



**Shipping Australia Limited**  
ABN 61 096 012 574

Suite 2, Level 1, 101 Sussex Street, Sydney NSW 2000  
PO Box Q388 QVB PO, Sydney NSW 1230  
www.shippingaustralia.com.au

Tel: (02) 9266 9900  
admin@shippingaustralia.com.au

SAL16049

11 July 2016

Ms Kate Boyd  
Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra, ACT 2601

via email: [mergers@accc.gov.au](mailto:mergers@accc.gov.au)

Dear Ms Boyd

**Re: Submission re. IFM Consortium / POM**

Reference: A. ACCC letter 60173 of 24 June 2016  
B. SAL letter 16033 of 16 June 2016

1. Shipping Australia limited (SAL) is pleased to make a submission on this matter. I regret that our submission is provided later than the official closing date of 8 July and hope that it can still be considered.

**Background**

2. SAL is a peak shipowner association with 34 member lines and shipping agents and 50 corporate associate members, which generally provide services to the maritime industry in Australia. Our member lines are involved with over 80 per cent of Australia's international trade and container trade as well as over 70 per cent of our break bulk and bulk trade. A number of our members are also actively engaged in the provision of coastal cargo services to Australian consignors and consignees. A list of our members is available at <https://shippingaustralia.com.au/list-of-members/>

3. A major focus of SAL is to promote efficient and effective maritime trade for Australia whilst advancing the interests of shipowners and shipping agents. SAL also provides secretariat services to the many liner companies and agencies who are members of conferences, discussion agreements, consortia and joint services that have their agreements registered under Part X of the Australian Competition and Consumer Act 2012. These agreements specifically seek to facilitate and encourage growth of Australia's liner shipping trades.

**Comment**

4. You will recall that at Reference B, Shipping Australia previously made comment on the potential impact of IFM participation in the lease of the Port of Melbourne. Much of that

comment is also relevant to the potential involvement of QPC and GIMAS and in the lease of the Port of Melbourne.

## Summary

5. Accordingly, SAL full voting members, who use operate ships at Port of Brisbane, Port Botany/Kembla and Port of Melbourne consider that:

- a. a level of common ownership for GIMAS that gives board representation on both the ports of Sydney and Melbourne would reduce competition between Melbourne and Sydney for exports from southern NSW;
- b. any level of common ownership between the three east coast ports of Brisbane, Sydney and Melbourne could undermine the price surveillance of the Port of Melbourne undertaken by the Victorian Essential Services Commission which relies on benchmarking of the other major Australian container ports, Brisbane and particularly Sydney;
- c. a level of common ownership for QPC that gives board representation on both the ports of Brisbane and Melbourne could have the effect of reducing the potential future competition between these ports that might otherwise develop once the proposed inland rail connection becomes operational (which is likely to occur within the terms of these respective leases); and
- d. the regulatory regimes at the Port Botany, Port Kembla and the Port of Brisbane are too weak to have any effect of preventing lessening of competition. The proposed regulatory regime in Melbourne, whilst more comprehensive would be influenced and undermined by coordinated pricing increases across the three ports which could occur with cross ownership.

## Discussion

8. SAL members consider that a level of ownership that provides a member of the consortium with seats on the boards of multiple ports is enough to enable such member to influence board decisions. It is a well-known fact that most boardrooms operate on full and frank discussion and an aim to gain consensus decisions – only a small percentage of board decisions actually go to a vote, but every member of a Board is able to speak on matters under review. QPC has a 26.7% interest in the Port of Brisbane has board representation. GIMA manages a 20% interest in NSW Ports and has board representation.

9. There have been a number of port privatisations in Australia and SAL is not philosophically opposed to privatisation. However, under private ownership pricing must be controlled either by effective commercial competition or by appropriate regulation.

10. Even the fairly comprehensive pricing review regime for PoM intended to be undertaken by the Victorian Essential Services Commission could be influenced by coordinated price increases across the three ports of Brisbane, Botany/Kembla and Melbourne. The ESC will use benchmarking against the other major ports – Sydney and Brisbane, so if the common ownership does influence the prices at these ports they will be more likely to be able to achieve greater rises in Melbourne.

11. The major ports are in monopoly situations for provision of services and land rents to tenants who need to be at the port and Sydney and Brisbane have scant or nil Government oversight of their pricing. The price rises for land rents in ports are usually benchmarked

across the major east coast ports so price distortion is likely to occur if there is common ownership across the three ports. Members are not concerned with the cross ownership between QIC group (QPC parent) participant and DP World Australia or GIMA cross ownership in Asciano / Pacific National rail.

12. For imports, the ports of Brisbane, Botany/Kembla and Melbourne are geographical monopolies as the destination for most imports is within 100km of the port. However when built, it is possible that inland rail could increase the competition between ports. Common ownership between the ports may inhibit such competition.

13. The clearest trade competition we currently see between ports is competition between Sydney and Melbourne for exports from southern NSW. This is evidenced by the current PoMC gradual reduction in export wharfage in an attempt to recover export volumes lost to Botany following the introduction of Melbourne Port Licence Fee in 2012. This is minor in the overall context but nice to see in any case. Such competition is unlikely to continue if there is common ownership between Botany and Melbourne. It is difficult to judge whether this could be considered a 'substantial' lessening of competition.

14. The common ownership of QPC and GIMA in the ports of Brisbane and Sydney Kembla would put them in a position to distort pricing and reduce competition with the Port of Melbourne if they were to also have ownership in the Port of Melbourne.

Yours sincerely



Rod Nairn  
**Chief Executive Officer**