

22 July 2016

Director
Adjudication Branch
Australian Competition and Consumer Commission
Canberra ACT 2601

Your ref: 60424

By email: adjudication@acc.gov.au

Dear Sir / Madam

Interim authorisation: A91545 – Port of Townsville – Submission

We refer to the ACCC's 13 July 2016 interested party consultation on the abovementioned application.

We welcome the opportunity to make a submission in relation to the interim authorisation.

In summary, for the reasons described below, we are not supportive of the interim application proceeding in its current form.

Approval of the interim application will facilitate release and evaluation of the proposed Request for Tender (RFT). The proposed structure of the RFT will demonstrably diminish competition and remove some of the potential public benefits.

For the sake of clarity, we recognise the logic of a jointly conducted tender process between Port of Townsville and Ports North. However, two of the service alternatives proposed in the application, should be removed from the proposed Request for Tender.

Specifically, the application is predicated on the fundamental assumption that the ports are of "low levels of demand, lumpy investments and economies of scale", in line with the recommendations from Productivity Commission Report No. 24, 20 August 2002. While this underlying assumption is applicable to the ports of Lucinda, Mourilyan and Cairns, it is not applicable to Townsville. Consequently, inclusion of service options 'a¹' and 'd²' in the proposed Request for Tender, will significantly weaken competition tensions and remove a number of the key, potential public benefits. These aspects are described in some detail below.

We believe there is clear evidence to support the interim application proceeding if the proposed Request for Tender only includes service options 'b' and 'c', described in the application as:

b) *Two separate towage licences for:*

- *Ports of Cairns, Mourilyan and Lucinda*
- *Port of Townsville*

¹ a) *Two separate exclusive towage licences for:*

- *Ports of Cairns and Mourilyan; and*
- *Ports of Townsville and Lucinda*

² d) *One exclusive licence for the Ports of Cairns, Mourilyan, Lucinda and Townsville*

c) Three separate exclusive towage licences for:

- Ports of Mourilyan and Lucinda;
- Port of Cairns; and
- Port of Townsville.

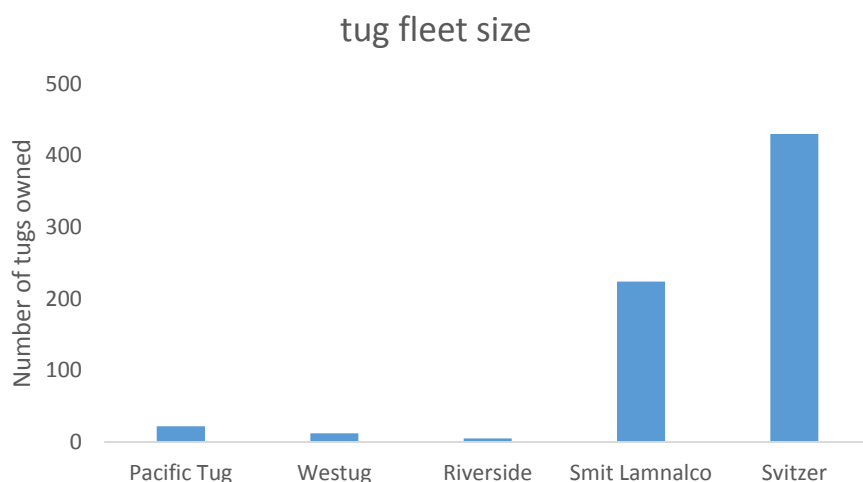
Townsville is a high-volume port while Lucinda, Mourilyan and Cairns are low-volume ports. The licencing for Townsville should be independent.

As a final point to this summary, we feel it is prudent to note that we are very happy to compete in the ports that are the subject of this application, in a *non-exclusive licencing format*, as is the format for most ports in Australia.

Public benefits claims

1. Combining the service of a high-volume port (Townsville) with low-volume ports (Cairns, Lucinda and Mourilyan) unwinds the claimed public benefits.

