



Our ref: AA1000658
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23/01/2024

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Dear Sir/Madam

Hunter Valley Coal Chain Coordinator (HVCCC) application for authorisation AA1000658 – interested party consultation

On 19 December 2023 the Australian Competition and Consumer Commission (the **ACCC**) received an application for authorisation from the HVCCC to continue the activities it currently undertakes to support the efficient operation of the Hunter Valley export coal chain, following the expiration of the existing authorisation of the [Capacity Framework Arrangements](#) on 31 December 2024.

You are invited to comment on the HVCCC's application. You are welcome to pass this letter on to others who may wish to make submissions. If you decide not to make a submission at this time but wish to be kept informed as this matter progresses, please let us know.

The HVCCC is seeking authorisation¹ under the *Competition and Consumer Act 2010* (Cth). Authorisation would give it legal protection from competition laws to continue its role in planning and coordinating the cooperative operation and alignment of capacity of the coal chain. In summary, authorisation is sought to:

- i. share information and coordinate between HVCCC and its Members and Related Entities for the purpose of:
 - *Capacity planning* – work to facilitate efficient and aligned system capacity planning across the coal chain. This includes the preparation and communication of Master Plans and Annual Coal Chain capacity plans (Annual Declaration and System Assumptions).
 - *Operational planning* – coordinating with Members and Related Entities to identify risks and opportunities for efficient operations, and prepare rolling plans to enable efficient and aligned operations across the coal chain. This includes obtaining information from, and coordinating with, Members and Related Entities to prepare and share short to medium term plans – for example: maintenance windows, cargo assembly plans, coal delivery schedules, rail plans and stockpile and vessel plans.
 - *Facilitating the Live Run function* – includes the monitoring and execution of daily plans and making recommendations to minimise losses from delays and disruptions, and ensure that impacts from events in Live Run are appropriately addressed and managed in future plans.

¹ For information about Authorisations, please see <https://www.accc.gov.au/business/exemptions/authorisation>

- *Recommending improvements in delivery of HVCCC Objects* – including measuring and reviewing coal chain performance standards, creating and sharing performance reports, and recommending improvements to processes for planning and coordinating the cooperative alignment of the coal chain.
- ii. Any concerted practice, or any contract, arrangement or understanding between HVCCC Members or Related Entities that they will act in a particular way on the basis of a recommendation by, or advice from, the HVCCC; or any conduct that involves a Member or Related Entity making an independent decision based on, or giving effect to, a recommendation by, or advice from, the HVCCC in the delivery of HVCCC Objects.

(together the **Proposed Conduct**).

The HVCCC is seeking authorisation until 31 December 2034.

A full copy of the application for authorisation is available on the ACCC's [Authorisations Public Register](#). A full description of the Proposed Conduct is at Attachment 1 to the application.

On 22 January 2024, the HVCCC provided additional information to the ACCC regarding its application, in response to an information request from the ACCC. A copy of the HVCCC's supplementary submission is also available on the [Authorisations Public Register](#).

The ACCC understands the HVCCC intends to provide some further information supporting its claimed public benefits by the end of January 2024. This information will be placed on the public register at that time, subject to any claims for confidentiality.

Making a submission

The ACCC invites you to make a submission on the application for authorisation. If you intend to provide a submission, please refer to the HVCCC's application and supplementary submission of 22 January 2024 for further information about the Proposed Conduct.

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 is likely to result from the Proposed Conduct.

Given the HVCCC has been performing its functions and activities since 2009 under the existing authorisation, the ACCC invites you to tell us about your experience of the Proposed Conduct. The ACCC is particularly interested in the public benefits and detriments you have observed as a result of the conduct to date.

If you intend to provide a submission, please do so by **Friday, 16 February 2024**. If you wish to request an extension, please contact us on the details below as early as possible. Submissions after the due date (or after any extension granted) may not be taken into account.

Submissions should be lodged via this [web form](#). Alternatively, if you would like to provide comments orally, please contact Jaime Martin or David Hatfield via the details at the end of this letter to arrange a time.

Your submission is published on the ACCC's [Authorisations Public Register](#) unless you have made a request (with reasons) for us to exclude part or all of the submission from the public register – see [Guidelines for Excluding Information from the Public Register](#) for further information about these processes.

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information. Any changes to this timetable will be published on the public register.

Indicative date	Stage in assessment process
19 December 2024	Lodgement of application and supporting submission.
20 December 2023	ACCC information request.
23 January 2024	Public consultation process begins.
16 February 2024	Closing date for submissions from interested parties.
March 2024	Applicant responds to issues raised in the public consultation process.
April 2024	Draft determination.
April/May 2024	Public consultation on draft determination, including any conference if called.
June/July 2024	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 contact me on (02) 6243 1266 (david.hatfield@acc.gov.au), Jaime Martin on (03) 9290 1477 (jaime.martin@acc.gov.au), or exemptions@acc.gov.au.

Yours sincerely



David Hatfield
Director
Competition Exemptions