

IN THE FAIR WORK COMMISSION

Matter No: B2022/1726

RE: Application on Commission’s own initiative re Svitzer Australia Pty Limited [2022] FWC 3038

**Interested parties: Port Botany Operations Pty Limited
Port Kembla Operations Pty Limited
(collectively “NSW Ports”)**

WITNESS STATEMENT OF JULIAN PETER SEFTON

I, **Julian Peter Sefton**, General Counsel and General Manager Property, NSW Ports, Brotherson House, Penrhyn Rd, Port Botany, in New South Wales, say as follows:

Introduction

1. I am the General Counsel and General Manager Property for NSW Ports and have been in this role since December 2018.
2. In this role, I report to the Chief Executive Officer, Marika Calfas. I am responsible for general legal advice to the business and have responsibility for the management of NSW Ports’ property portfolio consisting of the State's key import and export gateways of Port Botany and Port Kembla, together with intermodal terminals at Cooks River and Enfield.
3. Before joining NSW Ports, I worked as Senior Legal Counsel for GrainCorp Limited from 2009. Since my admission in 1995 to 2009, I worked in private practice.
4. I make this statement from my own knowledge acquired in my various roles at NSW Ports and from my experience. Where I depose to matters on the basis of information provided to me by others, I believe that information to be true and correct.
5. Where I have referred to documents in this statement, I identify those documents by their annexure number.

| | |
|--------------------|---|
| Filed on behalf of | Port Botany Operations Pty Ltd and Port Kembla Operations Pty Ltd (NSW Ports) |
| Prepared by | Julian Sefton, General Counsel and GM Property, NSW Ports |
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NSW Ports – Overview

Port Botany

6. NSW Ports holds 99 year leases to manage Port Botany and Port Kembla and the Enfield Intermodal Logistics Centre and Cooks River Intermodal Terminal.
7. My review of publicly available data from NSW Ports and other container ports in Australia indicate that in the financial year ending June 2022, Port Botany handled 32% of national container volume (2.8 million TEU (Twenty-Foot Equivalent Units)). My review of publicly available data from NSW Port and the Port of Newcastle indicate that Port Botany handles about 99.6% of the NSW's container volume.
8. Port Botany also handled about 5.2 billion litres of fuel, bitumen, bulk chemicals and LPG in FY22. These are predominantly imports to service NSW. Port Botany handles approximately one-third of NSW's fuel supply, 100% of the state's bitumen supply, 98% of NSW's LPG requirements and 90% of bulk chemicals for use in manufacturing.
9. Port Botany features 3 container terminals, operated by independent stevedores across 9 berths – Patrick Terminals, DP World Australia and Hutchison Ports Sydney – and 2 common user bulk liquid berths
10. Around 1300 vessels pass through Port Botany each year to support the largest population centre in the country.
11. These ships provide the essential and everyday goods needed by the people and businesses of NSW and take the State's valuable exports overseas.
12. Over 80% of goods imported via container on vessels that call Port Botany, travel no further than 40 kms from Port Botany.
13. Port Botany contributes \$10.7 billion to the NSW Gross State Product each year and supports about 54,000 jobs. With over 42% of goods in a Sydney household imported in containers through Port Botany.
14. To put context around what is actually imported and exported in a container, please see **Figure 1** overleaf. In essence ten full import containers equals four full export containers plus four empty container exports.

Figure 1



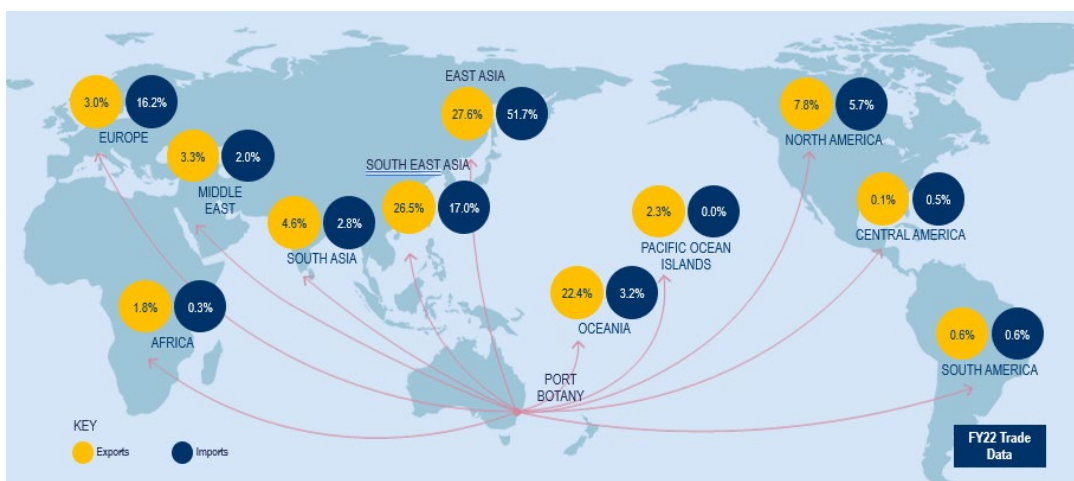
15. The economic contribution and key trades of each port are set out in **Figure 2** below.