- The recommendations of Productivity Commission Report No. 24, 20 August 2002 apply specifically to “low levels of demand, lumpy investments and economies of scale”. The towage service requirement of Townsville is 50-fold that of Mourilyan and Lucinda combined and 9-fold that of Cairns. Based on shipping projections, Townsville will soon exceed Cairns’ towage requirements by more than 10-fold.
- The implication of combining service options for Townsville with the other ports is to exclude most towage providers in the market, with the exception of the two multi-national, European-based companies, which are also the incumbent providers (Svitzer and Smit Lamnalco). In effect, combining Townsville with any of the other low-volume ports in the proposed Request for Tender service options, is likely to ensure that the incumbent providers will continue as the future providers. Some key points relating to the economic rationale for this likely outcome are described below.
- The asset investment required to deliver service in Townsville exceeds \$25 million (this is consistent with claims by the incumbent service provider in 2015, refer Attachment A). The asset investment for each of the other three ports is estimated at between \$4 million and \$5 million and therefore a level of investment that is within reach for all of the market providers. As is demonstrated by the chart below, combining Townsville with any of the other ports provides an insurmountable competitive advantage to the two multi-national companies that are the incumbents and have very large fleets from which to draw from. These two companies combined, control 91% of the Australian harbour towage market³. Combining the towage service of Townsville with any of the other three ports will consolidate this clear market dominance.



³ Calculation based on published Australian ports trade statistics, as serviced by corresponding port towage providers.

2. The application claims benefits that are inconsistent with market evidence and our experience

- **Claim 1: Improved purchasing power**

The proposed RFT structure will reduce competition, rather than increase, as is claimed by the applicant in Form A. The application argues that simply increasing the number of ports available will increase competition. As demonstrated above, the number of ports available is inconsequential to competition effects. The characteristics of the service required to be delivered in each port is the factor that determines competition. In the case of this application, the characteristics of Townsville are distinct from those of Cairns, Lucinda and Mourilyan. The table that most clearly demonstrates this important difference is presented by the applicant in Section 3(b) of the Form G, Notification of Exclusive Dealing. The service characteristics of Townsville are 50-times greater than Lucinda and Mourilyan and almost 10-times greater than Cairns.

- **Claim 2: Reducing barriers-to-entry for smaller towage service providers**

Coupling Townsville with any of the low-volume ports (Cairns, Lucinda or Mourilyan) will increase the barriers-to-entry for smaller towage service providers. While the points described above provide evidence for this, below is a short commentary that presents the specific outcomes for port customers and the local communities, if the RFT is not modified to address the Townsville licence independently.

We agree with the applicant's view that:

"Smaller towage providers are also more likely to be able to offer more flexible crew rosters. This will provide substantial cost benefits in low-volume ports such as Cairns, Lucinda and Mourilyan and in situations where tug vessels have low utilisation rates."

This is why it is important that the RFT structure is modified to ensure that Townsville is not coupled with the three low-volume ports. The effect of offering options that allow the coupling of the Townsville licence with any of the others, provides a direct competitive advantage to the multi-national incumbent providers.

By offering the proposed RFT options 'a' and 'd', the towage service at the low-volume ports can be used to subsidise the cost of towage in Townsville. While this is likely to produce a more attractive towage service for the customers of Townsville, it will be achieved at the expense of the customers of the low-volume ports (Cairns, Lucinda and Mourilyan). The primary customer of these smaller ports is Queensland Sugar Limited. Thus, the impact of coupling Townsville with small-volume ports is exacerbated as the effects are concentrated on a major customer. In this case, the customer, Queensland Sugar Limited, is a long-term (since 1923) employer of local people and represents more than 4000 farmers, across the coastal region of northern Queensland, where these ports are located.

- **Claim 3: Improved marine safety and redundancy between Ports**

There is no evidence to support the claim that safety and redundancy will be improved through the proposed RFT structure.

