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**Supplementary Submission  
on Application by  
Australian Amalgamated  
Terminals Pty Ltd  
For Authorisation A91141 &  
A91142**

*September 2009*

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**Federal Chamber of Automotive Industries  
GPO Box 313  
Canberra ACT 2601  
Phone: +61 2 6247 3811  
Facsimile: +61 2 6248 7673**

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**Contact: Mr Andrew McKellar  
Phone: 02 6229 8212**

This supplementary submission is in addition to the Federal Chamber of Automotive Industries (FCAI) submission lodged in response to the Application by Australian Amalgamated Terminals Pty Ltd for Authorisation A91141 & A91142 forwarded to the ACCC on 21 July 2009.

This submission makes comment from the motor vehicle importers perspective and their experience of AAT's service in response to statements made by Australian Amalgamated Terminals Pty Ltd (AAT) in documentation associated with the authorisation process.

Industry's concern with AAT relates not only to their monopolistic pricing practices, but also to more fundamental issues encompassing the following:

- the strategically critical position held in the logistics supply chain in relation to the importation of new vehicles into Australia and the preparation and delivery of those vehicles to market.
- the fact that AAT is controlled by related parties and funded for all capital investment by those same related parties.
- an entrenched 'bully' culture demonstrated through the manner AAT conducts its business arrangements with Port users.
- the direct and indirect costs and disruption to business resulting from the unilateral decisions by AAT.
- lack of any alternative facility at the key locations and plans for further expansion into currently independent facilities.
- the introduction of new fees and charges and changes to service provisions at the complete discretion of AAT.
- fees and charges increased at the complete discretion of AAT
- refusal to negotiate and absence of any dispute resolution mechanism or review procedures.
- hiding behind contractual arrangements with Ports and stevedores.

The FCAI is concerned that AAT's response dated 15 July 2009 to the ACCC letter dated 24 June 2009, defines Terminal Services in the broadest scope to include not only AAT's current operations but also states "*and any other terminal that AAT develops from time to time*". The FCAI strongly opposes AAT seeking authorisation for facilities not currently assigned to or operated by AAT in its application as the scope of the applications for authorisation are therefore not clearly defined or contained.

The FCAI is also concerned that AAT seeks authorisation as a perpetual joint venture on the basis that it is necessary to ensure the continuation of the perceived public benefits, the existence of which the FCAI strongly contests. It is further claimed that authorisation in perpetuity is required to underwrite the capital investment, a commercial expenditure decision normally undertaken by infrastructure companies and already committed by AAT in the absence of any authorisation. The only entity seeking certainty of operations is AAT who has committed to long term leases without authorisation and is now rightfully concerned as to the legal implications of such unauthorised activity. AAT has demonstrated to industry by its voluntary early termination of its lease at Glebe Island that the arguments in support of a perpetual joint venture are without substance.

Comments follow on the claims made in respect of the facilities currently operated by AAT for automotive imports.

### **Sydney/Port Kembla**

Sydney Ports notified the FCAI on 19 March 2001 that it was inviting expressions of interest for the long term leasing of port land at Glebe Island/White Bay with a closing date for the expressions of interest invitation of 14 May 2001. In a joint press release by Sydney Ports Corporation (SPC) and AAT issued 29 August 2002, it was announced that SPC had signed a Heads of Agreement for Australian Automotive Terminals Pty Ltd, a joint venture between Patrick and P&O Ports, *"to lease, manage and develop an extended specialised motor vehicle handling facility at Sydney Ports Glebe Island location."* It was further stated that *"The outcome of this Agreement will allow Sydney to remain the dominant port in NSW for motor vehicle imports and provide enhanced economic activity for Sydney and the State."*

AAT was granted the lease as facility manager of Glebe Island from December 2002 for a period of 10 years with an option to extend the lease for a further 5 years to 2017. Developing the Glebe Island Automotive Terminal (GIAT) required substantial investment estimated at \$26 million by SPC including the construction of a new access route to the facility, demolition of an existing road and construction of an administration building. AAT invested in AAT offices, stevedore amenities and workshops.

