



Our ref: AA1000557  
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Dear Sir/Madam

### **Macquarie and Renewable Energy Buyers Consortium application for authorisation AA1000557 – interested party consultation**

On 11 June 2021, the Australian Competition and Consumer Commission (the **ACCC**) received an application for authorisation from Macquarie Capital (Australia) Limited and its parent company Macquarie Corporate Holdings Pty Limited (together, **Macquarie**).

As a potentially interested party, you are invited to make a submission in relation to the application for authorisation, including Macquarie's request for urgent interim authorisation (outlined further below). Further information about the authorisation process is provided in the ACCC's [Guidelines for authorisation of conduct \(non-merger\)](#).

If you do not wish to make a submission, no further action is required.

#### **The proposed conduct**

Macquarie is seeking authorisation under the *Competition and Consumer Act 2010* (Cth) to identify, coordinate and secure a group of buyers (**Buyers**) to enter into Power Purchasing Agreements (**PPAs**) to support the development of a new renewable energy project (**Project**). Currently, the Project relates to the development of a wind energy facility in Victoria. However, if Macquarie and the Buyers cannot reach agreement with the developer in relation to that specific project, Macquarie will seek to identify an alternative large-scale wind farm project in Australia for the Buyer Group.

The individual buyers currently in the Buyer Group are a mix of large and medium-sized commercial and industrial customers with electricity consumption at sites located in Victoria. The Buyers operate across a diverse range of sectors including property, manufacturing, health, finance, telecommunications and retail. It is proposed that the Buyer Group will acquire approximately 50 per cent of the electricity generated by the Project over the duration of the PPAs (around 10 years). The combined electricity generated from the current Project will account for between 0.5 to 3 per cent of electricity in the NEM and between 2 to 5 per cent of electricity consumption in Victoria.

Specifically, Macquarie is seeking authorisation for itself and each of the Applicants to:

- jointly negotiate, enter into and give effect to an overarching PPA
- jointly discuss and exchange information, including between Buyers (limited only to information that needs to be shared between some or all of the Applicants to facilitate the acquisition of electricity from the Project)
- individually enter into a PPA with the developer on the same (or substantially the same) price and non-price terms and conditions, and

- jointly negotiate and (as relevant) enter into 'sleeving arrangements' under which an intermediary retailer administers the transfer of money and energy under the PPA, in place of the Buyer.

Macquarie is seeking authorisation for 14 years, which is proposed to cover the time to develop the Project and the term of the PPAs.

A full copy of the application for authorisation is available on the ACCC's [Authorisations public register](#).

### **Interim authorisation**

Macquarie has requested interim authorisation to enable the joint negotiation of the PPAs to commence as soon as practicable.

Macquarie advises that it has been developing a PPA term sheet for the Project with the currently proposed developer, and this has only recently been finalised. As such, it now has the necessary certainty from the developer to proceed with approaching potential Buyers and moving towards a negotiation on price and terms. In the initial stages, Macquarie will approach Buyers on a bilateral basis. However, it is likely that as the negotiations progress, Macquarie may need to be able to quickly collectively discuss the matters set out above with the Buyers.

Therefore, Macquarie submits that interim authorisation is required to enable Macquarie to meet the timelines for obtaining and securing Buyer interest in the Project, which in turn will allow the developer to arrange and secure financing for the Project.

Macquarie submits that any 'full form' PPAs that are signed, would be expressly subject to a condition that the ACCC grants final authorisation.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefits and detriments likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. When it receives a request for interim authorisation, the ACCC will usually consider a range of factors, including:

- harm to the applicant and other parties if interim is or is not granted
- the urgency of the matter and
- whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

### **Making a submission**

The ACCC invites you to make a submission on the request for interim authorisation and/or substantive authorisation. In making your submission, please provide information, evidence and views about the likely public benefits, effects on competition and any other public detriment that you consider will result from the proposed conduct.

Please provide submissions on **either or both** the request for interim authorisation and the substantive application for authorisation by **2 July 2021**.

Please email your submission to [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au), with the subject 'AA1000557 – Macquarie – submission'. Alternatively, if you would like to provide comments over the phone, please contact Andrew Mahony via the details below.

If you wish to request an extension, please contact us as early as possible. Submissions after the due date (or after any extension) may not be taken into account.

Your submission will be placed on the ACCC's [Authorisations public register](#), unless you have made a request (with reasons) to exclude part or all of the submission from the public register (see [Guidelines for Excluding Information from the Public Register](#)).

## Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below.

Indicative date	Stage in assessment process
11 June 2021	Lodgement of application and supporting submission.
18 June 2021	Public consultation process begins.
2 July 2021	Closing date for submissions from interested parties.
July 2021	Applicant responds to issues raised in the public consultation process.
July 2021	Interim authorisation decision.
July/August	Draft determination.
July/August 2021	Public consultation on draft determination including any conference if called.
August / September 2021	Final determination.

This letter has been placed on the ACCC's public register. If you have any questions or wish to discuss any aspect of this matter, please do not hesitate to contact Andrew Mahony on 03 9290 1983 or [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au).

Yours sincerely



Sheridan de Kruiff  
Joint General Manager (A/g)  
Competition Exemptions

## **Macquarie and Ors – renewable energy joint buyers group**

### **Application for authorisation AA1000557**

#### **List of interested parties**

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Energy Consumers Australia  
Energy Users Association of Australia  
Clean Energy Council  
Department of Environment, Land Water & Planning – Victoria  
Department of Industry, Science, Energy and Resources  
Department of Environment  
The Treasury  
Australian Renewable Energy Agency  
Clean Energy Finance Corporation  
Energy Efficiency Council  
Australian Energy Market Operator  
Australian Energy Market Commission  
Australian Energy Council  
Aust. Chamber of Commerce and Industry  
Energy Networks Australia  
Major Energy Users  
1st Energy Pty Ltd  
ActewAGL  
AGL Energy Limited  
Alinta Energy  
Aurora Energy  
Cova U Pty Ltd  
CS Energy  
Diamond Energy Energy  
Elysian Energy  
Energy Australia  
Engie  
Enova Energy  
ERM Power  
Future X Power  
Intergen  
Meridian Energy  
Momentum Energy  
Next Business Energy Pty Ltd  
OC Energy Pty Ltd  
Origin Energy  
Pooled Energy  
Powerdirect  
Powershop Australia  
QEnergy

Red Energy and Lumo Energy

Sanctuary Energy

Simply Energy

Snowy Hydro  
(Red/Lumo Energy)

Sumo Power

Sunset Power (Delta Electricity)

Vocus Group (M2/Dodo)

TransGrid

Ausgrid

Citipower

Endeavour Energy

Ergon Energy

Essential