The points raised by the applicant in this regard are fundamental requirements of towage service in ports throughout Australia. Therefore, we consider this a moot point, as it can be assumed, regardless of the structure of the RFT.

Pacific Tug provides towage service in ports and has tendered for service in other ports around Australia, and back-up availability and emergency response capacity are normal service requirements. All potential applicants for the proposed RFT would understand these basic expectations and normal management systems will account for the provision of redundancy and achievement of the highest safety standards.

- **Claim 4: More efficient use of tug vessel fleet**

The application states: “By combining the four Ports in the one tender, sharing of tugs vessels between the Ports can be achieved.” There is only one option in the proposed RFT that combines the four ports – option ‘d’.

The applicant’s comments in regard to this point are concerning and may be interpreted as a preference toward one of the options in the proposed RFT structure. This option (‘d’) is the one that would be most damaging to competition as it is the option that is most favourable to the incumbent multi-national providers and least accessible to the other towage market providers. The applicant’s perceived preference for this option has been a troubling point of discussion among the Australian-based towage providers in market.

Importantly, sharing and coordination of vessels between the Ports is only of relevance to the low-volume ports, as this provides direct cost efficiencies, from which the ports and their customers would benefit. Due to the high-volume nature of Townsville, there is no cost-efficiency gain to be achieved through sharing of vessels with the low-volume ports. The strongest and clearest evidence of this economic reality is the current structure of vessel sharing between the Ports. Sharing and coordination occurs between the low-volume ports, which are currently serviced by Svitzer. Townsville is serviced independently by Smit Lamnalco. The size of vessels visiting Townsville demands dedicated, primary tugs of greater capacity, than those required in the low-volume ports. There are no cost-efficiencies to be gained by using high-capacity tugs in low-volume ports with smaller ships.

Yours sincerely



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PORT of TOWNSVILLE

MEDIA RELEASE

Tuesday 10 March 2015

New face in towage lands Port of Townsville tug contract extension

Port of Townsville Limited (POTL) today confirmed an extension of its tug boat contractor's licence to service the Townsville port until July 2017.

Tug Boat operator PB Towage has operated two tugs in Townsville since winning the initial contract in 2010, and has completed more than 2,000 vessel manoeuvres at the port.

The company invested more than \$20 million to safely assist shipping movements and provide regional inner reef emergency response and salvage capability.

The contract extension coincides with the recent acquisition of PB Towage by leading international marine services operator, Smit Lamnalco.

Port of Townsville CEO, Raneë Crosby welcomed Smit Lamnalco to the Townsville market.

"Smit Lamnalco's investment into the marine towage business in Australia, including this significant contract in Townsville, is a sign of confidence in growth opportunities for the maritime sector.

"We are very pleased to award this contract extension to world class operator Smith Lamnalco, as they continue to enhance growth and efficiencies at the Port of Townsville."

With over 220 tugs and almost 3,000 people working across 20 countries, Smit Lamnalco specialises on towage and other marine services to the oil, gas and mining sectors, including operations at the ports of Brisbane, Gladstone, Mackay and Weipa in Queensland.

Rotterdam-based Smit Lamnalco CEO Daan Koornneef, who is in Townsville this week, said that the acquisition was a great step for Smit Lamnalco.

"We are excited by the acquisition of PB Towage; a company that shares the same safety, quality and customer focused values as our business," he said.

"We look forward to offering continued professional service to our customers, including the Port of Townsville."

Smit Lamnalco Towage Australia Managing Director, Tony Cousins said that the extension of the contract with POTL was a reflection of the good work done so far.

"This contract extension is very welcome reward to our crews in Townsville who have done a great job self-managing the provision of a safe, reliable and efficient tug service. We look forward to continuing our excellent relationship with the Port of Townsville management team and other members of the local port community".

Smit Lamnalco directly employs more than 25 people in the Townsville operation, mainly tug crews.

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