

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 Greg Williams

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. ACT 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: Greg Williams

Address: 15 Iraci Ave, Weipa, Queensland

Occupation: CEO, Director and Operations Manager of North Queensland Civil Engineering Contracting

Date: 15 September 2015

I, Greg Williams, CEO, North Queensland Civil Engineering Contracting, of 15 Iraci Ave Weipa, in the State of Queensland, say that:

- 1 I am the founder, CEO, Director and Operations Manager of North Queensland Civil Engineering Contracting (NQCEC), a civil contracting and civil works construction company based in Weipa.
2 NQCEC was established in 1980 and was incorporated in 1982. NQCEC undertakes a diverse range of civil construction projects in locations from Central Queensland through North Queensland and into the Far Northern Gulf and Cape York Peninsular regions, servicing clients from the private sector, mining industries, and local and state government authorities.
3 NQCEC has offices in both Weipa and Mareeba but has shifted its main base of operations to Weipa. NQCEC currently employs between 20 and 60 people and performs about \$12 million of work a year in North Queensland out of Weipa. There is still 1

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employee at the Mareeba base. The shift in focus to Weipa was because of the mining project work in that region.

- 4 NQCEC has always targeted work in remote areas because of the margin to be gained, and so has a lot of experience in organising logistics into remote areas, including chartering boats, planes and trucks.

NQCEC's requirements for freight

- 5 For its project work, NQCEC requires sea or road freight for civil works material, supplies and equipment, as well as support infrastructure such as whole accommodation units for the construction camp, and groceries and other goods for construction crews.
- 6 NQCEC currently requires freight to be transported predominantly from Cairns to Weipa but with a small amount of freight delivered from Townsville to Cairns. NQCEC's requirements for freight fluctuate with whatever work we are doing. NQCEC has previously had contracts in various locations across the Cape and Thursday Islands, but has recently localised its contracting in and around Weipa. For example, NQCEC is currently bidding on the Rio Tinto South of Embley bauxite mine project, which is just south of Weipa. NQCEC would consider tendering for work outside across the North Queensland and the Thursday Islands if it was a significant enough contract.
- 7 Historically, freight by road was difficult. The roads to Weipa used to be very rough, and it was expensive to get goods delivered and it would take a long time to be delivered. Approximately 2 years ago, I recall Sea Swift would offer a deal to companies like NQCEC to contract for their requirements at approximately the same price as road freight.
- 8 Over the past 5 years, the roads have improved dramatically with more creek crossings and better conditions of the roads, so that it is significantly cheaper to have goods freighted by road than by sea. This also means that in the wet season, the road is not usable for a shorter amount of time. Previously, the roads were out for about 4 months. Now, the figure is around 2-3 months. I expect continued improvements over time in particular in relation to the main road between Mareeba and Weipa, the Peninsular Development Road (**PDR**). There has been a significant spend of Federal Government and State Government money on improvements to the PDR, which has been directed to not just improving general dry season capacity, but also limiting the periods of wet season isolation. I would expect that this road will be 90% flood free within 5 to 6 years' time, and it will improve the flood precinct to the point where there are only short periods of flood isolation, which may be only weeks in total across the year. In time, the road may be

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sufficiently flood free, that I may be able to schedule my freight deliveries so as not to need sea freight for my requirements at all.