Importers based their logistics planning and investment decisions in NSW on their understanding of what was promised to be a long term future in Port Jackson. Meanwhile, in its first year of operations at Glebe Island, AAT, without consultation or advance notice to importers, approached Port Kembla Port Corporation (PKPC) in 2003 and *"engaged in discussions with the PKPC in relation to the possibility of establishing a multi-user general cargo facility"* in Port Kembla. (AAT Submission dated 10 June 2009 p.15).

Having just secured the lease at Glebe Island, AAT claimed it *"was concerned that there were insufficient certainty of future tenure at GIAT to justify long-term capital commitments at the GIAT site."* (AAT Submission dated 10 June 2009 p.15). This was in contradiction to the statements made by SPC to the automotive importers and also by the NSW Government in the NSW Government Ports Growth Plan which indicated car imports would remain in Port Jackson until at least 2012, the term negotiated between AAT and SPC. AAT made a self serving decision that led to the forced relocation of the industry to Port Kembla. The disruption and cost that such a decision would mean to the automotive industry was completely disregarded.

Although it is difficult to quantify the actual cost, AAT's 2008 financial statements state a loss on disposal of assets of \$361,981 and 203% (\$5,148,489) increase in other expenses which are not explained in any detail in the accounts. Leasehold improvements increased from \$4,275,602 as at 1 January 2006 to \$102,543,256 as at 31 December 2008 and plant and equipment from \$7,819,162 as at January 2006 to \$36,523,118 as at 31 December 2008. Depreciation charged against revenue for that period has amounted to \$18,190,514. A significant proportion of this expenditure would have been incurred in developing the Port Kembla facility, and factored into the Port Kembla FAC. This does not include the additional costs incurred by other services providers as a result of the relocation to Port Kembla which are also passed onto the importers.

The residual cost of the early departure of the Glebe Island facility, the return on capital invested in establishing the new facility at Port Kembla including the relocation of PDI facilities, the additional transport costs associated with a less efficient freight arrangement, extended delivery times and so on, are ultimately all passed onto the importer through various fees and charges imposed by the range of service providers in the logistics chain. Importers received no subsidy from the PKPC or the NSW Government to offset the impact of relocation although the FCAI understands that some assistance was provided to AAT.

Once aware of the plans to relocate the industry, importers strongly opposed the plan due to the unsuitability of the location and limited space for industry growth. The industry also had reservations over the awarding of an exclusive arrangement by PKPC to AAT given the experience the industry now had of its operations and the total disregard AAT had demonstrated towards the industry. Automotive importers were relocated in two stages, ro-ro trade in October 2007 and the balance of trade in November 2008.

## Brisbane

The FCAI notes that the Port of Brisbane Corporation (PBC) is not in agreement with AAT on the facts as presented in AAT's submission surrounding the establishment of AAT's operations at Fisherman Islands however the PBC does not elaborate on its understanding of the circumstances. (Port of Brisbane Corporation submission to the ACCC dated 29 June 2009).

The FCAI was advised in a presentation by the PBC and the Australia TradeCoast on 24 October 2001 that there was a requirement to develop a motor vehicle precinct at Fisherman Islands to meet the future needs of the industry. The new precinct would address future issues of urban encroachment and traffic congestion, provide the availability of common-user berths, provide rail and road access (through the development of a new port motorway) and longer term storage in close proximity. It was also stated that there was a need to eliminate costs from the logistics chain.

Again, neither the FCAI nor automotive importers were informed of discussions taking place between AAT and the PBC except to the extent that they were *"initiated due to the requirement for the relocation of the Hamilton precinct to Fisherman Islands."* (AAT presentation to FCAI 10 December 2004).

