APPENDIX 1 TO MUA SUBMISSION TO PC ON TASMANIAN SHIPPING AND FREIGHT

MARITIME UNION OF AUSTRALIA (MUA)

SUBMISSION TO THE TASMANIAN FREIGHT LOGISTICS COORDINATION TEAM

RESPONSE TO DISCUSSION PAPER ON INTERIM OBSERVATIONS AND SOLUTIONS

TASMANIAN FREIGHT INFRASTRUCTURE SOLUTIONS

31 OCTOBER 2013

1. Introduction

1.1 The Maritime Union of Australia (MUA) welcomes the opportunity to make a submission to the Tasmanian Freight Logistics Coordination Team (TFLCT) in response to its Discussion Paper on Interim Observations and Directions for Tasmanian freight infrastructure following the release of the TFLCT Chair's Interim Findings of August 2013.

1.2 We note that no trade union was represented on the TFLCT and no trade union was consulted by the TFLCT, or consultants it engaged, in arriving at its observations and directions.

1.3 Given the major impact that some of the proposals raised in the Discussion Paper would have on the workforce represented by the transport unions, if implemented, and given the significant role which the workforce has in achieving supply chain efficiency and improved productivity performance, we believe this is a significant oversight and could impact on the ability of the industry and Government to achieve the levels of cooperation that will be necessary to implement reform.

2. The Maritime Union of Australia (MUA)

2.1 The Maritime Union of Australia (MUA) represents over 16,000 workers in the shipping, stevedoring, port services, offshore oil and gas and diving sectors of the Australian maritime industry.

2.2 Members of the MUA work in a range of occupations across all facets of the maritime sector including on coastal cargo vessels (dry bulk cargo, liquid bulk cargo, refrigerated cargo, project cargo, container cargo, general cargo) as well as passenger vessels, towage vessels, salvage vessels, dredges, ferries, cruise ships, recreational dive tourism vessels and in stevedoring and ports. In the offshore oil and gas industry, MUA members work in a variety of occupations on vessels which support offshore oil and gas exploration e.g. on drilling rigs, seismic vessels; in offshore oil and gas construction projects including construction barges, pipe-layers, cable-layers, rock-dumpers, dredges, accommodation vessels, support vessels; and during offshore oil and gas production, on Floating Production Storage and Offtake Tankers (FPSOs), FSOs and support vessels. MUA members work on LNG tankers engaged in international Liquefied Natural Gas (LNG) transportation.

2.3 The MUA is a member of the International Transport Workers Federation (ITF) which is the peak global union federation for over 700 unions representing over 4.5 M transport and logistics workers worldwide.

2.4 The MUA is also a member of the Australian Transport Unions Federation (ATUF), the other unions being the Transport Workers Union (TWU) and the Rail Tram and Bus Union (RTBU).

2.5 The MUA was an important stakeholder in development of the 2012 national shipping reforms, including the workforce development strategy,

and has been an active participate in implementation of the new shipping arrangements since 1 July 2012.

3. Observations on the Chair's Interim Findings – Recommended Matters for Further Detailed Investigation

Planning and policy measures to support productivity and growth

3.1 The MUA supports in-principle proposals (i), (ii) and (v). We have no comment on proposals (iii) and (iv).

3.2 In relation to (i), we note that the necessity for the Findings to identify the need for inter-Government cooperation (e.g. Tasmania-Victoria) is symptomatic of the inadequacy of the National Ports Strategy which failed to adopt a national approach to development of Australia's ports. It tended to focus on each port (or State/NT) in isolation, which we believe is a missed opportunity to achieve better coordination and efficiency in resource allocation.

3.3 In the ATUF submission to Infrastructure Australia on the National Ports Strategy in December 2009 we put the view that it is essential that ports be considered in their national and international context. The submission said:

The ATUF has a view that those responsible for the planning and investment decisions, and for regulatory decisions for the ports sector in Australia, have to date taken a parochial approach and fail to see the ports in the context of the overall global freight transport and logistics chain in which they operate.

