

RESTRICTION OF PUBLICATION OF PART CLAIMED

Application pursuant to subsection 88(1) of the
Competition and Consumer Act 2010 for interim and
final authorisation

Port of Townsville Limited and
Far North Queensland Ports Corporation Limited

12 July 2023

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1 Introduction

Authorisation is being sought by the Port of Townsville Limited (**POTL**) and Far North Queensland Ports Corporation Limited (**FNQPC**).

Relevantly, POTL and FNQPC manage regional ports with relatively low volumes of towage requirements.

This application seeks authorisation for conduct that relates to:

- joint procurement processes and, where agreed, joint negotiation and granting of exclusive licences for the provision of harbour towage services for the ports of Cairns, Mourilyan, Lucinda and Townsville (**Ports**); and
- as a result of that procurement process, requiring third party users of the Ports to acquire towage services from the exclusive licensee(s).

In addition, interim authorisation is being sought to allow the applicants to commence initial procurement processes, namely, the calling of request for tenders for the services described above.

The ACCC has previously authorised a substantially similar joint procurement process by POTL and FNQPC.¹

POTL and FNQPC have already received ministerial approval to engage in the proposed conduct as set out in **annexure A**.

2 Parties to the proposed conduct

2.1 Applicants

Name Port of Townsville Limited (ACN 130 077 673) and Far North Queensland Ports Corporation Limited (ACN 131 836 014).

Together, POTL and FNQPC are referred to as the '**Port Managers**' in this application.

2.2 Contact person

Name Eddie Scuderi
Position Partner, Corrs Chambers Westgarth
Telephone [REDACTED]
Email [REDACTED]

¹ Determination of application for authorisation A91545 dated 9 December 2016.

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2.3 Description of Applicant's business activities

The Port Managers are Queensland Government Owned Corporations established under the *Government Owned Corporations Act 1993* (Qld).

POTL is responsible for the development and management of the Port of Townsville and Lucinda in Queensland.

Port of Townsville is a regional port located in an artificial harbour 1,360 kilometres north of Brisbane at the mouth of Ross Creek near the Townsville city centre. The port services the north-east and north-west minerals provinces that produce copper, zinc, lead, phosphate and magnetite.

Port of Lucinda, situated approximately 100 kilometres north of Townsville, is dedicated to the export of raw sugar from the Herbert River sugar-growing district.

FNQPC is responsible for the development and management of the Port of Cairns, Cape Flattery, Karumba, Mourilyan, Skardon River, Quintell Beach, Thursday Island, Burketown and Cooktown in Queensland.

Port of Cairns is a small multi-purpose regional port that caters for a diverse range of customers from bulk, project and general cargo, cruise shipping, fishing fleet and reef vessel operations. The port's bulk cargo includes petroleum products, sugar, molasses, fertiliser, and liquid petroleum gas.

Port of Mourilyan exports raw sugar and molasses from the Innisfail, Babinda, Tully and Atherton Tableland sugar growing districts.

The *Transport Infrastructure Act 1994* (Qld) (***Transport Infrastructure Act***) provides that the functions of the Port Managers include:

- establishing, managing and operating effective and efficient port facilities and port services in the port;
- providing or arranging for the provision of ancillary services or works necessary or convenient for the effective and efficient operation of the port;
- performing any other functions and exercise any other powers conferred on it under the *Transport Infrastructure Act*; and
- providing other services incidental to the performance of its other functions, or likely to enhance the usage of the port.²

POTL and FNQPC are responsible for issuing licences for port towage services at the ports of Townsville and Lucinda, and Cairns and Mourilyan, respectively. Operating a towage service is a "controlled activity" (as defined under the *Transport Infrastructure Act*).

2.4 Email address for service

[REDACTED]

² Section 275(1) of the *Transport Infrastructure Act 1994* (Qld).

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2.5 Contact details for each Applicant

Name	Port of Townsville Limited (ACN 130 077 673)
Address	1 Benwell Road, Townsville QLD 4810
Telephone	0747811500
Contact	Drew Penny Chief Operating Officer [REDACTED] [REDACTED]
Name	Far North Queensland Ports Corporation Limited (ACN 131 836 014)
Address	Cnr Lake and Hartley Streets, Cairns QLD 4870
Telephone	[REDACTED]
Contact	Kevin Malone General Manager - Commercial [REDACTED] [REDACTED]

3 Details of the proposed conduct

3.1 Background to proposed arrangements

The conduct for which authorisation is being sought is substantially similar to conduct that is subject to an existing authorisation (A91545) granted in December 2016 which is due to expire on 30 June 2024 (**Previous Authorisation**). As the exclusive licences granted pursuant to that authorisation are expiring, this application seeks authorisation to cover a future period so that the Port Managers can again jointly procure harbour towages services for the Ports.

