.40 ¹¹	8.85 ^a	7.48 ^a	6.32 ^a
Lyttelton Port Co Ltd (New Zealand)	29.54	32.30	30.44	31.40	21.09	19.02	13.40
Ports of Auckland Ltd (New Zealand)	17.38	18.13	18.13	12.21	14.06	17.5	na

Source: Data supplied by the stevedoring companies, and sourced from annual reports, the Australian Stock Exchange, and Capital Partners Ltd.

Note: Other companies are overseas port authorities that also conduct stevedoring activities. ASX/S&P 200 data excludes financial institutions.

The Australian Automotive Terminals (AAT) being a joint venture between Patrick and DP World have, in our view, raised the potential, for imposing extra costs on the end-user i.e. the consumer as far as motor vehicles are concerned and it is noted that the ACCC is currently investigating alleged breaches of Part IV by the AAT and therefore SSL will not comment further.

In this respect it is also worth noting that the East Basin Distribution Centre in Newcastle is owned by Asciano Limited and it has been very difficult for shipping lines to negotiate any reasonable commercial outcome with them given that their primary focus is on the provision of logistics services.

Effect of Prices and regulatory arrangements impact

Port Kembla Example: Competition in downstream or upstream markets affected by Regulation

Port Corporation Leases facility to AAT on terms that are not transparent to the user community.

- AAT rules of engagement mean that their customers are not the exporter/importer or indeed the shipping company but the shareholding Stevedore companies of AAT.
- AAT demonstrates that they are an open access company by pointing to the existence of a public tariff .There is no evidence of commercial negotiation of rates between AAT and third parties who are not shareholders in AAT>
- Effectively this means that a third Stevedore (in this case) Illawara Stevedoring has no option but to secure services from AAT at the tariff price. Ultimately it is evident that AATs profit is redistributed to its shareholders and thus the third (or fourth) stevedore offering through AAT is at a competitive disadvantage to the Stevedore shareholders irrespective of how arms length the companies purport to be.
- The existence of a monopoly in the provision of Terminal Handling Services (AAT) means that there is no effective competition in the supply of R&D / Marshalling services. Costs to end customers will demonstrably increase
- In the case of the AAT it also controls berth access and decides the priority in which vessels are berthed at the facility in conjunction with PKPC.
- Layout of cargo within the terminal is organized in a manner to facilitate the business of receiving and delivery rather than the efficiency with which hook cycle clearance can be maintained.

(We have seen evidence of this in Queensland

- Revaluation to market of the port land has meant increased costs by as much as 40% to segments of the Break Bulk importer and exporter community.

- Increased throughput in the use of existing facilities has not resulted in reduction of costs per unit.
- The requirement of businesses to be “profitable from inception” with vendors quoting their shareholders “right” to make what is to them an acceptable margin at the cost of margin in their customers businesses.)

There is no incentive for AAT to produce a cost competitive outcome and thus AAT is able to deploy technology and personnel in a manner that may not be the most cost effective.

It can be argued that the ability for the Ports to revalue to market at whatever intervals develops a cost plus mentality where the other industry participants are encouraged to pass costs along to the “end user”.

There appear to be no competitive commercial bargaining arrangements that permits discounts to tariff charges for the offer of complementary services or for volume of activity.

Regulatory framework: impact on investment decisions

We can see that the conditions that encouraged the conditions for a Darling Harbour closure and the movement of the cargo previously handled by Darling harbor by bequeath to Port Kembla have prevented the user community from developing useful solutions.

In particular there has been more concern shown for the development of facilities for container operators but less consideration to the development of facilities for break-bulk products such as steel or timber of a world class.

What could be done to improve the position

- Consideration should be given to the independent ownership structure for terminal providers so that there is contestability in the menu of service offerings that are bundled through them.
- Where exclusive terminal lease arrangements are made with independent providers the model should allow for future third-party users to be able to acquire shareholdings in the terminal management in proportion to the business developed by the additional entrants.
- Port Corporations should be directed to negotiate commercial terms for access.
- A framework that would promote competitive provision of services in the Towage mooring and pilotage services should be encouraged.
- Market revaluations of “Port Land” should be considered over the longer term and with the spillover effect to other sectors cost competitiveness.
- Effective competition monitoring and its effect on price and quality of service should be instigated.