The downside to this parochial approach is that the national interest in a globalised world and the vital role that ports play in the national transport plan appear to be often overlooked. For example, we put the view that the ACCC, while making appropriate observations on competition issues from time to time, can by the very nature of the legislation under which it operates, only propose intra-port solutions to alleged barriers to competition that have no regard for the economics of the port in a State, national or global context. Placing pressure on parties to achieve micro reform benefits around an arbitrary competition policy construct at a particular port may well impede a national opportunity for Australia to influence the entire supply chain, with consequential long term benefits to domestic consumers and producers.

Ports are a key component in international freight supply chains and in Australia's national freight transport system. The (COAG) CIRA requirements, in our view, limits the capacity to view ports and their potential to add value to transport chain efficiencies in a national and international context by restricting the focus to a narrow set of individual port, or at best State bounded ports, issues. Put another way, a focus in intra-port competition issues ignores opportunities to extract value from the global market positioning of key container ports such as the Port of Darwin.

We suggest that consolidation of vertical integration strategies, whereby a party can influence the cost (and possibly speed) of delivery of a product from the overseas supplier/manufacturer to the Australian end user (and vice versa), may well deliver a better economic outcome (and service outcome) than that arising from imposition of cost or access equity in just one part of the supply chain.

While the general principles of competition policy say that the market solutions are generally preferred over intervention, we believe it is incumbent on agencies charged with advising Governments on competition policy (where Governments must, by necessity as part of the democratic process, intervene in markets for a whole range of reasons in promotion of civil society) to demonstrate not just whether there is a failure of competition policy, but how a more competitive market will allocate resources in a way which meets broader societal goals, such as lower consumer prices, sustainable environments etc. Simply using methodologies to demonstrate that certain intervention is anti-competitive is insufficient in our view.

Market involvement in future planning and investment frameworks

3.4 The MUA supports in-principle proposal (i).

3.5 While we are sympathetic to the concept of market testing of interest from international shipping providers as proposed in (ii), we question why existing public agencies like Austrade and private entities like freight forwarders are not already doing this as a service to industry, and why the shippers have been sufficiently unmotivated, or unable, to collaborate in their own commercial interests to coordinate the supply of export containers to export destinations, and then seek out a commercial shipping partner.

3.6 We suggest this may represent a failure of managerial capability, a failure of entrepreneurial drive in the freight forwarding sector, a failure to invest in technological solutions in logistics management, or a combination of the above. It probably also represents a failure on the part of Government to facilitate the delivery of real time market information. We query if there are any inhibitors in the competition laws that are preventing collaboration.

3.7 Its is frustrating to trade unions that represent the workforce that failures or weaknesses in management and corporate strategy are put under so little scrutiny yet the profferings of management around labour costs, labour productivity etc are taken as unchallengeable truths.

3.8 We would argue that if there is to be Government intervention aimed at seeking to secure and maintain a new direct international shipping service to Asian destinations, particularly if it involves commercial incentives to lock in such a shipping provider, that the successful shipping company be required to register its vessel under the Australian International Shipping Register (AISR). This would ensure that there are economic benefits to the community e.g. the obligation to train seafarers as required under the *Shipping Reform (Tax Incentives) Regulation 2012.*

3.9 In relation to proposal (iii) we put the view that divestment strategies will need to include sufficient commercial development opportunity to enable a bundling approach to attract patient capital, particularly from the not-for-profit superannuation fund investors. Notwithstanding that requirement, we note that the small scale of Tasmanian freight assets may result in some difficulties in attracting private investment.

3.10 Small airport sales in the past have generated significant private sector investment interest, not because the aviation aspects of the airport provided commercial opportunity, but due to the land surrounding those airports and the retail opportunities within those airports. Similarly, small scale port assets with less than commercially optimal throughputs, particularly given the Tasmanian GDP growth rates forecast, are unlikely to generate significant commercial interest unless bundled with other commercial opportunity such as additional land, combined with regulatory certainty.

3.11 It will be the innovation in the packaging of assets, the regulatory conditions attached and the method used in offering the package to private investors that will be the key factors in attracting private sector investment.

3.12 We are opposed to (iv), noting that “recycling” is the new word for privatisation. Privatisation typically does not offer good value for taxpayers and for citizens, and invariably not for the workforce.