In 2016, the Port Managers also lodged separate exclusive dealing notifications (N99117 and N9918) regarding arrangements which would necessarily follow from the authorised conduct (**Previous Notification**). Specifically, as a consequence of granting the exclusive licences, third party users of the Ports would be required to acquire towage services from the exclusive licensee(s). To streamline processes, this application also seeks authorisation to require third party users of the Ports to acquire towage services from the exclusive licensee(s) appointed as a result of the joint procurement process for which authorisation is being sought.

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3.2 Description

The Port Managers propose to collaboratively conduct tenders and negotiate exclusive licenses for harbour towage services for the Ports. The Port Managers will do so on a voluntary basis.

Following the tender process, the Port Managers propose to provide access to the Ports on condition that Port Customers requiring towage services acquire those services from the successful service provider who has been granted the exclusive licence.

To enable the Port Managers to call tenders for the supply of the towage services, the Port Managers request an interim authorisation – see section 3.5 below.

Further information in respect of the towage services is set out in section 6.1 below.

Tender process

The proposed joint procurement process will involve collaboration between the Port Managers. The collaborative process is intended to reduce transaction costs, improve purchasing power, and encourage proposals from a wider variety of potential suppliers of the towage services (**Service Providers**), including new market participants.

Given that the Port Managers are Queensland Government Owned Corporations, the competitive tender process will be conducted pursuant to the Queensland Procurement Policy (published by the Queensland Government).

This will involve the Port Managers jointly preparing and issuing a Request for Tender (**RFT**) that will comprise four alternative separable portions, as summarised below:

- (a) Two separate exclusive towage licences for:
 - Ports of Cairns and Mourilyan; and
 - Ports of Townsville and Lucinda.³
- (b) Two separate exclusive towage licences for:
 - Ports of Cairns, Mourilyan and Lucinda; and
 - Port of Townsville.
- (c) Three separate exclusive towage licences for:
 - Ports of Mourilyan and Lucinda;
 - Port of Cairns; and
 - Port of Townsville.

³ The Port Managers note that the same Service Provider can be awarded both licences and therefore service all four Ports.

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There is therefore the potential for up to three towage service operators to be awarded towage licences following completion of the procurement process.

Service Providers can tender for one, some or all of the exclusive towage licence combinations within each of the separable portions summarised above.

The Port Managers will jointly prepare and release the tender documentation and associated documents, including the draft towage licence agreements of towage service providers. The procurement process will be managed by POTL.

The Port Managers will each undertake separate evaluations of the tender submissions to determine the response best suited to their respective needs (including interviewing and meeting with respondents). Following separate evaluation, the Port Managers will consult with each other regarding their evaluation and negotiate terms of the licence agreement with selected Service Providers.

Granting of exclusive licences

The towage licences that are proposed to be granted to the successful Service Provider(s) will be exclusive licences that impose obligations on those providers to ensure that towage services are made available to all customers of the Ports including vessel masters and owners, charterers, shipping agents, and other parties that may have a need for towage services at the Ports (**Port Customers**).

Likewise, Port Customers will be required to use the Service Provider(s) that are awarded exclusive licences for the relevant Port, subject to certain exceptions for small vessels and non-cargo vessels.

The licensing of towage services is regulated under the *Transport Infrastructure Act* and towage licence agreements made between POTL and FNQPC (as applicable) and each towage service provider.

The table below summarises current towage licence arrangements in place at the Ports:

Port	Service provider and exclusive towage licence holder	Commencement Date	Expiry date
Townsville	Smit Lamnalco Towage (Australia) Pty Ltd	01 July 2017	30 June 2024
Lucinda	Svitzer Australia Pty Ltd	01 July 2017	30 June 2024
Cairns	Svitzer Australia Pty Ltd	01 July 2017	30 June 2024
Mourilyan	Svitzer Australia Pty Ltd	01 July 2017	30 June 2024

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3.3 Relevant provisions of the *Competition and Consumer Act 2010* (Cth)

The relevant provisions of the *Competition and Consumer Act 2010* (Cth) which could or might apply to the proposed conduct are:

- section 45AF, 45AG, 45AJ and 45AK in relation to cartels;
- section 45(1)(a) and (b) in relation to anticompetitive agreements;
- section 45(1)(c) in relation to concerted practices; and
- section 47(6) in relation to third line forcing.