AAT claims that *"it was more efficient for importers for all terminals to be located together"* (AAT Submission dated 10 June 2009 p.18) however the FCAI is not aware of any consultation being undertaken with importers for AAT to state this view. Automotive cargo competes for space with containers and general cargo in the lay down area which is of concern to automotive importers due to potential damage to the new vehicles and cargo encroachment on the vehicle lay down area.

AAT further claims that it was not practical to divide the terminal between different stevedores, a statement also not supported by the PBC in its submission of 29 June 2009. Further, in AAT's submission, it states that *"AAT developed the layout for the site"* (AAT Submission dated 10 June 2009 p.19). With 26 hectares of available land, an alternative model would have been designed should the site have been allocated to different operators.

In July 2009, the PBC met with the FCAI and also separately with importers to put forward a proposal to relocate the industry from Fisherman Islands to Port West on the basis that the current 'state of the art' location was reaching capacity in just three years. This proposed site would require significant development and infrastructure including dredging for vessel access, the provisions of berths, access roads and landside construction. Again, within a matter of a couple of years, AAT has been in discussions with the PBC without reference to importers.

Importers consider it unacceptable to even consider subjecting importers to further relocation costs and fragmentation of the industry as the large ro-ro vessels cannot be accommodated at Port West.

## **Melbourne**

The Port of Melbourne Ports Growth Plan identified Hastings and Yarraville as possible future locations for the automotive industry. Geelong is also a potential site. However significant development and infrastructure would be required before any of these locations could be seriously considered. In response to industry's concern, the Port of Melbourne advised by email on 2 February 2009 as follows:

*"As you are aware, PoMC's draft Port Development Plan outlines our preferred development and investment strategy for infrastructure and facilities at the Port of Melbourne through to 2035. This Plan shows the indicative infrastructure requirements for the automotive industry for the short-medium term.*

*PoMC's strategy is to construct additional wharves at Webb Dock West to accommodate the largest PCC's and PCTC's forecast to visit the Port. This work is planned for commissioning before 3-5 Webb Dock East is converted for container operations."*

AAT has made application for additional land behind its Webb Dock West facility which would be required by the industry on displacement from Webb Dock East. However this will increase AAT's footprint for automotive imports in Melbourne and an increased monopoly stronghold.

## **Adelaide**

AAT has advised the FCAI that it is in discussions with Flinders Ports for management rights covering all automotive trade through the Adelaide port. This would create a monopoly at the Adelaide facility and further restrict what limited access remains to alternative facility management.

## **Fremantle**

AAT has advised the FCAI that it has an interest in becoming the facility manager at the port in Fremantle although FCAI has been advised that Fremantle Ports is not seeking to adopt such an arrangement.

## Lease commitments

AAT implies that its leases run for periods up to 40 years. This term only applies to Port Kembla and assumes options for lease extensions are exercised. It should be noted that the current lease terms are as follows:

Outer Harbour, Adelaide	expires 25 August 2009
Fisherman Islands, Brisbane	expires 2016
Port Kembla	expires 10 December 2027
Webb Dock West, Melbourne	expired 31 December 2007 (document indicates lease has not as yet been renewed.)

## Pricing Practices

AAT's pricing policy is only one aspect of the automotive industry's reasons for opposing AAT's applications for authorisation. Moreover the Facility Access Charge (FAC) is only one price component within a range of charges that flow through to automotive importers as a consequence of AAT's pricing policies and corporate contractual arrangements. However from the table below it is clear that the FAC adds another layer of charges not imposed at locations operating independent of AAT and where Port Corporations oversight the operations.