Figure 2



16. The NSW Container Trade (full containers) from Port Botany to the world is set out in **Figure 3** below.

Figure 3



Port Kembla

17. Port Kembla is an international trade gateway for bulk agricultural, construction and mining industries. It is also New South Wales' motor vehicle import port, handling 100% of NSW's motor vehicle trade. Port Kembla is the principal grain export port for southern and southwestern NSW (handled 3.3 million tonnes of grain exports in FY22) and facilitates the region's significant steel manufacturing (BlueScope at Port Kembla) and mining industries.
18. Port Kembla handles this trade across 18 berths.
19. Over 800 commercial vessels call into Port Kembla each year, connecting NSW importers and exporters with the world.
20. Port Kembla contributes \$2.9 billion to the NSW Gross State Product each year and supports about 10,000 jobs.

Towage Services

21. Towages services are essential to the safe and efficient operation of both Port Botany and Port Kembla. Simply put, towages services involve the provision and/or operation of Tugboats for the purpose of towing vessels and/or other objects.
22. Port Botany accommodates two main towage operators, Svitzer Australia Pty Ltd (**Svitzer**) operating out of a four tug berth facility at Brotherson Dock, and Smit Lamnalco Towage Australia Pty Ltd in a joint venture with Engage Marine Pty Ltd (**Engage**) operating out of a two tug berth facility located at Fishburn Road.
23. While Ausbarge provide a limited towage service utilising one C Class tug for small gas vessels (<10,000 gross tonnage) seeking access to the Bulk Liquid Berths, their relevance for the purpose of market share is negligible as Ausbarge only partly services 133 vessel movements per year (FY22), with the assistance of both Svitzer and Engage.
24. The current market share for towage services at Port Botany in FY22 is estimated at approximately 66% Svitzer and 34% Engage. Port Kembla is serviced by only one towage operator, Svitzer.
25. As such, during the threatened lockout, while there is the possibility at Port Botany for some vessel movements to be subcontracted to Engage (from Svitzer) in the short term, there is no similar opportunity for Port Kembla. Furthermore, Engage provide towage services to the north in Port Jackson, and therefore have obligations to existing customers. Engage only has two tugs "homed" at Port Botany, the other 2 are homed outside the port.

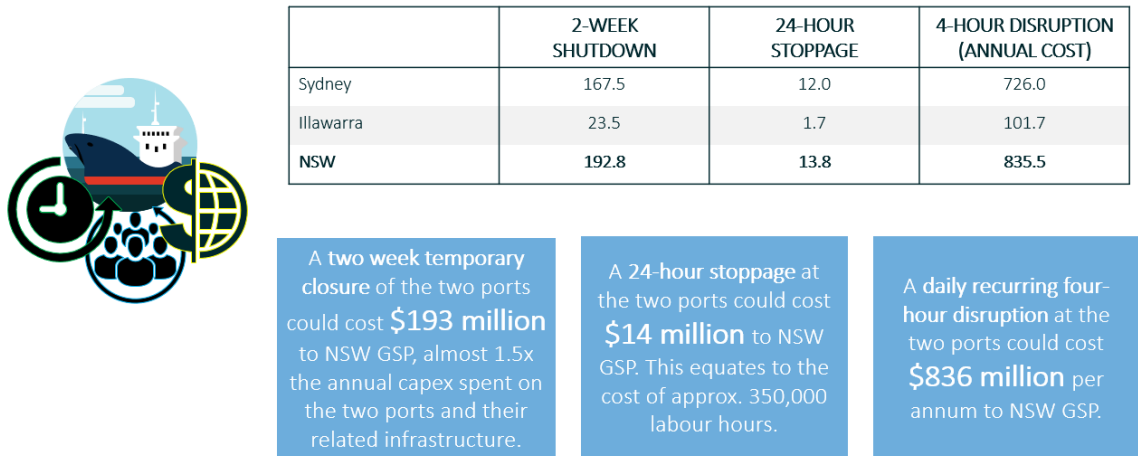
Pilotage Services

26. Pilotage services are essential to the safe and efficient operation of both Port Botany and Port Kembla. Simply put, pilotage consists of providing on-board assistance to the captains of vessels to help them enter and leave the port and with any other manoeuvres within the port waters.
27. Pilotages services are provided by the Harbour Master at Newcastle Port Corporation trading as Port Authority of New South Wales (**Port Authority**). Pilotage is compulsory for commercial vessels visiting Port Botany and Port Kembla.
28. Vessels requiring pilotage and the use of tugs, must utilise tugs operated by a towage provider holding an unrestricted towage licence issued by the Port Authority (as per the current Harbour Master Directions).
29. At Port Kembla, Svitzer is the only operator with a licence issued by the Port Authority. At Port Botany, Svitzer and Engage are the only operators with a licence issued by the Port Authority.
30. Pilotage services can not be conducted at Port Botany or Port Kembla in the absence of tugs being available for safety reasons.
31. Hence, all pilotage jobs will cease during the period of lockout at Port Kembla and will be impacted at Port Botany to the extent that Engage cannot service Svitzer's contracted vessels.