3.4 Rationale

Allowing the Port Managers to engage in the proposed conduct will enable them to:

- provide the potential for aggregated demand for towage services so as to attract a wider possible group of potential Service Providers;
- provide greater certainty for Service Providers as to volume of towage work to attract the widest possible group of Service Providers;
- overcome the corresponding risk that arises from the relatively low volumes of towage work at the Ports; and
- incentivise potential Service Providers to make commitments to invest in innovation and sustainability initiatives, including for example, investment in new towage vessels.

3.5 Request for interim authorisation

As noted above, the current towage licences relevant to the Ports are due to expire on 30 June 2024. Service Providers (particularly new entrants)⁴ require reasonable lead times to prepare, acquire necessary vessels, personnel and resources, and be in a position to start delivering towage services. The Port Managers therefore request the ACCC to grant interim authorisation within 28 days of the date of this application for:

- the cooperation between the Port Managers to prepare the RFT and associated documentation that will accompany the RFT, including draft towage licence agreements and, in relation to POTL, agreements to govern the use of berths by tug vessels (under tug berth licence agreements) of the towage service provider(s);⁵

⁴ New entrants in the market for towage services in the last 10 years include Engage Marine, Riv Tow, Pacific Marine Group, Mackenzie Marine and Towage, and Kotug.

⁵ FNQPC notes that it may not issue a separate tug berth licence agreement allowing for dedicated berthing arrangements as the Port of Cairns and Mourilyan do not have dedicated berths. In accordance with current licencing arrangements, FNQPC may incorporate any tug berthing arrangements in the towage licence agreement.

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- the release of the RFT and associated documentation (i.e. draft towage licences and tug berth agreement) to the market;
- the evaluation of tender responses to the RFT, including any interviews and meeting with some or all of the respondents to the RFT;
- the Port Managers consulting with each other following their respective evaluations; and
- the negotiation and award of towage licence agreements, and in the case of POTL, tug berth licence agreements to the successful Service Provider(s) (with such agreements each being subject to a condition precedent of final authorisation being granted by the ACCC, if final authorisation hasn't already been granted by that time).

The Port Managers submit that a grant of interim authorisation for the conduct described above will not have any anticompetitive impact because the relevant market(s) will not be affected.

During any period between a grant of interim authorisation and a grant of final authorisation, the existing towage licences will remain in place unless varied or terminated in accordance with their terms.

3.6 Final authorisation

Final authorisation is sought:

- for the conduct the subject of the request for interim authorisation as described above in section 3.5; and
- to give effect to the towage licence agreement(s) and tug berth licence agreements between the Port Managers and each of the successful tenderers, including the commencement of towage services at the Ports on and from 1 July 2024 through to the expiry of those agreements (which, subject to an exercise of options by the Port Managers, will expire on 30 June 2036).

3.7 Term

Authorisation is sought for a period of approximately 13 years up to 30 June 2036, comprising:

- an approximate 1 year period to conduct the joint procurement process; and
- a maximum twelve (12) year operating term for the licences entered into between the Port Managers and Service Providers (10 year initial term from 1 July 2024 plus an option to extend for up to 2 years).

The proposed maximum 12 year contract term is longer than the licences granted under the Previous Authorisation which were only for an initial term of 5 years plus an option to extend for up to 2 years. The proposed longer term is intended to facilitate a competitive tender process and attract more innovative solutions. FNQPC notes that:

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- capital investment in the region of \$7.5 million per tug (depending on exact specification) is required; and
- total investment upwards of \$30 million would not be unreasonable to supply towage services to the ports of Cairns and Mourilyan, particularly if submitting a sustainable option.

The longer term will allow Service Providers to realise returns on these large capital investments made in order to deliver more sustainable services, including with respect to investing in newer tug vessels and other technology.