Fees as at 3.7.09	Townsville	Brisbane	PT Kembla	WDE	WDW	Adelaide	Fremantle	Darwin
Wharfage		21.71	22.10	18.85	18.85	32.56	47.58	57.85
Wharf Handling	23.74	60.58	62.27	52.52	52.52	64.35	33.41	51.85
Harbour Dues	18.10	19.89						
FAC		24.05	32.50	24.35	20.50			
Port Security Charge	1.50	1.43		1.50				
<b>Standard charges</b>	<b>43.34</b>	<b>127.66</b>	<b>116.87</b>	<b>97.22</b>	<b>91.87</b>	<b>96.91</b>	<b>80.99</b>	<b>109.70</b>
Temporary charges						13.00		
<b>Total charges</b>	<b>43.34</b>	<b>127.66</b>	<b>116.87</b>	<b>97.22</b>	<b>91.87</b>	<b>109.91</b>	<b>80.99</b>	<b>109.70</b>

A further point is that Port managed facilities are willing to enter into negotiation with industry. Flinders Ports wrote to the FCAI advising that it intended to introduce a site occupation charge of \$1.35 per m<sup>3</sup> (\$17.55 per average vehicle) from 1 July 2008 to undertake capital improvement of the facility and development of additional land to cater for the growing trade through the Port. Importers considered that this fee was excessive and the Port engaged in negotiation with importers through the FCAI. Flinders Ports agreed to postpone the introduction of the fee until negotiations had been finalised. Agreement was reached in August 2008 resulting in a reduced levy of \$1 per m<sup>3</sup> (\$13.00 per average vehicle) being applied from 1 January 2009 with a cessation date of 30 June 2012. Flinders Ports further agreed to provide the FCAI with a work schedule and progress updates on the capital works.

AAT states that it has "*published charges equally to all stevedores using and potentially using AAT's facility;*" (AAT Submission dated 10 June 2009 p.2). AAT does publish its charges however it also sets those charges at a level determined solely by AAT. Of the two main charges, Facility Access Charge and Stevedoring Access Charge (SAC) there is preferential apportionment of the fees evident such that the SAC increases at a lower rate to the FAC even though it is the stevedore that works on the facility and uses the equipment and services to undertake their stevedoring activities. The automotive importer's product merely occupies the facility requiring limited equipment as vehicles are self propelled. This table provides details of the disproportionate revenue collected from the FAC and the SAC.

Revenue	2008	2007	2006	%increase	2008	2007
FAC	25,988,142	19,776,785	6,027,714	FAC	31.41%	228.10%
SAC	11,826,676	9,857,905	11,743,373	SAC	19.97%	-16.06%

The failure of AAT to observe its stated notification policy is also commented on by AsiaWorld Shipping Services Pty Ltd in their submission to the Commission dated 8 July 2009. Generally notification is provided through shipping lines however with the introduction of the Seed Contamination Storage and Handling Charge discussed below, only two days notice was provided to the FCAI by AAT.



As a precursor to setting the fees and charges, AAT has explained to the FCAI that the level of return required by AAT is the basis of determining the level of increase rather than AAT's actual costs. This is demonstrated by the declaration of a \$20,839,500 dividend in 2008. AAT comments in its submission that the final decision is based on *"what the market will bear and forecast volumes for the next year"* (AAT Submission dated 10 June 2009 p.26). This includes a return on costs but also a return on the replacement value of the depreciable assets rather than a return on capital actually invested.

It is noted that AAT has stated in [lloydslistden.com.au](http://lloydslistden.com.au) on 28 July 2009 that its return on capital investment for the six months ending June 30 2009 has been *"next to nothing"*. The FCAI would suggest that this is a result of the global financial crisis which has had detrimental effects on the automotive industry with sales down 16.1% or 87,472 units over the same period and importers unlikely to show any signs of a positive financial return in the current period.

From 2006 to 2008, AAT's profit for the year after taxes increased from \$2,654,996 to \$9,503,921. This was after making provision for legal fees of \$1.3 million, increasing unexplained expenses by \$5,148,408 and writing off \$361,981 in loss on sale of property. As indicated above, a dividend of \$20,839,500 was declared and credited to the inter-company loan account during 2008.

	2008	2007	2006	% increase	2008	2007
Retained earnings	9,503,921	6,658,459	2,654,996	Retained earnings	42.73	150.79
Balance 31 Dec	22,522,426	13,018,493	6,360,022	Balance 31 Dec	73.00	104.69
Dividend paid	20,839,500					
Total equity	1,682,926	13,018,481	6,360,022			

Further comment follows covering pricing related feedback at the three major AAT facilities.

