

**NOTICE OF LODGMENT**  
**AUSTRALIAN COMPETITION TRIBUNAL**

This document was lodged electronically in the AUSTRALIAN COMPETITION TRIBUNAL on 04/04/2016 4:13 pm AEST and has been accepted for lodgment under the Interim Practice Direction dated 21 August 2015. Filing details follow and important additional information about these are set out below.

**Lodgment and Details**

Document Lodged: APP –Statement of Loui Kannikoski

File Number: ACT 2 of 2016

File Title: Application by Sea Swift Pty Ltd under s 95AU of the *Competition and Consumer Act 2010* (Cth) for an authorisation under s 95AT(1) to acquire shares in the capital of a body corporate or to acquire assets of another person

Registry: NEW SOUTH WALES – AUSTRALIAN COMPETITION TRIBUNAL

Dated: 04/04/2016 4:13 pm AEST



A handwritten signature in blue ink, consisting of a stylized 'S' followed by a '4'.

Deputy Registrar

**Important Information**

As required by the Interim Practice Direction dated 21 August 2015, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Tribunal. Under the Tribunal's Interim Practice Direction the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4:30 pm local time at that Registry) or otherwise the next working day for that Registry.



IN THE AUSTRALIAN COMPETITION TRIBUNAL

**Statement**

No. of 2015

**Sea Swift Pty Limited**

**Proposed acquisition of certain assets of Toll Marine Logistics Australia's marine freight operations in the Northern Territory and Far North Queensland**

Statement of: **Loui Kannikoski**

Address: 154 Connell Road, Fisherman's Wharf, Geraldton, Western Australia

Occupation: Managing Director, Bhagwan Marine

Date: 29 September 2015

I, Loui Kannikoski, Managing Director, Bhagwan Marine, of 154 Connell Road, Fisherman's Wharf, Geraldton, in the State of Western Australia, say that:

1. I am the Managing Director of Bhagwan Marine. Bhagwan Marine is a marine vessel operator primarily servicing the oil and gas, and resources industries and is based in Darwin.
2. I established Bhagwan Marine in 1998 as a family run and family owned business which operated a single vessel.
3. In 2012, a private equity company, Catalyst Investment Managers, acquired approximately 30% of Bhagwan Marine. I continue to hold a majority share in Bhagwan Marine.
4. Bhagwan Marine principally services the oil and gas industry primarily taking on project freight work as well as intervention and maintenance work offshore, which involves servicing platforms, pipelines and other marine infrastructure.
5. Bhagwan Marine commenced out of Geraldton, Western Australia and continues to be based in Geraldton. Bhagwan has expanded its operations over time to service off shore oil and gas industry work out of other ports in Australia.

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6. Bhagwan Marine commenced operations out of Darwin approximately three years ago, when Bhagwan Marine acquired Workboats Northern Australia (**WBNA**) in the Northern Territory. WBNA services included marine construction project support, marine maintenance and repair tasks, workboat and barge charter, marine manning, logistical support for marine construction, mooring capability, logistics and marine platform support, vessel suitability and brokerage.

#### **Bhagwan Marine's fleet**

7. Bhagwan Marine currently operates over 130 vessels in Australia and owns a company in the United Kingdom which operates another 30 vessels. The majority of Bhagwan Marine's vessels are construction based vessels, tug and towing vessels and utility vessels purpose-built for the oil and gas, and resources industries.
8. Bhagwan Marine's landing barges were purchased for and purpose-built to make deliveries to Barrow Island for Chevron's Gorgon Project, which is a project to develop the Gorgon and Jansz-lo gas fields off the northwest coast of Western Australia.
9. The landing barges were commissioned for these projects and were customised for two main reasons:
  - (a) the requirements for freight deliveries to Barrow Island are specialised. For example, it requires the barges to have bow angles which are able to deliver to ramps built at an angle of 8 degrees; and
  - (b) Chevron's specifications for its contracted marine vessels are much higher than the general cargo requirements. For example, Chevron requires better crew facilities such as ensuites for every cabin.
10. Bhagwan Marine's specialised barges differ from ordinary barges only in relation to quality of build. They are otherwise have the same capacity as standard barges.
11. I estimate that each barge is worth approximately \$6-9 million due to their high quality specifications. Bhagwan Marine acquired boats with those specifications only because of the requirements of Chevron – these specifications are not necessary for the purposes of the shipping of general cargo.
12. Bhagwan Marine invested a significant amount of money in this customisation because they had expected or hoped to hold the Gorgon Project contract for the long term. However, Bhagwan Marine no longer holds the contract for freight delivery for Chevron's Gorgon Project. In 2014, Bhagwan Marine lost this contract to Toll.

13. In June 2015, Bhagwan Marine sold the *MDT Trading* to Barge Express.
14. Bhagwan Marine currently operates landing 4 barges in its fleet. Bhagwan Marine's landing barges are currently utilised as follows:
  - (a) Two of its barges are contracted to Chevron until the end of 2015 for the Gorgon Project.
  - (b) A third barge is on long term contract to Quadrant Energy in Western Australia until 2020.
  - (c) The fourth barge is used for spot contract freight deliveries out of Darwin. This has included some work for Toll who have occasionally contracted it for their needs. I am not aware of what Toll is using the Bhagwan Marine barge for.
15. At the end of 2015, Bhagwan Marine will effectively have three barges which I will be looking to utilise somewhere.