The Port Managers understand that longer contract terms are standard market practice. For example:

- the Port of Abbot Point has issued a 15 year licence with two options to extend by 5 years for an investment in 3 new state of the art tugs;
- the Port of Gladstone has granted a 10 year exclusive licence with an option to extend for 5 years for an investment in 11 tugs; and
- Woodside LNG (WA) has a 10 year contract to supply 5 tugs.

4 Relevant documents

The Port Managers confirm that no relevant board papers have been submitted to the Board or prepared by or for senior management for the purposes of assessing or making a decision in relation to the proposed conduct.

5 Names or classes of persons who may be directly impacted

Service Providers are likely to be directly impacted by the proposed joint procurements. Port Customers are likely to be directly impacted by the exclusive licences to be granted to the successful Service Provider(s). However, for the reasons outlined in sections 9.2 and 10.2 below, no detriment is likely to result.

Contact details for the current Service Providers and Port Customers are listed in section 12 below.

6 Market information

6.1 Services

Currently, the Port Managers, through their respective Service Providers as detailed in section 3.2, provide towage services to Port Customers. Towage services involve using tugboats to assist vessels to manoeuvre and negotiate restricted clearances in channels and berth areas. These towage services play an essential role in overcoming the limited manoeuvrability of ocean-going

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ships calling at the Ports. They also help protect other vessels and port infrastructure from damage.

The physical characteristics of each port determine its towage service needs. Weather conditions, ship size and design, port authority regulations, pilotage guidelines and the needs of shipping lines also affect the towage service needs of port managers.

6.2 Geographic areas

The Ports are located as shown on the map in Figure 1.

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Figure 1 – Map of Queensland ports



Source: Queensland Department of Transport and Main Roads website
 <<https://www.tmr.qld.gov.au/business-industry/transport-sectors/ports>>

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In the Previous Authorisation, the ACCC did not consider it necessary to precisely define the relevant geographic market, but considered the areas of competition likely to be affected by the proposed conduct to be the provision of harbour towage services at each of the Ports, in Far North Queensland and in Australia.⁶

For the purposes of this authorisation application, the Port Managers consider that the relevant area of competition is consistent with the ACCC's view in the Previous Authorisation. In respect of Queensland, the Port Managers submit that the market is not limited to the four Ports the subject of this application given that Service Providers are able to service numerous ports across Australia by making relevant investments in tug vessels and securing contracts through tender process run by various port managers across the country.

For example, there are 21 ports in Queensland, and approximately 12 of these use towage services.

6.3 Industry

The relevant industry is the harbour towage services industry.

Within that industry the following arrangements are relevant:

- Under the *Transport Infrastructure Act*, port managers are responsible for establishing, managing and operating effective and efficient port facilities and services in its port.⁷ They can decide to regulate the provision of towage services, in which case they become responsible for granting licences.
- Non-exclusive licences allow for multiple service providers in the port, while exclusive licences prevent the entry of other service providers. Towage services at individual ports are generally provided by a single Service Provider even where there is a non-exclusive licencing arrangement in place because the scale of operations at the ports is insufficient to sustain multiple Service Providers, as discussed in further detail in section 10.1(b).
- While licensing is the responsibility of port managers, Port Customers are the direct users of towage services. Service Providers charge Port Customers directly for their services.⁸

7 Market shares

Table 1 below sets out the annual towage jobs in the last financial year at each of the Ports.

⁶ Determination of application A91545 for authorisation dated 9 December 2016 at [44].

⁷ Section 275(1)(a) of the *Transport Infrastructure Act*.

⁸ Productivity Commission, *Inquiry Report No. 24, Economic Regulation of Harbour Towage and Related Services 2002*, p 11.

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Port	Towage jobs in 2021/22
Townsville	1866
Cairns	314
Mourilyan	56
Lucinda	36

8 Competitive constraints

8.1 Existing competitors

The Port Managers, as well as other operators of ports in Queensland which provide towage services more broadly, may be considered to be competitors in the procurement of the towage services.

8.2 Entry by new competitors

The likelihood of new competitors is low, as it would require new ports to be established.

8.3 Countervailing power of customers or suppliers

The existing Service Providers exercise considerable countervailing power. The Port Managers are responsible for the delivery of towage services at their respective Ports which are an essential component of port operation. Because the Port Managers do not have the expertise, resources or assets to deliver towage services, they must engage professional Service Providers to do so. In this context, Service Providers are able to exercise considerable countervailing power when negotiating with Port Managers for licensing agreements.