(i) Port Kembla

Approximately 50,000 vehicles were imported through the Port Kembla facility in the first stage of the transitional relocation of the vehicle trade from Glebe Island which commenced in October 2007. At the time, the FAC was \$2.20 per cubic metre and based on the industry average of 13 m<sup>3</sup> yielded estimated annual revenue of \$1,430,000. Thirteen months later, the annual volume jumped to 240,000 vehicles per annum when the balance of trade was transferred to the Port Kembla facility. On 1 March 2009, AAT imposed a 13.64% increase in the FAC from \$2.20 to \$2.50 per cubic metre. Based on the increased volume, it is estimated that the annual revenue rose to \$7,800,000 (at \$2.20 rate \$6,864,000).

At the same time, the stevedore's SAC increased by 3.81%. AAT explained this apparent preferential increase as *"due to the fact that at the time of development commencement in 2006 all stevedores had existing offices in the area and we felt that we should provide office space on request, not as of right or regardless of request, as stevedores may not want to be housed on site as well as offsite. Ongoing development after May 2007 did not provide any additional facilities or services to the stevedores of any significance."* (Email to Nissan 4 February 2009). This is inconsistent with the claims made by AAT in respect of services provided to stevedores. Moreover, importers were not given the same input as to the level of facilities to be provided and costs to be recovered from them.

Further, PKPC has confirmed that AAT does not have to seek approval to revise its tariffs; its prices merely have to be competitive compared to other ports where AAT operates. Yet the FAC at Port Kembla is the highest level charged at any Australian Port even though AAT states in its application at 8.3 (a) that *"the arrangements between AAT and PKPC provide for minimum capital expenditure by AAT."*

(ii) Fisherman Islands

The history of the FAC charge at Fisherman Islands has been set out in the FCAI July submission which will not be duplicated in this submission however the FCAI makes these additional comments in respect of the handling of the dispute over the increases in the FAC at Fisherman Islands.

AAT states that its agreement with PBC requires AAT to *"disclose to PBC's CEO details of how charges are calculated, and meet with PBC annually to discuss the user charges, general access terms and stevedores access terms:"* (AAT Submission dated 10 June 2009 p.19). AAT further states it is required to *"submit any dispute between AAT and PBC in relation to user charges or provisions of the general access terms or stevedore access terms to an appropriately qualified expert for determination"* (AAT Submission dated 10 June 2009 p.19). And again, in AAT's supplementary submission dated 17 August 2009 (p.4) *"For example, in Brisbane, if a port user questions the amount of user charges or any component of the user charges published by AAT, AAT is required to disclose the calculations to the PBC CEO, who will then nominate an independent expert to investigate the complaint."* Although both shipping lines and importers made complaints regarding the extent of the FAC increases, the FCAI is not aware of the independent review provision being instigated.

With the 35% increase in FAC effective 1 October 2007, the FCAI approached the PBC by email on 30 August 2007 seeking information on the review process as the FCAI members could not accept that the PBC could find the proposed increase appropriate. Information was also sought as to any appeal avenues available. On 11 September 2007, the PBC responded that *"The terms of the Management Agreement are confidential to the parties. PBC is prohibited from disclosing the terms of the agreement, or any information passing between the parties in relation to the agreement, to any third party. You should direct your questions to AAT, as they are party to the commercial arrangements with your members."*

Earlier approaches to AAT on the matter had not yielded any insight. For example, AAT's response by letter dated 13 September 2007 stated *"Although the new FAC is a significant raise on the previous rate set we believe it is comparable to other Ports for the facilities provided and the costs incurred by AAT."* This comparative justification was used again with the 37% increase eleven months later along with advice that similar increases would follow in each of the next two years.

