



Our ref: AA1000646
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14 August 2023

Eddie Scuderi
Partner
Corrs Chambers Westgarth

Via email

Dear Mr Scuderi

Port of Townsville and Ors – application for authorisation AA1000646 – Request for information

I refer to the above application for authorisation lodged with the Australian Competition and Consumer Commission (the ACCC) on 12 July 2023.

To assist in its consideration of the application, including the request for interim authorisation, the ACCC requests further information from Port of Townsville and the Far North Queensland Ports Corporation, as set out below.

1. Separately for each of the ports of Townsville, Lucinda, Cairns and Mourilyan, for the past six financial years (commencing 1 July and ending on 30 June) please provide the following data and/or information:
 - a. The types of towage jobs, including the specifications required for tugboats to provide towage services at each port.
 - b. The number of vessel calls and towage jobs. If more than one type of tugboat is required to provide towage services at any of the ports, for example, if larger and more powerful tugboats are required to assist larger vessels but smaller and less powerful tugboats are used to assist smaller vessels, please provide the number of towage jobs at the port by tugboat type.
 - c. Revenue derived by the service provider from the provision of towage services at the port or, if this information is not available to the Applicants, an estimate of revenue derived.
2. Please provide copies of the current towage licences, including any associated documents that would constitute the terms and conditions on which current service providers are licenced to provide towage services, at each the of the ports of Townsville, Lucinda, Cairns and Mourilyan.
3. Please outline the basis on which you estimate in the submission in support of the application for authorisation that:
 - a. upfront capital investment of approximately \$7.5 million is required per tug

- b. total investment of upwards of \$30 million would not be unreasonable to supply towage services to the ports of Cairns and Mourilyan, particularly if submitting a sustainable option, and
 - c. operational expenditure is approximately \$1.3 million per tug each year.
- 4. Please also provide details of the Applicants understanding about:
 - a. the useful working life of the types of tugs required to service the four ports the subject of the application for authorisation
 - b. the resale market for these types of tugs, and
 - c. the extent to which there are any specific requirements for tugs to service the ports the subject of the application for authorisation which mean that such tugs could not be easily used to service other ports.
- 5. Please explain what if any information, other than the 2002 Productivity Commission report noted in section 10.1(b) of the submission in support of the application for authorisation, the Applicants have relied on in forming the view that the low number of towage jobs relative to the minimum number of tug vessels required to establish a towage operation means that each of the Ports the subject of the application for authorisation can only support one service provider in the long term.
- 6. Please provide details of the types of 'more innovative solutions' as described in section 3.7 of the submission in support of the application for authorisation that the Applicants consider that providing exclusive licences for up to 12 years may attract.

We note the Applicants submission, in their 20 July 2023 letter, that if they cannot commence a tender process until the ACCC makes a final determination (potentially November 2023), or if authorisation were denied and the parties needed to individually procure towage services, it is likely that the term of the current licences for towage services at the Ports will expire before new Service Provider(s) for the Ports can be selected and contracted to deliver the required services. In this respect, a decision to grant interim authorisation could cause delays in putting post 30 June 2024 arrangements in place if the ACCC were to deny final authorisation or grant final authorisation on different terms to those sought by the Applicants.

- 7. Please provide details of any steps the Applicants are taking to mitigate this risk if interim authorisation is granted but the ACCC does not grant final authorisation, or grants a final authorisation on different terms, such as for a shorter period than the 13 years sought by the Applicants.

We note that on 2 August 2023 the Applicants provided a response to a submission made by Pacific Tug Group. On 8 August 2023 Pacific Tug Group provided a further submission.

- 8. Please provide a response to Pacific Tug Group's submission that it operates profitably as the holder of a non-exclusive licence at a port with, it submits, a comparable number of movements to the ports the subject of the application for authorisation.

We also invite you to make any other submissions you may wish to make in response to that submission.

The ACCC is seeking a response to these questions by **Friday, 25 August 2023**.

As discussed with you on 11 August 2023, the ACCC will consider the information provided by the Applicants in response to this information request, as well as information obtain through ongoing market inquiries, before making a decision about the Applicants request for interim authorisation.

A copy of this letter will be placed on the public register. Subject to consideration of any request for confidentiality in respect of any information provided by the Applicants, a copy your response will also be placed on the public register.

If you have any questions in relation to this matter, please do not hesitate to contact me on (03) 9290 1475.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G Jones', with a long horizontal flourish extending to the right.

Gavin Jones
Director
Competition Exemptions