3.13 If ultimately a decision is made to ”recycle” transport assets, such as ports, then we favour a select tender process that is packaged towards the patient capital investors, particularly the NFP superannuation funds.

Immediate assistance to exporters

3.14 If public funds are available to incentivise business and reduce business costs aimed at improving profitability to secure greater corporate investment in supply chain infrastructure, we don’t believe the proposals put forward in 4 (a) and 4 (b) are the best mechanisms. We believe better value would be derived from a public investment in collaboration models like the Hunter Valley Coal Chain.

Transparency and participation measures to promote innovation and competition

3.15 We strongly support transparency in freight markets and believe one of the most important functions that Government can play is collection and publication of timely freight information.

3.16 We strongly support proposal (v), the promotion of skills, training and employment opportunities in the freight and transport sectors.

3.17 We believe the final report should recommend adoption of the Maritime Workforce Development Strategy released by former Minister Albanese in May 2013, including support for disbursement to industry of the $5M allocated in the 20013/14 Commonwealth Budget to implement the Strategy.

3.18 We also believe the final report should note the important reforms being made to both the Maritime Training Package and Transport and Logistics Training Package under the coordination of the Transport and Logistics Industry Skills Council (TLISC).

4 A major factual error in the "evidence" regarding shipping regulation that led to the Chair's Interim Findings

4.1 The MUA is disturbed by the inaccuracy of the consultant's advice to the TFLCT on the matter of the 2012 national shipping reforms and associated regulation, along with the industry's apparent misunderstanding of the legislation.

4.2 This has resulted in some significant inaccuracies being reported as fact, and we believe has shaped part of the thinking in terms of those observations and proposals regarding shipping.

4.3 The inaccuracies in the consultant's reports are:

The International Container Shipping Service Viability For Tasmania report of February 2013 prepared by Gregg Poulter, Director of GPS Logistics (Tas) Pty Ltd says that:

4.4 "Australian shipping operates under a system of registration, licences and permits along its coast."

4.4.1 First, there is no provision for permits under national shipping legislation. Permits were phased out from 31 October 2012.

4.4.2 Second, only Australian domestic shipping operates under a system of registration and licences.

4.5 "In order for internationally registered vessels on international voyages to carry domestic Australian cargo between inter-state ports, they must also comply with the regulations of the *Fair Work Act 2009."*

4.5.1 This statement is broadly correct. Essentially for all voyages authorised by a Temporary License undertaken by a foreign registered vessel in excess of 3, the *Fair Work Act 2009*, Fair Work Regulations 2009 as amended and the provisions of the Seagoing Industry Modernised Award 2010 apply, because the vessel is involved in the Australian domestic freight market.

4.5.2 Importantly however, employment standards applying to non-national seafarers on foreign ships operating in the Australian inter-State coastal trade is not connected to the 2012 shipping reforms. In 2003 the High Court held (in Re The Maritime Union of Australia & Ors; Ex parte CSL Pacific Shipping Inc [2003] HCA 43 - Gleeson CJ, McHugh, Gummow, Kirby, Hayne, Callinan and Heydon JJ - 7 August 2003) that the Australian industrial regulator (currently the Fair Work Commission) has jurisdiction to apply Australian Award conditions to a foreign flagged vessel with foreign crew whilst engaged in the Australian coastal trade.

4.5.3 The Seagoing Industry Modern Award (SIMA) commenced on 1 January 2010. The Fair Work Commission acting on its own initiative provided that the SIMA should contain a Part B that applied exclusively to ships operating under permits issued under the provisions of Part VI (the Coasting trade) of the former *Navigation Act 1912*. Part B of the SIMA commenced on 1 January 2011. The provisions of Part B are loosely based upon international standards as reflected in ITF Uniform Total Crew Cost (TCC) Agreement. For example, it provides 8 days leave per month, well below the Australian National Employment Standard of 20 days.

4.5.4 On commencement of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* and the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012* on 1 July 2012 Part VI of the *Navigation Act 1912*, was repealed. The shipping reforms of 2012 simply translated the 1912 Navigation Act Part VI provisions re payment of wages to then Licensed ships (the equivalent of which under the CT Act is a General License and a Transitional General Licence) to reliance solely on the Fair Work Act and Awards to regulate labour standards on foreign ships operating in the Australian domestic coastal trade (the CT Act does not deal with wages as part of a Government legislative streamlining exercise).

