

Our reference
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By email: kabita.prasad@acc.gov.au
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Dear Kabita

Response to Svitzer submission – A91545

We refer to your email to us of 30 September 2016 with respect to application for authorisation A91545.

We (Corrs) have been instructed by POTL to respond to your email on behalf of POTL and Far North Queensland Ports Corporation (**FNQPC**) (together, the 'Applicants').

This letter is for the public register.

We respond by reference to the numbered questions in your email.

1 Response to Question 1

- 1.1 You have requested that the Applicants explain their understanding of the commercial reasons for Gladstone Ports Corporation Limited making its decision not to adopt exclusive towage arrangements for the ports at Bundaberg and Rockhampton.
- 1.2 Before we provide the Applicants' understanding we are instructed to note that:
 - (a) this is the Applicants' general understanding only;
 - (b) neither the Applicants, nor any of the interested parties (including Svitzer or Pacific Tug) have, to our client's knowledge, been privy to any confidential reasons for the decisions made by Gladstone Ports Corporation Limited with respect to its decision not to adopt exclusive towage arrangements for the ports at Bundaberg and Rockhampton; and
 - (c) the ACCC may, as part of the authorisation process, approach Gladstone Ports Corporation Limited for information about that decision.

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- 1.3 The Applicants understanding is that the decision to permit non-exclusive arrangements at the ports of Bundaberg and Rockhampton was due to the following factors specific to those ports:
- (a) the ports of Bundaberg and Rockhampton are predominantly used to export sugar (very little trade in other bulk goods takes place to or from those ports like it does from the Port of Gladstone);
 - (b) for the relevant period only one customer, Queensland Sugar Limited, used those ports to ship sugar;
 - (c) there is a huge disparity between the number of ship movements per year for the ports of Bundaberg and Rockhampton when compared to the number of visits per year at the Port of Gladstone (for example, for the period July 2012 to June 2013, the number of piloted ship movements for Bundaberg totalled just 32 while the number of piloted ship movements in the same period for the Port of Gladstone totalled 3,297.¹
- 1.4 Given the above, the Applicants understand that, due to the disparity in the number of ship movements and the sole customer nature of the ports of Bundaberg and Rockhampton, a decision was made to remove any actual or perceived cross-subsidisation of towage costs between the Port of Gladstone on the one hand and the ports of Bundaberg and Rockhampton on the other.
- 1.5 In effect, the Applicants understand that the sole customer of those ports, Queensland Sugar Limited, was informed that it would be required to arrange its own towage services on an 'as needed' basis going forward rather than have the port operator (Gladstone Ports Corporation Limited) procure guaranteed towage services for Queensland Sugar Limited. To enable this, a non-exclusive licence arrangement was implemented for those two ports.
- 1.6 The Applicants understand that the decision of Port of Gladstone to permit non-exclusive licences for the ports of Bundaberg and Rockhampton was driven by logical commercial and operational reasons, rather than competition reasons.
- 1.7 The Applicants also wish to point out that the characteristics of the ports of Bundaberg and Rockhampton are not equivalent to those of any of the four ports that are the subject of application A91545. A range of specific factors relevant to each of those ports and their relationship to each other need to be taken into account in determining the procurement arrangement that will achieve the most effective, competitive and efficient towage operations. The Applicants have taken those factors into account in deciding to adopt a competitive tender process that offers the certainty and stability of exclusive licences.

¹ See attached report titled 'Queensland Ship Movements Monthly Status Report – June 2013', section 7.1 and 7.2 'Year to Date information – July to June' and row titled 'No of Piloted: Total'. A similar disparity exists for the 2008, 2009, 2010, 2011 and 2012 financial years.

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2 Response to Question 2

2.1 As requested, we are instructed that the up-to-date tug job figures for each of the four ports is as follows (some figures are to be confirmed and will be provided as soon as they are made available to the Applicants):

	2013/2014	2014/2015	2015/2016
Townsville	2243	2228	2199
Cairns	553	530	TBC
Mourilyan	66	44	TBC
Lucinda	40	31	TBC
Mud Barging (Cairns)	79	172	TBC

3 Conclusion

3.1 Thank you for the opportunity to provide the Commission with more information to support application A91545.

3.2 Please feel free to contact us to discuss this letter or request further information.

Yours faithfully

Corrs Chambers Westgarth



Eddie Scuderi
Partner