- 9 Now it is significantly cheaper to have freight delivered by road, where that is an option, than by sea. For example, my business partner at NQCEC recently got a quote for delivery of a couple of semi-trailer loads of concrete pipes from Cairns for delivery to Weipa from Sea Swift and a quote from Dent's Transport, who do road freight. Dent's Transport's price was well below what Sea Swift's price was. Twelve months ago, this was not the case, rather Sea Swift had a more competitive rate. However, currently Sea Swift is not competitive on price with road transport. I compare road freight and sea freight prices from time to time, but recently, road freight has always been cheaper.
- 10 Additionally, road transport has the benefit of coming straight into the job site. Getting goods by sea freight requires the company to load and unload the barge / boat onto a truck to deliver to the site, and so goods tend to take longer to deliver.
- 11 Timing is also a factor. Typically, road freight can be booked right away. For sea freight, a longer time is required to provide notice to the sea freight company and there is a lead time between delivery of the goods in Cairns and the loading of the goods onto the boat.
- 12 In addition, if a boat gets full, perishables get priority for the regular sea freight services, and other freight is delivered on a "first in, best dressed" basis. If the ship is full, there is potential for NQCEC's freight to wait for the next shipment, which causes additional delay. It is unusual for this to be a significant or ongoing problem though.
- 13 My choice as to whether to use road freight or sea freight is essentially driven by price. I consider the only advantage that sea freight has over road freight is in the wet season, but in my business, NQCEC does not do much work in the wet season. I do not need to rely on sea freight much now even in the wet season, except if a client requires a job to be done in the wet season, or if I take on a job in another area which is not accessible by road.
- 14 During the dry season in North Queensland, we predominantly use road transport for our freight requirements. During the dry season approximately 90% of NQCEC's freight requirements are met by road transport. Approximately 10% of NQCEC's requirements come by sea.
- 15 In general, in the wet season, there is much less work that can be done. NQCEC's staff at Weipa goes from around 30-60 people to about 12 people. For this reason, NQCEC's



freight requirements are lower. However, during this time, all freight that is required must come by sea.

- 16 When we do use sea freight, the types of goods that NQCEC has delivered by sea freight are predominantly large civil works equipment, as well as some perishable products both dry products and refrigerator / chiller products (like meat) and fragile freight.
- 17 NQCEC also requires fuel and for many projects it also requires hot bitumen for use in roads and paving which are delivered into Weipa by sea freight, however NQCEC does not arrange the freight.
- (a) There are generally two options available to NQCEC in relation to fuel – to buy it off a local supplier as we do, or to purchase fuel from Sea Swift. Currently we purchase fuel from a local supplier who has their requirements delivered by Shell from Singapore to Weipa once a month on Shell's own ship. NQCEC does not obtain fuel from Sea Swift because Sea Swift does not have a formal fuel delivery system to Weipa, so it would require NQCEC having a transportation system to get the fuel from the barge to our facilities. Our requirements are delivered by a local supplier in a 20,000L mobile storage tanker, as opposed to Sea Swift, which delivers 60,000L that NQCEC would then need to store in its own bunded facility.
- (b) NQCEC subcontracts the supply and spraying of hot bitumen to specialised bitumen companies which cart and spray bitumen, for example, Boral. The bitumen company will arrange for the delivery of hot bitumen in a specialised tanker by sea freight to Weipa (or other site where the works are located). All transportation requirements for the bitumen to be delivered to me are taken care of by the subcontractor.
- 18 I would expect that the development of the South of Embley mine is likely to involve a large demand for sea freight due to the location of the mine. NQCEC is currently bidding for civil construction works for the mine. The South of Embley mine is only about 30 km south of Weipa. The means of accessing the mine is difficult as there is a river (the Embley River) between Weipa and the mine and there is no bridge. Otherwise, by road it is 200 km from Weipa and can take up to 10 hours to get equipment there by truck given the bad condition of the road. To bring in equipment and materials to develop the mine, a facility is being built at Weipa for a roll-on, roll-off ferry service from Weipa with a landing site about 4 kilometres up the river on the south side of the river. This landing site will connect to about 20 km of road to the South of Embley mine. Sea freight will be able to either come into Weipa and be transported across the river on the roll-on, roll-off ferry or



be transported direct to the landing site on the south side of the river. There are any number of companies which will be able to operate a dedicated landing barge service into Weipa and then use the roll-on, roll-off ferry or to go directly to the landing site on the river to transport equipment and materials to the mine.

Current arrangements for sea freight delivery

- 19 NQCEC uses Sea Swift's regular services for its sea freight requirements on an ad hoc basis. Sea Swift delivers to Weipa twice a week. NQCEC has never chartered a vessel from Sea Swift.
- 20 For small amounts of sea freight, I ask Sea Swift for a quote. I understand that the quote provided is from Sea Swift's usual schedule of rates for all customers.
- 21 For larger freight requirements that come up on an ad hoc basis, I contact Sea Swift directly and ask for a quote on that freight. I negotiate the rate with Sea Swift and in that negotiation, I may refer to rates for the same service which have been quoted to me by road service providers, for example Dent's Transport or Hawkins Transport. I do not always seek rates from other providers.
- 22 Sea Swift provide a good service to NQCEC and for my normal freight volumes, I have never seriously tested the market outside of that to see what rates other customers are getting and what other rates are available on regular services. Given the small amount of freight that I have needed to ship in recent times, I think it is likely that the rates between companies would be similar. Large discounts only come about with large volumes of freight.
- 23 Sea Swift has a representative who regularly checks in with NQCEC to see if our requirements are being met and whether we are satisfied with the service. This level of service is important to NQCEC.