4.6 "The ability for International lines to uplift domestic cargo both to and from Tasmania without the cost and protocol associated with complying with the *Fair Work Act 2009* would create significant competition and potentially significant freight reductions for domestic shippers."

4.6.1 It is highly questionable if non application of the FW Act would result in competition given the volume of trade cannot currently sustain one international line in the trade, let alone a competitor.

4.6..2 In any case the assumption behind such a proposition is that seafarers in the Australian domestic coastal trade should not have the benefit of Australian minimum labour standards, but be paid the equivalent minimum international labour standard. We question the basis of this discriminatory proposition. If the assumption is extended, perhaps it is saying that all transport workers in the Australian domestic freight market should be paid rates equivalent to developing nation labour standards. And what about the managers and company executives in the freight supply chain? Should they also be paid developing nation salary standards?

4.6..3 The logic doesn't stand up, and the High Court has made it clear that Australian employment law applies.

4.7 "The abolition of cabotage would also provide an International carrier with the opportunity to significantly increase their uplift of cargo both too and from Tasmania. This would allow for much better economies of scale for all aspects of an International service."

4.7.1 This statement implies that the carriage of an internationally destined cargo by a foreign flagged ship is subject to the cabotage provisions of the CT

Act. This is incorrect. The CT Act only applies to the movement of Australian domestic cargo between inter-State ports. If that international service also decided to carry inter-State cargoes say between Burnie and Melbourne as part of an international voyage then the Burnie to Melbourne leg of the voyage would require seafarers to be paid in accordance with the FW Act and SIMA for the duration of that Interstate voyage (1 day?). That would not be prohibitive.

4.8 "Internationally, labour rates for crew continue to rise as with all positions. Pressure from labour organisations worldwide means that shipping lines will constantly be on the lookout to source labour from countries that have qualified yet more cost effective crew."

4.8.1 The fact is that minimum labour standards for foreign seafarers on internationally trading ships have been relatively stable for the past decade. The ITF TCC benchmark of USD$1675 per month in 2011 increased by just 2% from 1 January 2012 to USD$1709; then the following year by 2.5% to USD$1752, and will then rise by 3% to USD$1805 in 2014. These are modest increases.

4.8.2 A Tasmanian freight export strategy based on seeking opportunities to find ever more exploited developing nation seafarers (i.e. cost effective crew) whose unscrupulous employers seek to pay less than the ITF TCC Agreement or International Bargaining Forum (IBF) Agreement standard to save some miniscule labour cost is not in our view a productive approach, and should be fully rejected by the TFLCT.

4.9 "Terminal Costs – Labour and Machinery.- Domestically waterfront wages are relatively high when compared to other developed nations. High Australian salaries would not necessarily be a problem if they were accompanied by proportionally high productivity; however this is generally not the case."

4.9.1 We are concerned that no evidence or reference was tendered for such an assertion. We are only aware of one recent attempt to analyse waterfront labour costs.

4.9.2 This was the Castalia Strategic Advisors report entitled *The Effect of Wages on Australian Port Costs and their Competiveness in an International Context,* commissioned by Ports Australia*,* which suggested that the BITRE *Waterline* measures do not offer a meaningful way to measure actual labour or capital productivity of a container terminal operation. The Castalia report contends that the BITRE indicators 'certainly cannot be treated as measures of labour productivity'. The Castalia report offers a number of alternative productivity measures by contextualising the aggregate BITRE data with measures of labour input to support the argument that over the last decade labour productivity has not kept pace with the growth in the real cost of labour.