Impacts of the threatened protected industrial action - indefinite lockout of employees

32. Our ports and intermodal facilities operate around the clock to efficiently service the needs of the people and businesses of New South Wales.
33. Port Botany and Port Kembla are strategic economic assets for Australia, critical to the current and future economic prosperity of New South Wales, delivering \$13.6 billion annually to the NSW economy and supporting around 64,000 jobs.
34. An economic impact assessment conducted by Prominence Consulting for NSW Ports, dated February 2022, calculated the economic impact of port disruptions at Port Botany and Port Kembla (see Figure 4 below).

GRP/ GSP effects (\$m, real) of port disruptions^{1,2}



NSW Ports Economic Impact Study
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1. The port disruptions are modelled as a fall in capital utilisation and labour productivity. This causes a contraction in port services.
2. It is assumed that trade is not re-routed during the port disruptions due to logistical constraints and cost inefficiencies.
3. The 4-hour disruption could also be lost productivity from go slow practices over a 24-hour period that effectively costs 4 hours per day in productivity.

21 ?

Figure 4

35. Some specific impacts of the threatened protected industrial action are presented below based on an assumption that the action will commence at noon on 18 November 2022 (**Protected Action**). Given the short time in which we have had to prepare this statement, we have looked at a selection of impacts on port operations and port users at both port locations over the next week.
36. Longer term impacts will need to be assessed on an ongoing basis and are likely to compound the longer the Protected Action continues.
37. Notably, the impacts will extend beyond the ports, as ports are a node in an interconnected supply chain. Disruptions in one part of the supply chain have implications for other parts of the supply chain – as was observed during the Covid-19 global shipping supply chain disruption.
38. From the examples presented below, it is evident that impacts will be experienced on mining, farming, supermarkets, retail, construction, steel making and more. This impacts employment, customer confidence and puts at risk, export markets. Disruption contributes to increased costs, as seen during the Covid-19 pandemic and previous congestion related shipping line surcharges at ports experiencing disruptions.

Port Botany

39. As noted above [para 24] Svitzer is the main provider of towage services at Port Botany having approximately 66% of the market for towage services.
40. A snapshot for the period commencing 18 November 2022 to 25 November 2022, as illustrative of the vessel movements contracted to Svitzer and Engage, is set out in the tables 1 and 2.

Table 1: Vessel movements to be serviced by Engage Towage (18/11/22 to 25/11/22)

| Vessels Movements Serviced by Engage (No10) | | |
|---|------------------|-----------------|
| | Date/Time | Name |
| 1 | 25/11/2022 06:00 | EVER UNICORN |
| 2 | 20/11/2022 12:00 | INGE KOSAN |
| 3 | 21/11/2022 06:00 | INGE KOSAN |
| 4 | 22/11/2022 06:00 | CORAL ACTINIA |
| 5 | 18/11/2022 12:00 | NAUTICAL JANINE |
| 6 | 21/11/2022 04:00 | CORAL ACTINIA |
| 7 | 24/11/2022 20:00 | XIN XIA MEN |
| 8 | 25/11/2022 06:00 | EVER UNICORN |
| 9 | 25/11/2022 12:00 | BIG LILLY |
| 10 | 25/11/2022 20:00 | OOCL MIAMI |

Table 2: Vessel movements to be serviced by Svitzer (18/11/22 to 25/11/22)

| Vessels Movements Serviced By Svitzer (No66) | | |
|--|------------------|------------------|
| | Date/Time | Name |
| 1 | 18/11/2022 06:00 | CMA CGM PUCCINI |
| 2 | 18/11/2022 06:00 | OOCL HOUSTON |
| 3 | 18/11/2022 06:00 | SPIRIT OF SYDNEY |
| 4 | 18/11/2022 10:00 | PALANCA MIAMI |
| 5 | 18/11/2022 12:00 | BAI LU ZUO |
| 6 | 18/11/2022 20:00 | APL MIAMI |
| 7 | 18/11/2022 22:00 | YM SUCCESS |
| 8 | 18/11/2022 22:00 | H MERCURY |
| 9 | 18/11/2022 22:00 | TS NAGOYA |
| 10 | 19/11/2022 02:00 | NAUTICAL JANINE |
| 11 | 19/11/2022 04:00 | MAERSK SEMAKAU |
| 12 | 19/11/2022 12:00 | CMA CGM BELLINI |
| 13 | 19/11/2022 14:00 | GOOFY |
| 14 | 19/11/2022 20:00 | AITOLIKOS |
| 15 | 19/11/2022 21:00 | POINTIS |
| 16 | 20/11/2022 04:00 | SEATRADE RED |
| 17 | 20/11/2022 04:00 | SFL MAUI |
| 18 | 20/11/2022 20:00 | GOOFY |
| 19 | 20/11/2022 20:00 | KOTA LEGIT |
| 20 | 20/11/2022 20:00 | SYDNEY EXPRESS |
| 21 | 20/11/2022 22:00 | CMA CGM BELLINI |
| 22 | 21/11/2022 03:00 | BOMAR SPRING |
| 23 | 21/11/2022 14:00 | ALS VESTA |