AAT also has the ability to introduce new fees without consultation, justification and transparency. In an email dated 27 February 2008, AAT wrote *"Please be advised that as from 1<sup>st</sup> March 2008, AAT will be applying a Seed Contamination Storage and Handling Charge, to be levied on Cargo Consignees of \$15.00 plus GST, per motor vehicle on all imported motor vehicles from Japan, Thailand and Korean services discharged at AAT Fisherman Islands. This charge is being introduced to cover the additional costs that AAT are incurring due to this ongoing issue. These costs include lease costs on additional land, labour costs on moving vehicles and labour costs on managing the services of AQIS."* functions which industry understood fell within the existing FAC. AAT advised in a meeting with the FCAI that it made

in excess of 20% profit from applying this handling charge. The table sets out the revenue associated with the provision of services related to quarantine and storage.

Revenue	2008	2007	2006	% Increase	2008	2007
AQIS service charge	2,473,975	1,770,677	989,645	AQIS service charge	39.72%	78.92%
Storage	5,323,905	1,789,846	1,175,301	Storage	197.45%	52.29%

AAT's application indicates there is a reasonableness test as to imposition of access terms and the nature of charges however the application is silent as to the criteria of the reasonableness tests. There is also a requirement not to unfairly discriminate between users. Importers sourcing product from Asia would claim unfair discrimination in the application of the Seed Contamination Storage and Handling Charge. Without access to the confidential Annexure C.2, the FCAI is unable to determine the definition of User relevant to clause 7.1(a)(i)(B) and any other relevant clause. The FCAI is therefore unable to determine whether quarantine service charges and the Seed Contamination Storage and Handling Charge fall under these clauses.

(iii) **Webb Dock West**

The impact of competition is evident at Webb Dock West where AAT's FAC is the lowest of the three major automotive facilities it operates. This is partly due to the acquisition of the lease from Toll with improvements already undertaken and also the existence of direct facility competition with Webb Dock East (although it is noted that AAT does provide some services for Patrick at Webb Dock East). The FAC is \$20.50 per average vehicle.

**Terminal Access**

AAT states that it *"has not refused access to its terminals to any stevedore at any time."* (AAT Submission dated 10 June 2009 p.2). However AAT has demonstrated its willingness to do this by threatening to deny stevedores access to vessels at Fisherman Islands in September 2008. The threat was made following the short payment of invoices for the FAC by stevedores in response to the short payment of invoices by importers (charged via their shipping line) of the component of the invoice amounting to the increase in the FAC. In a letter from P&O Automotive & General Stevedoring Pty Ltd to an (unidentified) shipping line, P&O Automotive & General Stevedoring Pty Ltd wrote:

*"As you are aware the AAT tariff at Fisherman Islands Cargo Terminal increased from September 1 2008.*

*We have not received full payment from your company for these charges. Whilst there may be objection to this increased tariff by your customer, or your company, our Licence Agreement to operate at the AAT terminal, requires POAGS, to collect the tariff,*

*In a letter dated October 15, AAT advised:*

***Under the terms of the Stevedoring Licence Agreement dated 16 August 2006 between AAT and P&O Automotive & General Stevedoring Pty Ltd, with respect to AAT's terminal at Fisherman Islands, Port of Brisbane, without limiting other rights that AAT may have, clause 7.2 provides that if P&O Automotive & General Stevedoring Pty Ltd fails to pay an invoice in 14 days of the date of invoice, AAT may refuse access to P&O Automotive & General Stevedoring Pty Ltd to the AAT terminal, and may charge interest with respect to the non-payment.***

***Accordingly, if payment in full for the invoice indicated above is not received within twenty one days of the date of this letter (15 October, 2008) AAT will refuse access to P&O Automotive & General Stevedoring Pty Ltd for the purpose of stevedoring any vessel operated by ..."***

This demonstrates without question AAT's willingness to exert its full market power to force importers to succumb in a dispute situation or be denied access to their cargo. AAT's claim of not refusing access is farcical and can only be made due to importers submitting to the bullying tactics and paying the disputed amount under protest. As stated above, no dispute resolution mechanism was offered by either AAT or PBC despite the extent to which the matter had been escalated.

