



Our ref: 60424
Contact officer: Kabita Prasad
Contact phone: (02) 6243 1187

23 Marcus Clarke Street
Canberra ACT 2601

GPO Box 3131
Canberra ACT 2601

tel: (02) 6243 1111

fax: (02) 6243 1199

adjudication@acc.gov.au

www.acc.gov.au

9 December 2016

Dear Interested Parties

**Port of Townsville Limited and Far North Queensland Ports Corporation Limited:
Application for authorisation A91545 - Final determination and
Notifications N99117 and N99118 – Statement of Reasons**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the application for authorisation lodged by Port of Townsville Limited and Far North Queensland Ports Corporation Limited (the Applicants) on 8 July 2016. The ACCC has also issued a Statement of Reasons in respect of notifications lodged by the Applicants on 25 May 2016.

Authorisation A91545 – final determination

The Applicants sought authorisation to jointly conduct a tender process to procure towage services for the ports of Cairns, Mourilyan, Lucinda and Townsville (the Ports)

A copy of the ACCC's determination is attached, including a summary of its reasons. For the reasons set out in its determination, the ACCC has decided to grant authorisation until 30 June 2024. The ACCC's assessment is set out at paragraphs 69 - 95 of its determination.

Pursuant to section 101 of the *Competition and Consumer Act 2010*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 30 December 2016. If no application to review is lodged by this date, the ACCC's determination will come into force on 31 December 2016.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

Notifications N99117 and N99118

The Applicants lodged notifications seeking statutory protection for any third line forcing conduct that might arise from providing access to the Ports on condition that port users requiring towage services acquire those services from the holder of an exclusive licence (or licences) issued by the Applicants.

The ACCC has considered all submissions received in relation to the notifications and for the reasons set out in the attached Statement of Reasons, the ACCC is not proposing to take any further action on these notifications at this time.

As with any notification, the ACCC may revoke these third line forcing notifications at any time if it is satisfied that the likely benefit to the public will not outweigh the likely detriment to the public from the conduct.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of these matters please do not hesitate to contact Kabita Prasad on (02) 6243 1187.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Hatfield'.

David Hatfield
Director
Adjudication Branch