| Vessels Movements Serviced By Svitzer (No66) | | |
|--|------------------|-------------------|
| 24 | 21/11/2022 14:00 | TS NAGOYA |
| 25 | 21/11/2022 03:00 | SUNNY LIGER |
| 26 | 21/11/2022 04:00 | MSC LANGSAR |
| 27 | 21/11/2022 06:00 | APL MIAMI |
| 28 | 21/11/2022 12:00 | CONTI CORDOBA |
| 29 | 21/11/2022 14:00 | AITOLIKOS |
| 30 | 21/11/2022 14:00 | MAERSK SEMAKAU |
| 31 | 21/11/2022 20:00 | SEATRADE RED |
| 32 | 21/11/2022 14:00 | COSCO HONG KONG |
| 33 | 22/11/2022 20:00 | COSCO ROTTERDAM |
| 34 | 22/11/2022 01:00 | DAT MERCURY |
| 35 | 22/11/2022 03:00 | CONTSHIP TEN |
| 36 | 22/11/2022 09:00 | STOLT AJISAI |
| 37 | 22/11/2022 12:00 | OLGA MAERSK |
| 38 | 22/11/2022 14:00 | SFL MAUI |
| 39 | 22/11/2022 20:00 | CMA CGM CORNEILLE |
| 40 | 22/11/2022 20:00 | KOTA LEGIT |
| 41 | 22/11/2022 22:00 | SYDNEY EXPRESS |
| 42 | 22/11/2022 23:00 | SUNNY LIGER |
| 43 | 23/11/2022 01:00 | STOLT AJISAI |
| 44 | 23/11/2022 06:00 | CONTI CORDOBA |
| 45 | 23/11/2022 06:00 | GOLDEN VEGA |
| 46 | 23/11/2022 06:00 | POINTIS |
| 47 | 23/11/2022 10:00 | SYNERGY BUSAN |
| 48 | 23/11/2022 12:00 | CMA CGM SEMARANG |
| 49 | 23/11/2022 14:00 | CONTSHIP TEN |
| 50 | 23/11/2022 14:00 | OLGA MAERSK |
| 51 | 23/11/2022 15:00 | MSC RICCARDA II |
| 52 | 23/11/2022 18:00 | DAT MERCURY |
| 53 | 23/11/2022 22:00 | MSC LANGSAR |
| 54 | 24/11/2022 00:01 | C HAMBURG |
| 55 | 24/11/2022 04:30 | KOTA LUMAYAN |
| 56 | 24/11/2022 06:00 | CMA CGM CORNEILLE |
| 57 | 24/11/2022 06:00 | CMA CGM SEMARANG |
| 58 | 24/11/2022 14:00 | SYNERGY BUSAN |
| 59 | 24/11/2022 14:00 | COSCO ROTTERDAM |
| 60 | 24/11/2022 14:00 | COSCO HONG KONG |
| 61 | 24/11/2022 20:00 | GOLDEN VEGA |
| 62 | 24/11/2022 22:00 | BOMAR SPRING |
| 63 | 24/11/2022 22:00 | MSC RICCARDA II |
| 64 | 25/11/2022 00:01 | SKS DEMINI |
| 65 | 25/11/2022 12:00 | DEBUSSY |
| 66 | 25/11/2022 14:00 | KOTA LUMAYAN |

41. As such, the effect of the Protected Action for a period of a week, will result in no less than 66 vessel movements contracted to Svitzer being required to make alternate arrangements and rely on the services of Engage which will have to be agreed commercially between those parties and relies on Engage having capacity to take on such vessel movements noting they

already must service their own customers vessel movements. If that cannot be resolved, then the affected vessels will not be able to enter/leave the port.

Feedback from supply chain participants

42. On 16 November 2022, NSW Ports was informed by Steve Bates, Commercial Manager of Vopak that:

"The commodity most at risk would be diesel. We have about 7 days of supply in storage based on normal demand patterns - noting that our supply is approx. 1/3 of NSW supply line. Gore Cove and Kurnell may have greater fuel storage. We have a smaller vessel calling tomorrow and a larger one due on 24th. If no vessel calls were permitted, there would be a diesel shortfall (based on normal demand through the BLB) in a bit over a week.

ULP [unleaded petrol] is less at risk as we have just taken a shipment. Probably about 2 weeks of supply in storage is on site.

Jet fuel – likewise we have just taken a shipment. If no ships we would have about 4 weeks of supply in stock.