AAT provides examples of other joint ventures such as the Port Kembla Coal Terminal and the Port Kembla Grain Terminal which charges on a fee basis to users. The significant difference however is that AAT not only operates its joint venture at Port Kembla but also at the two adjoining States handling in total 85% of the automotive imports through those facilities. Automotive importers are left with no alternative but to use an AAT facility for the majority of its imports and total exports.

## **Capital Expenditure, Facility Development and Maintenance**

In section 2.2 of AAT's response to the ACCC dated 15 July 2009, AAT claims to develop berths and wharves. The FCAI is not aware of any berths and wharves developed by AAT. Some work may have been undertaken on the infrastructure acquired from Toll at Webb Dock West. The FCAI has approached the Ports in Melbourne, Brisbane and Port Kembla to confirm what infrastructure is provided and maintained by the Port. The Port of Melbourne has not responded.

PKPC confirmed by email 24 July 2009 that the PKPC designed and constructed all of the berths i.e. berth 103, 105, 106 and 107. The Port realigned Tom Thumb Road, put in the rail line and the main Port Access Security facilities. PKPC is responsible for the ongoing maintenance of Port owned assets. AAT constructed the land based work within the leased area including the roundabouts, the terminal security and the cargo management systems. AAT has also provided the equipment used by the stevedores other than where specialised equipment is required.

PBC emailed the FCAI on 29 July 2009 and advised *"the questions that you are asking regarding ownership of assets and the maintenance of assets are the subject of the contractual arrangements to which we refer and we are therefore unable to comment further."* and further *"the contractual arrangements with AAT contain confidentiality provisions that prevents us from disclosing the type of information that you are seeking."* The FCAI cannot therefore confirm its understanding in respect of Fisherman Islands.

AAT claims that it removes the need for stevedores to provide funding for large capital expenditure programs which allows smaller stevedores to work. Historically the Port Corporations have provided the infrastructure. Automotive stevedores only require minimal equipment such as transit buses, office space and amenities.

## **Operational Efficiencies**

Following AAT becoming the facility manager at Glebe Island, the industry remained fragmented as WWL vessels could not be accommodated at Glebe Island and were stevedored at Darling Harbour. AAT did not provide the industry with a single point of discharge nor did it save the industry the operational inefficiencies of having short truck movement of cargo to PDI facilities located at Glebe Island. (AAT Submission dated 10 June 2009 p.13).

The point of discharge for cargo is determined by the location of the wharf. The lay down area is located adjacent to the berth at all automotive facilities in Australia. This is a standard layout at all Ports whether managed by AAT or the Port.

The ability of importers to undertake on-wharf processing is largely a question of land availability. On wharf PDI takes place at Fisherman Islands by Patrick Autocare (including space allocation for CCA) within the AAT facility and Prixcar external to the AAT facility. Other PDI operators are CEVA and Autonexus. AAT's alleged operational efficiencies do not limit or influence the number of processing facilities as claimed. (AAT Submission dated 10 June 2009 p.3)

When industry did approach AAT to improve operational efficiencies at its Melbourne facility, AAT advised that it cannot justify the capital expenditure to provide AQIS wash facilities at Webb Dock West. *"The provision of a wash bay for the amount of vehicles requiring this service is cost prohibitive, however we are prepared to explore setting up a mechanical hoist with vacuum cleaners which would handle the majority of seed and vegetable leaf contamination."* (Email from AAT to FCAI 29.6.09). As a consequence, contaminated vehicles quarantined by AQIS are still being transferred to the AQIS approved wash bay located at the CCA facility at Webb Dock East for cleaning, imposing unnecessary operational inefficiency and expense on importers and contamination concerns for AQIS.