4.9.3 In summary, the Castalia report concludes that waterfront wage increases have been running ahead of productivity increases. However, a report entitled *Patrick Port Botany automation proposal: Analysis of Productivity*

and Related Matters, prepared for the MUA by Noetic Infrastructure Solutions Pty Ltd in March 2013 found that the Castalia conclusions directly contradict the findings in the ACCC *Container Stevedoring Monitoring Report No.14,* which concludes that between 1998 and 2012 real unit costs ($/TEU) have decreased by 45 per cent, while labour productivity (elapsed labour rate) has doubled. Noetic Infrastructure Solutions report that this would suggest, in contrast to the claims in the Castalia report, that stevedoring wages have not increased disproportionately as labour productivity has kept pace with the increase in container throughput over the last decade. It found that 2011/12 was the first year that stevedoring labour productivity deviated from the long-term trends – the first significant fall in labour productivity since 1998/99 and that this decline coincided with a period of prolonged industrial disputation between the stevedores and their workforces.

<u>The Tasmanian Freight Infrastructure Systems Final Report prepared by Juturna of 15 August 2013, which states:</u>

4.10 "Australia's Coastal Trading shipping legislation which limits coastal trade to Australian-flagged ships" (P4, 5).

4.10.1 That statement is factually incorrect and shows an inexplicable misunderstanding of the legislation.

4.10.2 The *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act) provides substantial opportunity for foreign flagged ships to carry coastal cargo, albeit under the conditions of a Temporary or Emergency License, and in fact the proportion of coastal cargo being carried in foreign flagged ships under license continues to rise and is over 30%. This rise has not been stemmed by introduction of the CT Act as we know that very little coastal trade has been successfully contested by General License holders under the provisions of the CT Act.

4.10.3 The flexibility available to shippers under the CT Act was deliberately designed in acknowledgement of the variability and often small parcels of coastal cargo in the Australian freight market that could not sustain a ship on the Australian General Shipping Register operating under a General License. It has been designed to encourage shippers and shipping operators to reach commercial terms for long term value enhancing freight contracts that meet the shipper's needs and the investment decisions of the shipping owner/operator, supplemented by TL voyages.

4.10.4 If an international shipping line incorporated a Tasmania to mainland service as part of its international trading pattern, then Tasmanian shippers would have the opportunity to apply for (or arrange through a third party to apply for) Temporary licenses for certain cargoes. Provision of such a service would however rest with the commercial decisions of international shipping lines.

4.10.5 It is not a flaw in the legislation which results in the lack of availability of that international trading vessel opportunity.

4.11 “Some parties, including some of the shipping firms, raised the prospect that the legislative arrangements around coastal shipping – or at least the application of these matters in the Bass Strait trade – are causing inefficiencies for customers. There was a sense from some interviewees that these matters might be seen as ‘too politicised to raise” (P8).

4.11.1. The fact is that in the absence of an international carrier that could be the beneficiary of a Temporary License, there is no adverse impact whatsoever on the Tasmanian Bass Straight trade from the CT Act. In fact there is only positive benefit, in that those shipping operators undertaking Bass Straight trade could now take advantage of the corporate tax incentives which are estimated to reduce operational costs by as much as $1M per ship per annum.

4.11.2 The CT Act could be repealed entirely, and the labour cost structure of Bass Straight shipping would not change at all, as the FW Act and Enterprise Agreements covering the crew would remain in place. The question then arises, what inefficiencies are the users referring to? There are none, because in effect the CT Act has no application.

4.11.3 This suggests that uninformed carping about the CT Act is pointless and possibly counterproductive.

4.11.4 In our view, it is unprofessional for a consultant firm to get this so wrong.

4.11.5 The interesting aspect of Bass Straight shipping is that it is one of the only coastal sea freight routes in Australia where there is shipping competition, with 3 operators vying for the available trade. If there is no price collusion, and one expects the ACCC is monitoring competition conduct, then shippers should be able to obtain competitive freight rates under long term freight contracts, but within the context of the Australian domestic freight market. The comparator for shippers should not be international freight rates because that is not possible on such a route, but comparative freight rates for other like coastal shipping routes and road and rail freight rates in the Australian freight market.

4.11.6 The solution to the cost issue for Bass Straight transhipment (to international destinations) freight is probably to look at stevedoring charges, port and pilotage charges, bunker costs and other variables in the value chain that may be able to be influenced by market power or Government pricing policy.