9 Joint procurement process

9.1 Public benefits

- (a) *Transaction cost savings*
- (b) Running and participating in a tender process is expensive. The joint procurement of the towage services by the Port Managers will deliver material cost savings to both the Port Managers and Service Providers that respond to the RFT. This is because Port Managers will not have to conduct two separate procurement processes and Service Providers

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need only prepare a response to one tender. *Improved purchasing power*

By conducting a joint procurement, the Port Managers can combine their service needs into the one tender. This means that the number of ports that prospective towage service providers may tender for is doubled, increasing competition between towage service providers for the services.

(c) *More efficient use of tug vessel fleet*

By combining the four adjacent Ports in the one tender, sharing of tug vessels between the Ports can be achieved. This allows a lower number of tug vessels to be tendered than would otherwise be necessary if sharing and coordination could not occur.

If FNQPC and POTL did not combine their tug requirements, then each Port Manager would need to have four tugs (two for each port they manage) or a total of eight tugs over the four ports. Combining Lucinda and Mourilyan reduces the number of tugs required by two, resulting in operational expenditure savings of approximately \$2.6 million (\$1.3 million per tug) in annual crew and running costs plus savings in the upfront capital expenditure of approximately \$15 million (\$7.5 million per tug). Assuming a return of investment of 15% on capital expenditure, then a reduction in two tugs results in an overall saving of \$4.8 million (\$2.4 million per tug).

The more efficient use of the tug vessel fleet will reduce the overall cost of providing the services and this saving is likely, at least in part, to be passed through to Port Customers in the form of lower harbour towage prices.

(d) *Reduced barriers-to-entry for smaller towage service providers*

The separable portion structure of the RFT means that providers are not faced with the potential barrier-to-entry of having to submit a tender response to service all four of the Ports.

This allows smaller towage service providers to submit bids for the towage licence combinations in the separable portions for which they have capabilities, leading to an increase in the range of service providers that are likely to compete for the towage services.

9.2 Public detriment (including likely competitive effects)

The Port Managers submit that the proposed joint procurement process will not result in any significant public detriment, including no adverse impact on competition for the acquisition of towage services, for the following reasons.

- **(Flexibility for Service Providers)** The proposed joint procurement process affords Service Providers with significant flexibility in that they may choose to tender for one or all of the Ports. The Port Managers submit that this separable portion approach encourages competition as evidenced by the responses received in respect of the tendering process conducted pursuant to the Previous Application. [REDACTED]

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[REDACTED]

- **(Efficiencies for Service Providers)** The joint procurement approach will lead to efficiencies in tug fleet use, improved safety and improved redundancy across the four Ports.

For the reasons set out above, the Port Managers submit that the extensive public benefits of the proposed joint procurement process will significantly outweigh any public detriments.

10 Granting of exclusive licences

10.1 Public benefits

(a) *Certainty of volume*

Service Providers responding to a tender for an exclusive licence are more likely to have the confidence to submit more competitive pricing because they have a much higher degree of certainty about the volume of work that they would receive if their bid is successful.

The competition for the exclusive licences is likely to result in cost savings being passed through as lower prices for Port Customers.

In the context of the current application for authorisation, the proposal to grant exclusive licences for a longer period than the current arrangements is also likely to create an environment for more competitive pricing, as well as the incentive to invest in innovative technology.

(b) *Competition 'for' the market*

The nature of the towage services industry means that the grant of exclusive licences is likely to improve competition at the Ports. The low number of towage jobs relative to the minimum number of tug vessels required to establish a towage operation means that each of the Ports can only support one Service Provider in the long term. This is the case in most, if not all Australian ports, where there is little scope for sustainable long-term competition and provision of towage services is considered to be a natural monopoly.⁹

In the statement of reasons in respect of the Previous Notification, the ACCC considered that economies of scale in towage services would be exhausted at around 8000 towage jobs per year. As is evident from Table 1 in section 7, the

⁹ Productivity Commission, *Inquiry Report No. 24, Economic Regulation of Harbour Towage and Related Services 2002*, p 74.

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volume of towage work at the Ports is still substantially lower than 8000 per year. Therefore, the Port Managers submit that the Ports are still only able to efficiently sustain one Service Provider and the threat of entry to the incumbent is very low.