#### **Coastal and community freight services**

16. Bhagwan Marine has access to landing barges and the expertise to provide a coastal community landing barge freight service if we wished to do so. We have not done so because Bhagwan Marine is principally focussed on serving oil and gas industry work.
17. I am familiar with what is required to operate a coastal community freight service, which is principally like a road based freight service for food products, fuel and other community needs, but by sea.
18. Approximately 3 years ago (just prior to Sea Swift being acquired by CHAMP Ventures), I was involved in investigating whether Bhagwan Marine should commence its own barge business by acquiring Sea Swift but this did not progress far. Bhagwan Marine decided not to proceed with a possible acquisition, because I considered the business was a hard business to operate and would not integrate with our existing operations. In particular, I noted that:
  - (a) Bhagwan Marine's current operations do not require it to get involved in any pre-staging or consolidation of the freight, which a landing barge freight service would require;
  - (b) there would be potential labour issues (as the workforces have different union membership and EBA arrangements); and

- (c) the margins for the business were low and not as attractive as the margins that could be achieved from offshore oil and gas industry work.
19. The large coastal freight operators, such as Sea Swift and Toll have invested in the infrastructure to support a reliable coastal freight service, including having access to replacement vessels to ensure continuity of service in the event of a breakdown, and landside facilities for receiving and consolidating freight. A fleet of landing barges is particularly important for providing a service to remote communities as those communities are dependent on having a regular service which reliably turns up when scheduled so they can continue to receive their basic requirements for food, fuel and other daily items.
20. I am aware of a few smaller operators who could expand their operations given the right opportunity and are always snapping at the heels of the bigger operators, like Sea Swift and Toll. Out of Darwin, these smaller landing barge operators are:
- (a) Sealink Barge Transport;
  - (b) Northline;
  - (c) Shore Barge;
  - (d) Ezion Holdings, which operates barge services to the Tiwi Islands principally to support its businesses on the Islands.
21. For any of these small operators to provide a coastal service in competition with Sea Swift and Toll would require them to invest in facilities to set up a staging operation, meaning land based supply and facilities such as depots. Given the right incentives, I consider that any of these operators could enter to compete in relation to barge operations.
22. For small communities, there is only likely to be business sufficient for a single operator. For larger townships (such as Nhulunbuy) or mining operations, there may be more opportunities for smaller operators, particularly as customers of freight services will always look for better and cheaper ways get their freight delivered.
23. Bhagwan Marine is currently competing for contracted freight services with a single vessel because that vessel is not currently under contract or utilised elsewhere.
- (a) Bhagwan Marine competes with Sea Swift in Darwin for tenders for short term contracted freight services. A typical duration of these contract is a week or two. I

am not aware of any longer term contracts for freight services in the Northern Territory.

(b) Bhagwan Marine also competes with a company called Broadsword Marine Contractors which operates out of Darwin. Broadsword Marine Contractors is a much smaller company than Bhagwan Marine.

24. Toll and Sea Swift also compete for this type of work.

25. However, I am considering how Bhagwan Marine's barges will be utilised once they are off their existing contracts and become available. There are two main options:

(a) charter out the barges to a marine freight operator; or

(b) sell the barges to a marine freight operator.

26. Bhagwan Marine is unlikely to commence a landing barge community freight business in either the Northern Territory or Queensland for the following reasons:

(a) the margins are low;

(b) freight delivery is not a core business for Bhagwan Marine;

(c) Bhagwan Marine's target area is the North West Shelf and the West Coast of Australia, not the Northern Territory or Queensland, because there are higher margins in work in that location and there are also more opportunities for work.

27. Further, while Bhagwan Marine has a waterside site for its vessels in Darwin, it has not invested in the infrastructure for a consolidated community freight business. That infrastructure would include pre-staging, depots and other infrastructure in order to load and unload the freight on the barges.

28. I have not given the operation of a community barge business any serious thought. The business is already well supported with Sea Swift and Toll operating.

29. However, if Bhagwan Marine retains the barges after 2015, it is likely to continue competing for the contract work described above.

30. Bhagwan Marine has a base in Brisbane and carries out wharf construction and dredging in that area. It does not have any barges in Queensland to carry out the cargo work that I have described above.

## Response to Toll exit

31. Bhagwan Marine would not be interested in buying Toll's assets if it exited, because that would require a commitment from Bhagwan Marine to commence a barge business. For the reasons given above, that is not our current strategy.
32. Bhagwan Marine would not start up a regular coastal and remote island community service operation in response to Toll's exit, for the reasons set out above and because those communities will be well served by Sea Swift.
33. Bhagwan Marine may be interested in competing for longer term larger contract work, such as a tender for fuel delivery or for sea freight for a mining operator or supermarket chain. This is particularly the case if Bhagwan Marine had barges which were not being utilised elsewhere.
34. Otherwise, unless Sea Swift were to provide a poor service or charge high prices and customers were looking for an alternative, Bhagwan Marine is unlikely to look at starting a community barge service. Even then, it is more likely that other smaller operators would be more likely to respond to that opportunity than Bhagwan Marine.
35. The market for freight services in Northern Territory is competitive and there will always be operators who will keep an eye on opportunities to enter, for example, Sealink and Shore Barge which are operating in that market at the moment. If Sea Swift raises prices and doesn't provide good service, then the customers, particularly larger customers, would look elsewhere and there will be operators who will look to take up the opportunity.
36. I consider that there are likely to be such operators competing for freight work in Northern Territory or Far North Queensland, irrespective of what Toll and Sea Swift do. This transaction would not change anything. In fact, I consider if Sea Swift acquired Toll, this may open the door for other smaller operators.

  
Signature of witness

Loui Kannikoski, Managing Director, Bhagwan Marine