If vessels can still access the BLB using Engage Marine – supplies can of course be replenished."

43. On 16 November 2022, NSW Ports was informed by representatives of the top 5 shipping lines by volume on the impact of the proposed industrial action. This informs my understanding that the impacts include:

- Plans will be adjusted based on the outcome of the FWC proceedings
- Supplies of imported goods into Australia will essentially stop (apart from some operations continuing at Port Botany).
- Vessels will likely still call Port Botany, with the option for discharging non-Sydney cargo being explored for later transshipment or transport by road / rail to Victoria/Queensland destinations.
- It is expected that Port Botany terminals will quickly fill up if lines drop interstate cargo at Port Botany for later transshipment, creating operational issues and congestion potentially down the landside supply chain. This option is short term at best.
- Delays are expected for tug services
- Options available to shipping lines are limited but also include vessels not calling Australia, vessels omitting affected Australian ports, blanking or sliding services,

discharging cargo somewhere outside Australia for later transport to Australia or holding back cargo at its origin. None of these options are favourable.

Port Kembla

44. As noted above [para 24] Svitzer is the sole provider of towage services at Port Kembla. As such, the stark reality is that Port Kembla will be effectively closed to all vessel movements as a result of the Protected Action.
45. On 15 November 2022 at 11.29am, the Harbour Master for Port Kembla issued a direction via email as follows (omitting formal parts):

"...Due to the impending lockout of Harbour Towage announced by Svitzer yesterday, coming into effect at 1200hrs Friday 18 November 2022, there will be a need for vessels to vacate the port. Port Kembla is reliant on our towage provider Svitzer. This includes harbour movements, standby and emergency towage requirements to meet the needs of the port.

All vessels, operators, terminals, and stevedores are advised of the following:

- 1. Based on current advice, there will, in all likelihood, be no harbour tugs available for any purpose from noon on Friday 18 November 2022 at Port Kembla.*
- 2. Due to the above situation, the port will need to be vacated, i.e., all vessels that require the use the tugs to enter and leave the port will need to depart the port.*
- 3. The vessels are expected to depart the port commencing on Thursday (17 Nov 22). The departures will need to be coordinated; however, it is envisaged that such movement will take place from Thursday early morning till Friday am.*
- 4. New vessels wishing to enter the port to be aware of the above scenario and likely early departure.*
- 5. Vessels that are in port, must be fully ready in all respects for departing the port by Thursday (17 Nov 22) morning. This means that the vessels are prepared to depart for sea. Such consideration would include but not be limited to stability of cargo, lashing of cargoes, appropriate bunker stems, seaworthiness, etc.*
- 6. All vessels that are currently in port (their agents and terminals) are required/requested to confirm that they have understood this requirement by return email.*
- 7. The above requirement will not include the COLK and COC vessel masters that are currently able to operate in the port on the projects that are currently underway at the Inner harbour as well as the outer harbour.*

8. VTS will liaising with various on the departure of vessels in due course.

If there is a change to the situation, we shall keep all advised of the same. Please pass on this message to any stakeholder this may apply to.”

46. A snapshot for the period commencing 18 November 2022 to 25 November 2022, as illustrative of the impact on vessel movements, is set out in the table 3 below.

Table 3

| | Vessel Name | Vessel Type | Cargo | Berth | Movement Type | Comment |
|----|---------------------|---------------|---------------------------|-------|---------------|--|
| 1 | Shi Dai | Bulk | Coal | 102 | Departure | Depart berth without completing cargo operations |
| 2 | Maran Trust | Bulk | Coal | 102 | Arrival | Held Off Port |
| 3 | Federal Ibuki | Bulk | Wheat | 103 | Arrival | Held Off Port |
| 4 | Capricornus Leader | RO-RO | Vehicles/B-Bulk/Machinery | 105 | Departure | Depart berth without completing cargo operations |
| 5 | TS Bravo | General Cargo | B-Bulk Steel | 106 | Departure | Depart berth without completing cargo operations |
| 6 | Traviata | RO-RO | Vehicles/B-Bulk/Machinery | 107 | Arrival | Held Off Port |
| 7 | Corewise OL | LO-LO | Project Cargo | 106 | Arrival | Held Off Port |
| 8 | Artemis Leader | RO-RO | Vehicles/B-Bulk/Machinery | 107 | Arrival | Held Off Port |
| 9 | Don Juan | RO-RO | Vehicles/B-Bulk/Machinery | 107 | Arrival | Held Off Port |
| 10 | Divine Ace | PCC | Vehicles | 106 | Arrival | Held Off Port |
| 11 | RCC Tianjin | General Cargo | Steel | 106 | Arrival | Held Off Port |
| 12 | Hoegh New York | RO-RO | Vehicles/B-Bulk/Machinery | 106 | Arrival | Held Off Port |
| 13 | Boheme | RO-RO | Vehicles/B-Bulk/Machinery | 107 | Arrival | Held Off Port |
| 14 | Trans Future | PCC | Vehicles | 105 | Arrival | Held Off Port |
| 15 | Bandura | General Cargo | Project Cargo | 106 | Arrival | Held Off Port |
| 16 | Petani | Bulk | Wheat | 103 | Arrival | Held Off Port |
| 17 | Dorado Leader | RO-RO | Vehicles/B-Bulk/Machinery | 106 | Arrival | Held Off Port |
| 18 | Amber Arrow | PCC | Vehicles | 105 | Arrival | Held Off Port |
| 19 | Miraculous Ace | RO-RO | Vehicles/B-Bulk/Machinery | 106 | Arrival | Held Off Port |
| 20 | Kodiak Island | General Cargo | BlueScope Steel | 109 | Arrival | Held Off Port |
| 21 | Sinlau Bulker | General Cargo | BlueScope Steel | 109 | Arrival | Held Off Port |
| 22 | Genco Maximus | General Cargo | BlueScope Steel | 111 | Departure | Depart berth without completing cargo operations |
| 23 | Iolaos | General Cargo | BlueScope Steel | 112 | Arrival | Held Off Port |
| 24 | Maintain Rainer | Bulk | Shred Steel | 113 | Arrival | Held Off Port |
| 25 | Chios Luck | Bulk | Gypsum | 203 | Arrival | Held Off Port |
| 26 | African Cormorant | Bulk | Copper Con | 202 | Arrival | Held Off Port |
| 27 | Pan Poseidon | Bulk | Clinker | 203 | Arrival | Held Off Port |
| 28 | Asphalt Transporter | Bulk | Coal Tar | 202 | Arrival | Held Off Port |