The grant of exclusive licences at the Ports is likely to create competition for the provision of towage services at the Ports by providing an incentive for competitors of the incumbents to tender for the supply of the services. Potential bidders include competitors that submitted tenders in the last RFT process, other existing competitors and new entrants. Contact details for these Service Providers are listed in section 12.1.

10.2 Public detriment (including likely competitive effects)

The Port Managers submit that the proposed granting of exclusive licences will not result in any significant public detriment due to the nature of the towage services market. Consistent with the ACCC's statement of reasons in respect of the Previous Notification, while granting an exclusive licence would ordinarily reduce competitive pressure to innovate and pass through the benefits from cost reductions during the period of the licence, the natural monopolistic characteristics of the towage industry means that the opposite is true as discussed in section 10.1(b).¹⁰

The proposed conduct creates competition 'for' the market in circumstances where there is little competition in the market. To the extent that there are Service Providers with innovative approaches that are willing to supply towage services to the Ports, they can participate in the competitive tender process or in future tenders. If they have lower costs, they are likely to be able to win an exclusive licence and provide innovative solutions at the Ports.¹¹

Furthermore, while there will be no opportunity to amend the licence agreement(s) with the successful Service Provider(s) after prices and tender terms have been fixed, the proposed terms of the exclusive licences include sanctions (including early termination) for unacceptable service performance.

For the reasons set out above, the Port Managers submit that the public benefits of the proposed granting of exclusive licences will significantly outweigh any public detriments.

11 Joint ventures

This application does not deal with a matter relating to a joint venture.

¹⁰ Statement of reasons in respect of notifications N99117 and N99118 dated 9 December 2016 at [46], [50].

¹¹ Statement of reasons in respect of notifications N99117 and N99118 dated 9 December 2016 at [51].

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12 Contact details of relevant market participants

12.1 Service Providers

- Bhagwan Marine [REDACTED]
- Engage Marine [REDACTED]
- Kotug [REDACTED]
- McKenzie Marine & Towage [REDACTED]
- Pacific Marine Group [REDACTED]
- Pacific Tug [REDACTED]
- Riv Tow [REDACTED]
- Smit Lamnalco Towage (Australia) Pty Ltd [REDACTED]
- Svitzer Australia Pty Ltd [REDACTED]

12.2 Port Customers

- 29Metals [REDACTED]
- AAL Shipping [REDACTED]
- Accord Logistics (Australia) Pty Ltd [REDACTED] - [REDACTED]
- Australian Cattle Enterprises [REDACTED]
- Agripower [REDACTED]
- AIC Mines [REDACTED]
- Ameropa [REDACTED]
- AMPOL (CALTEX) [REDACTED]
- ANL [REDACTED]
- Auctus Resources [REDACTED]
- Aurora Metals [REDACTED]
- Australian Terminals Operations Management (ATOM) [REDACTED]
- Austrex (Australian Rural Exports) [REDACTED]
- Bondstock Rural Exports [REDACTED]

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- BP [REDACTED]
[REDACTED]
- Capricorn Copper [REDACTED]
- Carnival Australia Mifsud [REDACTED]
[REDACTED]
- Cement Australia [REDACTED]
[REDACTED]
- Centrex Limited [REDACTED]
- Chevron [REDACTED]
- Chinova Resources [REDACTED]
- COSCO Shipping Lines (Oceania) Pty Ltd [REDACTED]
[REDACTED]
- Department of Defence (HMAS Cairns) [REDACTED]
[REDACTED]
- Frontier International Northern [REDACTED]
[REDACTED]
- Glencore [REDACTED]
- Graincorp [REDACTED]
- Gulf Agency Company [REDACTED]
[REDACTED]
- Halleen Australasian Livestock Traders [REDACTED]
[REDACTED]
- Harbourside [REDACTED]
[REDACTED]
- Herli Group [REDACTED]
- Impact Fertilizers Australia [REDACTED]
[REDACTED]
- Inchcape Shipping Services [REDACTED]
[REDACTED]
[REDACTED]
- Incitec Pivot Limited [REDACTED]-
[REDACTED]
[REDACTED]
- International Livestock Export [REDACTED]
[REDACTED]
- K Line [REDACTED]
- Kyowa Shipping [REDACTED]
[REDACTED]