4.12 “All states and territories in Australia have since 1912 been subject to legislation which makes provisions for Australian flagged vessels to operate more or less exclusively on the coastal shipping task. There have always been licensing and regulatory arrangements around such legislation. In 2012 this legislation was superseded by the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Improvements) Act 2012*. This Act reaffirms the exclusivity of Australian-flagged shipping for coastal trading activities.”

4.12.1 This is factually incorrect. Firstly the wrong Act is mentioned. In any case the *Coastal Trading (Revitalising Australian Shipping) Act 2012* does not make provisions for Australian flagged vessels to operate more or less exclusively on the coastal shipping task, as this submission has already indicated.

4.13 "Recommendation 9.1 Examine the operational and economic effects of Tasmania's compliance with the *Coastal Trading (Revitalising Australian Shipping) Act 2012*."

4.14 "An appropriate independent body should examine the workings of the Act as it relates to the Tasmanian freight task, with the objective of offering some quantification of the cost that any inefficiencies identified in this legislation might be imposing on the Tasmanian freight task and the wider economy. The examination might also consider whether any productivity-enhancing features of the recent new legislation, such as special tax treatments, have been sufficiently explained and adopted by Tasmanian shippers, and whether this might improve the efficiency of the Act in relation to the Tasmanian freight task. Recommendations of such an examination might note that under this legislation, the minister responsible has the power to grant exemptions."

4.14.1 The MUA would support the establishment of an independent review under an independent set of appointees,(based on stakeholder agreed terms of reference) to examine the workings of the CT Act as it relates to the Tasmanian freight task, provided the independent body is inclusive and transparent and has as its core mandate the revitalisation of Australian shipping.

4.14.2 The MUA has already made representations to the Federal Government on possible improvements to the CT Act and to the administration of the Act, and we are open to participating in a wider dialogue.

4.14.3 When Minister Truss was reported in the media (see *Australian* 19 and 20 September 2013) to be proposing to overhaul Labor's 2012 shipping reforms, and in particular, aspects of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (CT Act) the National Secretary of the MUA issued a statement indicating that::

The MUA welcomes a balanced stakeholder consultation to enhance the obvious national benefits of the new legislation, which underscores the importance of shipping to the health of other Australian industries, including manufacturing.

The shipping reforms put in place in 2012 had one goal in mind: to strengthen the Australian shipping industry and safeguard important jobs for Australians, but with the broader goal of enhancing the Australian economy. The legislation was enacted after exhaustive multi-party consultation over five years with shipowners, shippers, regulators, states and interested parties.

The reforms addressed a broad range of matters including national productivity, port productivity in areas such as pilotage, a chronic skills shortage in maritime skills and how that shortage of skills is linked to safety, environmental risks and port productivity. In addition, a comprehensive skills development structure was agreed to after a high-level forum of port management and port operators, shipowners, unions and the Royal Australian Navy identified the critical importance of maritime skills development to both the economy and national security.

The MUA agrees with Mr. Truss's reported positions that the new Government wants to have a "vibrant coastal shipping industry" with Australian flagged and crewed ships. We therefore reiterate to the incoming government that any steps forward should constructively engage in the genuine momentum of consensus already arrived at within the industry and the markets it services.

We look forward to a dialogue about how to move that agenda forward which accomplishes the dual goal of strengthening the industry and continuing to provide safe, good jobs for Australian maritime workers along with more efficient and sustainable Australian industry that rely on a comprehensive freight forwarding strategy and infrastructure, including coastal shipping, that is essential in meeting their current and future needs.

4.14.4 Industry stakeholders such as the maritime unions and major participants in coastal shipping such as the Canadian Steamship Line (CSL) have acknowledged that from experience over the first 15 months of operation of the CT Act there are some teething problems in the Act and in the way the Act is therefore administered that is undermining the policy intent to revitalise Australian shipping and to achieve the Object of the CT Act.

4.14.5 The MUA, along with key stakeholders who have, or are, willing to invest in shipping to ensure it is a competitive transport mode in the Australian domestic freight market that largely services Australian manufacturing industry, are concerned to ensure that any changes to the shipping reform package of legislation are developed on the basis of sound economic analysis and the national interest, and do not simply respond to sectional commercial and political interests.