47. As such, the effect of the Protected Action for a period of a week, will result in no less than 28 vessels either departing the port early, being unable to complete loading/discharge or being held off port, left in limbo and risking significant demurrage and other costs and effectively shutting the port.

48. Cargoes scheduled to be received through Port Kembla in coming months that will support projects of important value to the State include the New Intercity Fleet (NIF) Trains, Parramatta Light Rail rolling stock, Transformers for the Energy Connect interconnector that will allow future renewable energy projects in SA, NSW and Victoria to connect to the grid and supply new energy into the network and All major components for the Coppabella Wind Farm project in the NSW Southern Tablelands that will power around 173,000 NSW homes.

49. BlueScope’s Port Kembla Steelworks is dependent on the operation of the port to receive raw materials (particularly iron ore, limestone and dolomite) and export a portion of its steel product (907,000 tonnes out of total 3 million tonnes produced).

50. Port Kembla Steelworks is the largest manufacturer and supplier of flat steel in Australia by volume and manufactures slab, hot rolled coil and plate products. According to the BlueScope's website:

"BlueScope employs around 3,000 directly in the Illawarra and supports about 10,000 jobs in the Illawarra - including contractors, suppliers and other service providers who are dependent on the Port Kembla Steelworks. BlueScope accounts for more than \$2 billion in sales of locally produced steel each year, and the Port Kembla Steelworks has a production capacity of just over 3 million tonnes of steel per annum."

Feedback from supply chain participants

51. On 16 November 2022, NSW Ports was informed by Glen Seymour of BlueScope that:

"Notwithstanding the unspecified impact to business revenue and operations, in the event the Svitzer lockout commences this Friday and lasts for 7-days, the potential additional demurrage cost to BlueScope will be around \$3 million."

52. On 16 November 2022, NSW Ports was informed by Blair Price, Cement Australia GM Supply Chain and Logistics that:

"We have storage for cement clinker for 15-20 days. We will then come to a grinding halt and cannot supply the Sydney market."

53. Annexed hereto and marked **JPS 1**, a true copy of the letter by Anthony Perkins, Managing Director of Australian Amalgamated Terminals (undated and unsigned) received via email on 16 November 2022, regarding the adverse impacts of Protected Action on AAT's motor vehicle and general cargo operations and Quattro's grain export operations. Salient points from this letter are:

"A seven-day port closure would see the current 5 to 6 vessel queues explode to 20 vessels in Fisherman Island and similar number in Port Kembla. The backlog of vessels would take three – four months to clear at a significant cost to the shipping lines (US\$30,000 to US\$75,000 per day per vessel) which ultimately will get past on to Australian consumers further fuelling inflation."

