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Newcastle port privatisation: Watchdog says Newcastle container cap a concern

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THE NSW opposition wants a parliamentary inquiry into a secret deal protecting Port Botany’s container terminal from any competition from Newcastle, as revealed on Friday by the Newcastle Herald.

Opposition leader Luke Foley and the state Member for Newcastle, Tim Crakanthorp, said a parliamentary inquiry was needed to determine how and why the government agreed to an arrangement that was so advantageous to Botany and so damaging to Newcastle.

The Greens also want an inquiry, with ports spokesperson Mehreen Faruqi saying it was in the public interest “for the whole truth to come out”.

Federal Labor infrastructure spokesperson Anthony Albanese also weighed in, saying the Baird government had signed a secret deal that was “a clear breach of the public interest”.

Australian Competition and Consumer Commission chairman Rod Sims said the confidential container cap was one of the things he had been alluding to in recent speeches raising concerns about port privatisations.

Despite the growing criticism, the government stuck to its statement from Thursday, which did not directly address the document obtained by the Herald.

“As the government has also consistently said, there is no legislated container cap at the Port of Newcastle and that arrangements do not prohibit the development of a container terminal at the Port of Newcastle,” Treasurer Gladys Berejiklian said.

Mr Crakanthorp said this was a deceptive “non-answer” from the Treasurer because the restriction was not “legislative but contractual”.

The “port commitment” document obtained by the *Herald* confirms Botany was privatised in 2013 under terms that meant Newcastle would have to pay Botany about $1 million a ship if it wanted to handle more than 30,000 containers, or about three ship visits, a year.

The chairman of the Australian Competition and Consumer Commission, Rod Sims, said he was deeply concerned about the cap on Newcastle. Mr Sims declined to say whether or not he was previously aware of the document revealed on Friday by the*Herald*. He confirmed the ACCC "did engage with the NSW government on this issue, however that engagement has to remain fairly confidential".

"We were given access to a fair bit of confidential information but it is fair to say that it's examples like this that have influenced some of our recent statements on privatisation," Mr Sims said.

Canberra analyst Greg Cameron, who said he had raised numerous concerns with the ACCC about the Newcastle and Botany leases, said that while the state government had initiated the deal, he was concerned the ACCC had done nothing about it.

"Under the Competition Act, the State Government is treated differently from a private company," Mr Cameron said.

"The ACCC has to prove to a court that the State Government was carrying on a business for the purposes of the Act at the Port of Newcastle. Only a court can determine if the government’s charge on the Newcastle port operator is lawful and I believe it would be obviously in the public interest for the ACCC to commence legal proceedings."

Mrs Berejiklian said “the terms of the Port Botany transaction are consistent with the NSW Freight and Ports Strategy released in 2013”.

“Given the taxpayer ultimately funds the majority of infrastructure associated with ports such as road and rail, it is vital for the government to have a well-structured strategy that is economically and fiscally responsible,” Ms Berejiklian said.

Mr Albanese said governments should encourage competition in the infrastructure sector to reduce costs for businesses and drive efficiencies – not create artificial obstacles to boost their own incomes.

“I call on Premier Mike Baird to end the secrecy over these arrangements and to get out of the way of economic growth in Newcastle,” Mr Albanese said.

Mike Baird was Treasurer at the time of the Botany privatisation and the *Herald* asked him for comment yesterday but his office said Ms Berejiklian was speaking for the entire government. State parliament resumes on Tuesday.