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16 February 2012

PRIVATE & CONFIDENTIAL

Mr. Craig Faulkner
Chief Executive Officer
Australian Amalgamated Terminals Pty. Limited
Level 11 330 Collins Street
Melbourne VIC 3000

Dear Mr Faulkner

**INDEPENDENT PRICE EXPERT Determination
Price Increase Proposed for Fisherman Islands from 1 February 2012
Supplementary Report – Crane Access and WHS FAC**

On 16 January 2012, I made a Determination (“**the Determination**”) pursuant to my appointment as the Approved Independent Price Expert (“**the Expert**”) under Clause 2.2 of Attachment D of the conditional authorisation granted to Australian Amalgamated Terminals Pty. Limited (“**AAT**”) by the Australian Competition and Consumer Commission (“**ACCC**”) on 3 December 2009, and varied on 9 February 2010 (“**the Authorisation**”).

The Determination deferred a decision on newly listed services, and only applied to the maximum tariffs for previously listed services that will apply to AAT terminals at Fisherman Islands in Brisbane, Webb Dock West in Melbourne and Outer Harbour in Adelaide, commencing 1 February 2012 (“**proposed price increases**”).

In total 3 written objections were received by me from terminal end users within the time period allowed. Two of the objections related solely to a newly listed Facility Access Charge (**FAC**) fee for Fisherman Islands, while the other objection related to the proposed price increases for all three terminals. The objections, which have been published on the AAT website, were received from:

DOCREF: 276632.1

- Federal Chamber of Automotive Industries (“FCAI”)
- Crane Industry Association of Queensland INC (“CIAQ”)
- North Queensland Heavy Haulage Pty Ltd (“N.Q. Group”)

The objections from N.Q. Group and CIAQ related solely to Fisherman Islands, where the ‘New Tariff’ has been listed under the title “External Crane Access Fee”. This charge has two components:

- 1) FAC service charge for crane access of \$2.15 per m³; and,
- 2) WHS Supervision/Administration fee of \$150.00 per operating hour.

FCAI’s objection did not specifically refer to this new tariff, but it stated that they objected to the price increases proposed across all three terminals, so prima facie they also objected to this new charge.

My report dated 16 January 2012 set out the reasons why, in my opinion, the Approved Independent Price Expert is required to consider any newly listed service and assess whether the price is reasonable and justified. My report then set out the following explanation of the deferral of the decision on the newly listed tariffs (reproduced in italics):

“I have also liaised with the FCAI who have advised that they are not concerned specifically with these proposed new charges and that as long as the ultimate outcome would not have a material impact on the prices charged to their members for other services, they would withdraw their objection in relation to these proposed new charges.

As the ultimate outcome of the discussions between AAT and the two terminal end users is that the price will be either at the level proposed by AAT, or some other lower amount, the only impact that such a reduction could have is to actually increase the prices to be charged for other services given the way the Model operates.

I therefore conclude that to defer a decision now on these proposed new prices is potentially favourable to the users of other services, but definitely not detrimental.

I therefore advise that I will not be considering the proposed new charges as part of this Determination and will defer such decision until the negotiations between the parties are complete, or by 3 February 2012 (being the expiration of the extension period for my Determination), whichever is the earliest. The ultimate outcome of the negotiations and / or my Determination will not result in any changes to the prices for other services dealt with in this Determination.

I have consulted with AAT and the two Terminal End-Users who lodged the objections on the crane access and WHS fee at Fisherman Islands. The parties have agreed to continue their negotiations on the manner in which the charge is to be calculated, on the removal of possible duplication of WHS compliance costs, and on the pricing of

the service. They have advised that they expect these negotiations to be completed in January 2012."

Withdrawal of Objections

I have been advised by AAT, by N.Q. Group and by CIAQ, that they have reached commercial agreement on the rate and manner in which tariffs for crane access and WHS are to be charged.

It is noted that the Authorisation concerns the maximum tariffs which can be charged for regulated services. The commercially negotiated arrangements are permitted under the Authorisation, which provides that:

“Terminal end-users may negotiate alternative tariffs directly with AAT as is currently the case”

I confirm that both N.Q. Group and CIAQ have confirmed in writing the withdrawal of their objections.

I have reviewed the impact on forecast cash flows to AAT arising from the terms of the commercial negotiations advised by AAT, N.Q Group and CIAQ. The tariff increase calculated by the Financial Model for other regulated tariffs at Fisherman Islands is not materially different to the tariff increase determined in my report dated 16 January 2012

As a result, I am not required to make any further determination concerning the Crane Access and WHS Supervision/Administration fee, published on the AAT website in Schedule 8 of the Tariff Schedule, effective date 1 February 2012, for the Fisherman Islands Cargo Terminal.

Yours Faithfully



Deborah Cartwright
Approved Independent Price Expert