In addition, a closure of this nature on Port Kembla where all ships are required to leave the port for safety reasons as determined by the Harbour Master means that:

1. *Effective immediately all 400 stevedores will have no vessels to work in Port Kembla and could be stood down for the duration of the cessation of towage activities*
2. *Car logistics companies that employ 380 staff and contract haulers will have no cars to haul off the wharfs after 3 days and could be stood down*
3. *Approximately 100 general cargo (steel and equipment) truck drivers per day will have no cargo to haul*
4. *54 AAT employees and contractors will have no cargo to load out after 3 days*
5. *Quattro grain silos will reach capacity in a day or two as a ship is due to berth to load out the export grain on Friday. If this does not occur, leaving the silos full, 2 export grain train a day will cease deliver at a cost of \$100,000 per train plus 50 grain truck receivals per day will cease for the duration of the Svitzer lockout.*
6. *Further upcountry silo storage and grain cartage will also cease when the silos are full – this volume is lost to the export as the lost rail capacity can't be recovered.*
7. *Coastal and international export steel from BlueScope and Bisalloy will be compromised with impacts to their contractors and potentially manufacturing. AAT expect around 41,000T of export steel for December.*
8. *RoRo vessels are currently running full and are in short supply and an extended delay will add further to the backlog of imported vehicles, construction, agriculture, and mining equipment bought in to the country."*

54. On 16 November 2022, NSW Ports was informed by Gary Warren of K Line (shipping liner) that:

"Motor vehicles already badly congested in Australia as we know. The ro-ro vessels are full and Aust East coast ports are congested. Non-access to ports worsens the position massively.

The car carrying Ro-Ro lines will be cancelling services to Australia if the lock-out goes ahead. They simply cannot afford to have their vessels tied at up anchor sitting off the coast of Australia waiting for port access.

For vessels already on the high seas with Australian destined cars – they need to look at options and whether there are other ports (even Townsville and Darwin) where cars could be potentially discharged.

When ports reopen there will be an even worse 'slug' of volume. Aust ports really struggle when volumes are volatile and it will be a very ugly and long recovery period for ports to address the backlog of volume.

We expect Original Equipment Manufacturers meantime will keep producing but Right Hand drive cars will be allocated to other countries until access to Aust ports clears.

55. On 16 November 2022, NSW Ports was informed by David Richards of Port Kembla Coal Terminal Limited (PKCT) that:

- *"All vessel movements will cease and all vessels will be cleared from the Port of Port Kembla as advised by the Port Kembla Harbour Master commencing the evening of 17 November regardless of their loading status.*
- *This may mean that the vessel currently scheduled for loading on Thursday, 17 and Friday, 18 November will not be able to be completely loaded, and may then leave Port Kembla part loaded;*
- *With no tug availability, PKCT would then be unable to perform any shipping and export activities.*
- *Between 17 November and 25 November, there are currently six vessels totalling approximately 410,000 tonnes of coal scheduled to be loaded, which would no longer occur.*
- *If the lockout was to extend for a week, as of 25 November, PKCT would then have to cease all operations. This is due to the fact that the current coal stockpile on site would be full, and PKCT would therefore not be able to receive further coal via road or rail from its customers.*
- *This would likely then have a flow on effect to the Illawarra region coal industry. The impacts on road transport providers and rail supply chains would likely be significant (although I can't speak to the detail of this). Similarly, there is a real possibility of impact on coal mines using PKCT to export their product as they*

would potentially have to cease production if the action is extended given the limited ability to stockpile coal.”

56. PKCT handled 8.3 million tonnes of coal in FY22. The majority of the coal is metallurgical, used for steelmaking.
57. On 16 November 2022, NSW Ports was informed by Brian Kiely, General Manager of Port Kembla Gateway (PKG) that:

“There are four vessels scheduled to arrive at Port Kembla Gateway between the 17th to 24th of November and the timing of the planned lockout will cause severe disruption to PKG operations and to the business/supply chains of their customers (and their customers). The vessels listed in the schedule are due to for discharge/load the following cargoes:

- *Chios Luck: import of approx. 28,000 wmt [wet mass tonnes] of gypsum for use in the manufacturing/construction industry (NSW).*
- *Asphalt Transporter: export of approx. 7,500 wmt of coal tar for use in manufacturing (Newcastle, NSW).*
- *Pan Poseidon: import of approx. 36,000 wmt of cement clinker for use in the manufacturing/construction industry (NSW).*
- *African Cormorant export of approx. 30,000 wmt of copper concentrate to Japan, finite storage capacity at the NSW mine means that extended disruption could affect production.*

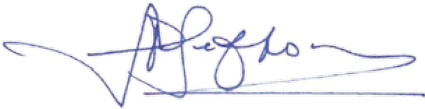
It is imperative to keep the flow of goods and services moving, the frequency and volumes of the above cargoes are typical and the current infrastructure (rail in particular)/regulations in NSW make it operationally difficult and very costly to make up for time that is lost.”

Conclusions

58. The economic impact of port disruption is significant – as shown by the extract of the economic impact assessment conducted by *Prominence Consulting* (at [35] above and Fig 4). The longer the disruption the greater the impact. Even shorter periods of regular disruption have significant economic impact.
59. The above examples of feedback (at [42], [43], [45], [51] to [55] and [57]) are a small subset of the potential impacted port users / operators that will be affected by the disruption caused by the Protected Action. Even from these limited examples, the

Commission can appreciate the economic impact that will arise. Expanded across all affected parties and for longer periods of time, the impact will be even more significant.