Sea Swift's competitors

- 24 For freight between Weipa and Cairns, I only use either Sea Swift or road transport.
- 25 I have a history of dealing with Sea Swift and I operate on the basis that I will look after the people who look after us. It is for this reason that my main comparison of prices is between Sea Swift and road transport, rather than sourcing a range of prices from other sea freight companies.

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- 26 I have continued to use Sea Swift because if the price is better than road freight, Sea Swift provide a very good service and they are efficient.
- 27 A number of years ago, I did business with Perkins Shipping (which is now Toll Marine) not just in Weipa, but also in the Port of Karumba. At that time, I don't think Sea Swift was operating.
- 28 I have also arranged my own freight in the past. If I required a large amount of cargo to be taken elsewhere (for example, if NQCEC were carrying out a project in Bamaga, Cape York or Lockhart), I would look into organising my own charter service to coordinate that freight. I have done this before and I am familiar with the process.
- 29 For example, in the late 1990s, NQCEC had a major project on Mornington Island in the Gulf of Carpentaria, Queensland involving major civil upgrades of the township, Gununa. The project lasted for approximately 5 years and required approximately 10,000-15,000 tonnes of goods to be freighted. The only method of access to the township was air or barge.
- 30 At that time, I found that I was not being looked after by Gulf Freight (later, acquired by Perkins) which was the only supplier of scheduled sea freight services in North Queensland. I chartered from Endeavour Shipping their own barges which would carry 1,600 tonnes for the duration of the project.
- 31 In this way, there are options available to any customer with sufficient load to source their own landing barges or tugs and dumb barges to carry freight for themselves if they do not consider the scheduled service operators are giving them a good enough deal. There are plenty of companies which offer that service. Examples include Carpentaria Sea Freight and Endeavour Shipping.
- 32 In the example of the Mornington Island project, one of the main reasons NQCEC decided to charter its own freight was because it was economical to do so, given the size of the project. Additionally, it allowed us to organise logistics more effectively because we had control over the schedule.

Toll exit and service disruptions

- 33 I am not concerned if Sea Swift were to acquire Toll. I have never been held to ransom by any freight service and there are ways of getting around it. I do not think the bigger users of sea freight would be concerned either.

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- 34 Given NQCEC's relatively small day to day sea freight requirements at the moment (because we are using mostly road freight), if Toll were to exit, this would have little impact on me. I am satisfied with the prices offered by Sea Swift. If I have a big project requiring sea freight, I can arrange my own barge, as I have described above.
- 35 If Sea Swift were to reduce services to, for example, once a month, this would not affect NQCEC much in the dry season (because they do not use sea freight much) but it would be a problem in the wet season when we depend on sea freight.
- 36 In addition, a reduction of services would have a bigger community impact, because the Weipa town depends on sea freight for much of its freight to be delivered, even in the dry season.
- 37 Also, as the roads to Weipa continue to improve, there won't be so much reliance on sea freight as we will be able to use more road transport for many deliveries that would otherwise come by sea freight.
- 38 I am aware that Sea Swift has offered commitments to maintain its scheduled prices and frequency of services, including in respect of Weipa.
- 39 The undertaking about price is useful although it would not affect my business significantly, as the cost of sea freight relatively to the overall costs and revenues of my business is not that significant.
- 40 The undertaking about maintaining services would be beneficial as it ensures that the same regular deliveries can be made (particularly in the wet season). It might also be of use to NQCEC if we took on a project in another remote community, because we may be able to make use of Sea Swift's scheduled service for that purpose. NQCEC does not currently have any such projects.



Signature of witness



Greg Williams, CEO, Director and Operations Manager of North Queensland Civil Engineering Contracting