4.14.6 The MUA acknowledges that some of the concerns that have been raised by industry have legitimacy and need to be addressed, while at the same time we acknowledge that the current framework of the CT Act provides no enforceable mechanism to ensure that where volumes of cargo can viably sustain Australian ships, that the owners/operators of those ships have the opportunity to secure those cargoes on commercial terms and make the necessary investment in Australian ships and related shipping infrastructure, that serves the requirements of shippers.

4.14.7 The MUA has commissioned further economic analysis on these issues which we would be willing to share with an independent body, were such a body established, when that analysis is competed.

The Tasmanian Shipping and Ports report prepared by Aurecon of 9 September 2013

4.15 "Being a coastal trade, Bass Strait shipping falls under Australia's cabotage laws meaning only Australian flagged and crewed vessels can operate this trade" (P6).

4.15.1 Again, for the reasons outlined above, this statement is not factually correct.

4,15.2 It seems that each consultant simply accepted the misunderstanding of the previous consultant and repeated the myth, without checking the facts.

4.16 "Bass Strait Shipping is a coastal trade and so falls under the cabotage laws of Australia meaning only Australian flagged and crewed vessels can operate in this trade. The impact on the cost of freight is that the wages and costs for Australian crews are 3 to 6 times higher than rates of international flagged vessels."

4.16.1 Given that the Bass Straight trade is part of the Australian freight market, we think it is unfortunate that the comparison is with international shipping. Rather, as we said earlier, the detailed comparison would have produced a better basis on which to consider policy responses is if the comparisons had been with road and rail for similar distances, freight types and volumes.

4.16.2 Such a comparison would better determine if shipping is an efficient mode in the Australian freight transport market, notwithstanding that both road and rail are Government subsidised transport modes.

5 Other comments on the Aurecon report

5.1 The international comparative data in Figure 2 at P18 shows that Bass Straight freight rates compare favourably with European and NZ freight rates.

5.2 The cost breakdown provided in Table 13 on P15 is instructive, as its shows that capital costs and fuel costs can be as high as 75% of vessel operating costs, with labour costs forming 15% of operational costs.

5.3 The point we have repeatedly sought to make is that the high capital costs of shipping can only be recouped if shipping operators have long term freight contracts that provide certainty of cargo to enable the initial capital investment to be repaid and the servicing of any capital cost to be met.

5.4 The spot market approach of foreign vessel calls operating under Temporary Licenses can never deliver that outcome. This is why the CT Act was designed to support a core, quality Australian flagged fleet, supplemented by the use of international spot market vessels operating under License.

5.5 Getting that balance right and ensuring that vessel operating efficiency is enhanced by maximising ship utilisation rates through aggregation of freight

parcels to minimise ballast legs is the most critical factor in achieving that outcome.

5.6 We would welcome a review of the shipping reform legislation that had that objective in mind, and an appropriate construct based on a full appraisal of commercial considerations that are intended to deliver such an outcome.

5.7 In relation to the shipping reform legislation, we strongly propose that the TFCLT recommend to the Federal Government that it amend the zero corporate tax provisions to provide for:

5.7.1 Introduction of a deemed franking credit or tax exemption in respect of dividends received by resident shareholders from shipping profits which have otherwise been untaxed at the company level as a result of the shipping tax incentives; and

5.7.2 Introduction of a dividend withholding tax exemption of dividends received by non-resident shareholders from shipping profits which have otherwise been untaxed at the company level as a result of the shipping tax incentives.

6. Tasmania's freight system: what the information is telling us

6.1 For all the reasons above we are concerned that the Discussion paper reports that the factors affecting cost on Bass Strait are complex, and include cabotage legislation (*Coastal Trading (Revitalising Australian Shipping) Act 2012*) (P17).

6.2 Our concern is that a focus on this issue might suggest policy solutions that are based on incorrect information and could undermine the credibility of the final report.

6.3 We have no fear of a proper and balanced examination of shipping efficiency and shipping competitiveness, but it must be based on the understanding that the Bass Straight trade is inter-State trade and bound by all Australian laws, particularly labour laws, and this will never change due to the findings of the High Court.