60. The Protected Action will create significant supply chain disruption leading to: unreliable shipping services; additional costs (due to congestion and delays); challenges for exporters to meet contractual obligations for delivery of goods; reputational risk of doing business with Australia and maintaining/securing export customers; and delays to product deliveries to businesses, shops and supermarkets as stock is unable to be replenished.
61. Across the supply chain associated with Port Botany and Port Kembla, this will impact on labour servicing ports and supply chains and have 'knock-on' effects to manufacturing, mining and farming where their inputs are unable to be supplied or their products are unable to be transported from site / storage impacting on their ability to continue their operations until the backlog is cleared.



SIGNED BY JULIAN PETER SEFTON

Date: 17 November 2022

IN THE FAIR WORK COMMISSION

Matter No: B2022/1726

RE: Application on Commission's own initiative re Svitzer Australia Pty Limited [2022]
FWC 3038

Interested parties: Port Botany Operations Pty Limited
Port Kembla Operations Pty Limited
(collectively "NSW Ports")

This and the following 2 pages is **Annexure JPS 1** to the witness statement of Julian Peter Sefton dated 17 November 2022



To whom It may concern

Australian Amalgamated Terminals (AAT) operates 3 terminals along the east coast of Australia handling approximately 114 vessels a month. AAT terminal facilities handle the majority of non-bulk import/export cargo into Australia that does not fit into a sea container. AAT operates in the following location.

- Queensland - Fisherman Island (Brisbane) – approximately 53 vessels a month
- Victoria – Appleton Dock (Melbourne) – approximately 8 vessels a month
- (New South Wales - Port Kembla – approximately 53 vessels a month)

AAT handle a diverse range of cargo including

- structural and manufacturing imported and exported steel,
- motor vehicle, agricultural, mining and construction vehicle imports,
- wind farm components
- project cargoes such as passenger trains, transformers, tunnel borers etc
- some bulk cargoes including 1.4mt of export grain, cement, soda ash, fertiliser from our Port Kembla facility

Vessels that call at AAT facility typically stay from between 1 day (car carriers) to 8 days (steel and windfarm/project cargoes) depending on the quantity and type of cargo to be discharge. Cargo typically exits the terminal within 3 days. All of AAT sites relying on Svitzer towage to berth and depart ships at our port facilities.

Our AAT facility in Fisherman Island recently experienced a 10-day closure due to the flooding of the Brisbane River and associated debris deposited on the sea floor creating navigational risks. The resulting vessel congestion that this closure of a single port impacted supply chains for three months, noting a number of vessels were able to bypass Fisherman Island and transship cargoes in other ports rather than sit at anchor for up to 28 days – this is not an option in the current dispute as all east coast ports will be out together.

Both AAT Port Kembla and Fisherman Island are currently running near capacity due to the recent disruption in global supply chains. Currently 5 vessels are sitting at anchor in Port Kembla and 6 at anchor at Fisherman Island waiting for a berth at AAT facilities with the longest vessel currently sitting at anchor for 14 days and due to berth tomorrow (subject to Harbour Master decision tomorrow). A seven-day port closure would see the current 5 to 6 vessel queues explode to 20 vessels in Fisherman Island and similar number in Port Kembla. The backlog of vessels would take three – four months to clear at a significant cost to the shipping lines (US\$30,000 to US\$75,000 per day per vessel) which ultimately will get past on to Australian consumers further fueling inflation.

In addition, a closure of this nature on Port Kembla where all ships are required to leave the port for safety reasons as determined by the Harbour Master means that

1. Effective immediately all 400 stevedores will have no vessels to work in Port Kembla and could be stood down for the duration of the cessation of towage activities
2. Car logistics companies that employ 380 staff and contract haulers will have no cars to haul off the wharfs after 3 days and could be be stood down
3. Approximately 100 general cargo (steel and equipment) truck drivers per day will have no cargo to haul
4. 54 AAT employees and contractors will have no cargo to load out after 3 days
5. Quattro grain silos will reach capacity in a day or two as a ship is due to berth to load out the export grain on Friday. If this does not occur, leaving the silos full, 2 export grain train a day will cease deliver at a cost of \$100,000 per train plus 50 grain truck receivals per day will cease for the duration of the Svitzer lockout. Further upcountry silo storage and grain cartage will also cease when the silos are full – this volume is lost to the export as the lost rail capacity can't be recovered.
6. Coastal and international export steel from BlueScope and Bisalloy will be compromised with impacts to their contractors and potentially manufacturing. AAT expect around 41,000T of export steel for December.
7. RoRo vessels are currently running full and are in short supply and an extended delay will add further to the backlog of imported vehicles, construction, agriculture, and mining equipment bought in to the country.

Fisherman Island would have a similar economic impact except for grain and steel exports.

The supply chains are just starting to recover from the Covid disruption and the latent demand that is still in the system because of supply side disruption. To have the ports now closed will not only damage AATs reputation as a port provider, but damage livelihoods to those that depend on our facilities for their income and Australia in general.

Antony Perkins

Managing Director

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