## **IT Infrastructure**

Claims made concerning the uniqueness and effectiveness of the IT systems are greatly exaggerated. The only beneficiaries are the stevedores who do not need to supply their own system. Some shipping lines are not connected into the AAT system. Importers have similar systems which interface with Customs and other service providers. It is no different to systems offered by the independent Ports around Australia. Asia World submission (point 3 page 2) states that *"The reference to 'state of the art' IT technology is a somewhat curious claim"* given that industry has been asking for electronic delivery orders for two years similar to the systems available at container terminals.

## **Ancillary services**

Automotive imports require little of the ancillary services identified in section 2.9 of AAT response to the ACCC dated 15 July 2009. Motor vehicles do not require such services as (a) crane hire, (b) Crane R&D lifts (c) Casual labour (except under exceptional circumstances) (e) Reefer monitoring and (f) Unpacking/packing of MAFI trailers.

In respect to AQIS requirements, AAT states in section 2.9 (d) that *"All imported goods are quarantined until released by AQIS."* and that AAT attends the initial inspection with AQIS. AAT further states that *"The inspection by AQIS of any item must be attended by a person representing the cargo interests."* However, new vehicle imports are released unless impeded. In accordance with AQIS Notice to Industry 42/2009, AQIS does not require an importer or a nominated agent to be present unless there is 100% inspection as there is no internal checks of vehicles. 100% checks are only undertaken in cases of heavy contamination.

Should new vehicles require cleaning at Fisherman Islands and Port Kembla, AAT does have AQIS approved cleaning facilities on site and AAT does undertake the cleaning of vehicles. As referred to above, in response to industry's request for AQIS approved cleaning facilities to be provided at Webb Dock West, AAT has recently advised that it is cost prohibitive. Importers are required to make special arrangements to transport contaminated vehicles to Webb Dock East for cleaning in the CCA wash facility which imposes a significant additional cost and clearance delays on importers.

Prixcar, which is located on Port leased land behind the AAT facility at Fisherman Islands, became an approved facility for AQIS cleaning in 2008. During the period of heavy contamination in 2008, Prixcar's clients indicated a preference to have vehicles cleaned in this facility. However AAT determined which vehicles would be referred to Prixcar, sending only a limited number when AAT was at capacity. This created conflict between AAT and importers who were desperate to have vehicles cleaned with minimal delay and cost.

## **Alternative scenarios**

AAT commenced operation of its first facility at Glebe Island in 2003. Prior to this all Ports directly serviced the automotive industry. Some Ports such as Fremantle, Darwin and Townsville still service the automotive trade independent of AAT. On what basis does AAT claim to be more efficient and precompetitive than any other alternative scenario? What alternative scenarios does AAT seriously examine?



Under section 8.2 of AATs application, it states that Patrick and P&O did not compete with each other under the historical arrangement. However what existed were two competitors that operated two separate operations competing for trade direct with the shipping lines. The efficiency of their operations, including both the stevedoring functions and wharf management, directly influenced the choice of stevedore by the lines. The importer had a contractual arrangement with the lines who in turn had a contractual arrangement with the stevedore. The importer could therefore exert a level of influence over the stevedore by raising concerns through the lines. That link in communication is severed by the relationship between the stevedore and AAT in the AAT managed facilities.

AAT's arguments ignore the fact that Patrick and POAGS still operate as separate service providers with a direct relationship with the Port Corporations in Fremantle, Adelaide and Darwin with Patrick and Northern Shipping and Stevedoring operating from Townsville. Costs to importers are significantly lower at these facilities. The concept of a terminal operator is a relatively new concept only introduced with the formation of AAT.

AAT states that *"compared to scenario B, AAT may charge a price which extracts the greatest economic return that it can for its operations"* and claims that it does not have a stevedore to favour ignoring that it is itself a product of two stevedores. Scenario C ignores the influence of competition resulting from independent Port operators. The industry was able to negotiate directly with Flinders Port over a proposal to introduce an additional charge on automotive importers resulting in a rate reduction and agreed sunset clause.

In summary, AAT has unquestionably lessened competition without any perceived benefit but demonstrated detriment from its addition into the logistics chain.