Ref: MC17-000292

27 JAN 2017

Mr Greg Cameron
29 Eddy Crescent
FLOREY ACT 2615

Dear Mr Cameron

Thank you for your correspondence of 15 November 2016 to the Minister for Small Business and
9 January 2017 to the Treasurer, concerning a potential breach of the *Competition and Consumer Act 2010*
(CCA) in relation to long-term ports leases by the New South Wales Government. The Treasurer and the
Minister have asked me to respond to you.

As you are aware, the Australian Competition and Consumer Commission (ACCC) is the independent
statutory agency responsible for enforcing Australia's competition and consumer protection laws. This
includes monitoring the competitive environment of all major ports in Australia and examining any issues
that may arise on a case-by-case basis. I understand that you have been in touch with the ACCC previously.

The ACCC investigated the contractual arrangements for the long-term leases of Ports Botany, Kembla and
Newcastle in 2014. As part of this investigation, the ACCC was provided with confidential information by
NSW Government officials, which it took into account when it decided not to pursue the matter.

In particular, the ACCC noted that it is unlikely that a government engaging in a one-off sale or long-term
lease of an asset would fall within the definition of 'carrying on a business'. A number of other complex
legal issues were also considered, including whether there was evidence of any purpose or effect of
substantially lessening competition and in which market.

The ACCC has also expressed its view that the conduct outlined in your correspondence does not appear to
disclose any relevant conduct for the purposes of the CCA. There does not appear to have been a contract,
arrangement or understanding in place during the relevant period which had the purpose, effect or likely
effect of substantially lessening competition.

Once again, thank you for taking the time to write.

Yours sincerely

Lisa Elliston
Acting Division Head
Market and Competition Policy Division