



The General Manager
Adjudication Branch
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23 February 07

Reference: Geelong Port Pty Ltd exclusive dealing notification N92776-Interested party consultation

Dear Sir,

I refer to your letter ref N92776, of February 1st 2007 regarding the above mentioned subject requesting submissions from interested parties.

Impact Fertilisers Australia Pty Ltd (IFA) opposes the proposed exclusive dealing arrangements for Figeo Crane use at Lascelles wharf on the basis that this conduct will substantially lessen competition for these services. Additionally IFA does not agree that there is sufficient public benefit of the proposed restriction that could possibly outweigh the potential effects of the lessening of competition.

It is our belief that Geelong Port has presented an over simplified view of the impacts of its request for exclusive dealing. Furthermore we believe the specific market is not 'Port Services' in general but 'grab discharge of vessels in the port of Geelong' for which generally there are two competing providers, being shore based crane operators and vessel based cranes.

Discharge processes are a complex arrangement of vessel charter party details, vessel type, vessel equipment included in the cost of the vessel, vessel discharge capabilities, local road transport arrangements and distances, shed receipt capabilities etc.

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In consideration of our objection to GPs application, IFA provides the following comment.

- 1) Geelong Port is the only feasible option for bulk fertiliser importers in the Geelong region.
- 2) Impact's last geared vessel grab discharged at a cost of \$5.15 per mt, whereas the quote to use the Figeo cranes was at a rate of \$7.16 per mt.
- 3) Shippers may charter a vessel with similar discharge rate capabilities as the Figeo cranes.
- 4) The cost of the vessel may already include the use of the vessels cranes (particularly as the vessel will be required to self discharge in other ports) and hence the hire of the Figeo cranes, while the ships cranes remain idle, is a double cost to the charterer.
- 5) Vessels do not charge a sliding scale in terms of tonnage discharged.
- 6) Providers of hoppers and grabs, normally used in the ships gear discharge process, may suffer significant economic loss as berth users are not permitted to hire their equipment.

(In fact we believe some providers of these services have said they will remove their equipment from the port as it will be uneconomic for them to leave it at the port with no prospect of work. When the inevitable berth congestion occurs and/or the breakdown of the Figeo cranes occurs, (forcing a return to ships gear) will hoppers and grabs be available to receivers at reasonable expense?

- 7) Charter parties have many and varied discharge terms particular to vessel types and commercial freight arrangements. Matching proposed discharge rates with vessel owners discharge terms and in particular shed receival rates cannot be achieved when one is compelled to use Figeo cranes and their rate of discharge.
- 8) Shed receival rates vary considerably and a shed capable of receiving at 4000 mt per day will be awash with product by the Figeo cranes, potentially resulting in large truck and stevedore waiting time costs for the receiver.
- 9) We can see very little environmental difference between a Figeo grab passing the ships rail into a hopper and ships grab passing the ships rail into a hopper, whilst stevedores operate appropriately.
- 10) The Figeo cranes compete with ships gear. The market not Geelong Ports should determine their use. IFA will on most occasions use the Figeo cranes, however we see many other instances when the discharge cost, vessel charter conditions, shed receival conditions etc will be such that for us to be compelled to use the Figeo crane will result in much higher costs.
- 11) If the capability for vessel grab discharge is lost, by approval of this submission, there will be no competitive cap on what Geelong Port can charge for the shore based grab discharge.

12) Geelong Port has provided IFA a "Proposed Procedure for Future Figee Crane Use at Lascelles Wharf". This procedure outlines how GP will force port users to use the Figee cranes at the convenience of GP and revert (force users) to ships gear subject to the approval of GP at the discretion of GP. This is unacceptable to IFA.

I am very happy to discuss these points with you at your convenience.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Peter Cornish', with a long horizontal flourish extending to the right.

Peter Cornish
General Manager
Impact Fertilisers Australia Pty Ltd