



Our ref: AA1000646
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Dear Interested party

Port of Townsville and Ors – application for authorisation AA1000646 – interested party consultation

On 12 July 2023, the Australian Competition and Consumer Commission (the **ACCC**) received an application for authorisation from the Port of Townsville Limited (**POTL**) and the Far North Queensland Ports Corporation Limited (**FNQPC**) (jointly, **the Applicants**). This letter is to invite you to comment. You are welcome to pass this letter on to others who may wish to make submissions.

The Applicants are seeking authorisation¹ under the *Competition and Consumer Act 2010* (Cth). Authorisation would give the Applicants legal protection from competition laws to engage in joint procurement processes and, where agreed, joint negotiation and granting of exclusive licences for the provision of harbour towage services for the ports of Cairns, Mourilyan, Lucinda and Townsville (**the Ports**).

The Applicants also propose to require third party users of the Ports to acquire towage services from the exclusive licensee(s). Similar joint procurement process arrangements were authorised by the ACCC in [December 2016](#), and similar exclusive dealing arrangements for the Ports were notified to the ACCC in [May 2016](#). The existing authorisation is due to expire on 30 June 2024.

Authorisation is sought for around 13 years, until 30 June 2036.

A full copy of the application for authorisation is available on the [ACCC's authorisations public register](#).

Interim authorisation

The Applicants have also requested urgent interim authorisation to enable them to undertake the procurement processes, prior to the ACCC's final determination in relation to the substantive application for authorisation.

The Applicants submit that any negotiation and award of towage licence agreements, and in the case of POTL, tug berth licence agreements to the successful Service Provider(s), if entered into before any final authorisation being granted, would be subject to a condition precedent of final authorisation being granted.

Making a submission

The ACCC invites you to make a submission on the application for authorisation. In making your submission, please provide information, evidence and views about the likely public benefits, effects on competition and any other public detriment that you consider will result from the proposed conduct.

¹ For information about Authorisations, please see <https://www.accc.gov.au/business/exemptions/authorisation>

If you intend to provide a submission, please do so by **4 August 2023**. If you wish to request an extension, please contact us on the details below as early as possible. Submissions after the due date (or after any extension granted) may not be taken into account. Submissions in relation to interim authorisation should be provided by **28 July 2023**. Extensions are not normally granted for submissions on interim authorisation.

Submissions should be lodged via the web form accessible on the public register page for this matter. Alternatively, if you would like to provide comments orally, please contact Sam O'Connor via the details at the end of this letter.

Your submission **will** be placed on the ACCC's [authorisations public register on the internet](#) unless you have made a request (with reasons) for us to exclude part or all of the submission from the public register (see [Guidelines for Excluding Information from the Public Register for more information on how to make a request and how we assess requests](#)).

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information, and an up to date version (including any changes) will be posted on the public register.

Indicative date	Stage in assessment process
12 July 2023	Lodgement of application and supporting submission.
18 July 2023	Public consultation process begins.
28 July 2023	Closing date for submissions on interim authorisation.
Early August 2023	ACCC decision regarding interim authorisation.
4 August 2023	Closing date for submissions from interested parties.
August 2023	Applicant responds to issues raised in the public consultation process.
September 2023	Draft determination.
October 2023	Public consultation on draft determination including any conference if called.
November 2023	Final determination.

This letter has been placed on the ACCC's public register. If you have any questions or wish to discuss any aspect of this matter, please do not hesitate to contact Sam O'Connor on 03 9910 9522 or exemptions@acc.gov.au.

Yours sincerely



Gavin Jones
Director
Competition Exemptions