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- Livestock Shipping Services [REDACTED]
[REDACTED]
- Mainfreight [REDACTED]
[REDACTED]
- Mitsui OSK Line [REDACTED]
- MMG [REDACTED]
- Monson Agencies [REDACTED]
[REDACTED]
- Narvarre Minerals [REDACTED]
- North Queensland Bulk Storage & Logistics NQBSL [REDACTED]
[REDACTED]
- North Queensland Customs Services [REDACTED]
[REDACTED]
- NYK [REDACTED]
- Oldendorff [REDACTED]
- Orica Australia/IXOM [REDACTED]
- Origin Energy Limited [REDACTED]
[REDACTED]
- Pacific Asia Express Pty Ltd [REDACTED]
[REDACTED]
- Puma Energy [REDACTED]
- QSL [REDACTED]
[REDACTED]
- Seaway [REDACTED]
- Sims Metal [REDACTED]
- Sofrana [REDACTED]
- South 32 [REDACTED]
- SOUTH EAST ASIA LIVESTOCK (SEALS) [REDACTED]
[REDACTED]
- Sturrock Grindrod [REDACTED]
[REDACTED]
- Sugar Terminals Limited [REDACTED]
[REDACTED]
- Sun Metals [REDACTED]
- Swift & Company Trade Group [REDACTED]
[REDACTED]
- Swire Shipping [REDACTED]

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- **Townsville Shipping Agency** [REDACTED]
[REDACTED]
- **Viking Cruises**
- **Viva Energy** [REDACTED]
[REDACTED]
- **Wave Shipping** [REDACTED]
[REDACTED]
- **Wellard Rural Exports** [REDACTED]
- **Wilhelmsen Ships Service** [REDACTED]
[REDACTED]
- **Wilmar International** [REDACTED]
[REDACTED]
- **WSS** [REDACTED]

12.3 Other

- **Aurizon Port Services** [REDACTED]
[REDACTED]
- **Maritime Safety Queensland** [REDACTED]
- **Northern Stevedoring Services** [REDACTED]
[REDACTED]
- **Townsville Marine Logistics** [REDACTED]
[REDACTED]

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Solicitor on behalf of Port of Townsville Limited
(Office held)

Eddie Scuderi
(Name of authorised person)

This 12th day of July 2023

Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be st

RESTRICTION OF PUBLICATION OF PART CLAIMED

Annexure A

Ministerial approval for the proposed conduct



Minister for Transport and Main Roads
Minister for Digital Services

Our ref: MC133626

29 June 2023

Ms Raneë Crosby
Chief Executive Officer
Port of Townsville Limited
rcrosby@townsville-port.com.au

1 William Street Brisbane 4000
GPO Box 2644 Brisbane
Queensland 4001 Australia
Telephone +61 7 3719 7300
Email transportandmainroads@ministerial.qld.gov.au
Website www.tmr.qld.gov.au

Dear Ms Crosby 

Thank you for your letter of 29 March 2023 co-signed by Mr Chris Boland, Chief Executive Officer, Far North Queensland Ports Corporation Limited (trading as Ports North), about the proposed towage arrangements for the Port of Townsville Limited (POTL) and Ports North.

I understand that POTL and Ports North wish to run a joint procurement process for towage services for your respective ports and are seeking approval to do so in accordance with section 1 of the *Guidelines for the Issue of Harbour Towage Licences by Port Government Owned Corporations (July 2020)* (the Guidelines).

I note that you intend to test the market and will nominate a series of combined towage services for the ports of Cairns, Mourilyan, Lucinda, and Townsville, with the results of the tender process to be reviewed by POTL and Ports North, with specific emphasis being on the most efficient and quality solution for your respective ports.

I am advised that, in accordance with the Guidelines, POTL and Ports North will keep me informed throughout the process, seeking further approvals prior to any major actions including, but not limited to, the selection of the preferred tender option and proposed awarding of (separate) contracts.

Pursuant to section 2(g) of the Guidelines, in selecting your preferred tender option you must take into consideration the rights and protections each tenderer is proposing to put in place for the personnel who will be involved in providing the services under the new towage arrangement.

Having regard to the above, and in accordance with section 1 of the Guidelines and as the portfolio minister, I give my approval for POTL and Ports North to test the market for towage services.

I trust this information is of assistance.

Yours sincerely



MARK BAILEY MP
Minister for Transport and Main Roads
Minister for Digital Services

cc Mr Chris Boland
Chief Executive Officer
Far North Queensland Ports Corporation Limited
(trading as Ports North)

