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By email

Dear Madam or Sir

## **Australia Pacific LNG Pty Limited & Ors - application for re-authorisation AA1000544—draft determination & interim authorisation**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the application for re-authorisation lodged by Australia Pacific LNG Pty Limited & Ors (**the Applicants**) on 24 February 2021.

### **Draft determination**

For the reasons set out in its draft determination, the ACCC proposes to grant authorisation, with condition, for 5 years.

### ***Proposed condition***

In 2016 the ACCC imposed a condition of authorisation requiring the Applicants to publicly disclose maintenance schedule information that they have shared with one another, and to ensure that information remained accurate. This was intended to give all market participants access to information regarding the maintenance scheduled at the Applicants' facilities and therefore address the competitive detriment arising from the information asymmetries.

New Gas Transparency Measures which would require the Applicants to report scheduled maintenance events, as currently takes place under the condition, are expected to be introduced under the National Gas Law. The ACCC considers that these measures, once in place, will address these information asymmetries in many circumstances, by ensuring all market participants have access to the same information about scheduled maintenance.

However, the ACCC notes that in some circumstances information asymmetry would remain, because the Gas Transparency Measures are expected to only require the Applicants to notify about events within a 12-month forecast window. In contrast, the ACCC's 2016 condition of authorisation required the Applicants to publicly disclose information they had shared with each other, irrespective of the timeframe.

In order to address the public detriment arising from the Applicants having information that is not available to other market participants, the ACCC is proposing to grant re-authorisation with the same condition imposed in 2016, requiring the Applicants to publicly disclose maintenance schedule information that they have shared with one another.

### **Interim authorisation**

The ACCC has also decided to grant interim authorisation, with condition, as described in section 6 of the draft determination.

A copy of the ACCC's draft determination is attached and also available on the ACCC's [authorisations public register](#).

### Next steps

Once the ACCC issues a draft determination, the Applicant or any interested party may make a written submission and/or request that the ACCC convene a 'pre-decision conference'.

### Making a submission

The ACCC welcomes submissions on any aspect of its draft determination, but is particularly interested in views on the proposed condition. We invite further submissions about this approach and whether this information asymmetry would be adequately addressed by the Gas Transparency Measures such that this condition may not be needed.

If you wish to make a submission in response to the ACCC's draft determination, please lodge your submission by **25 May 2021**. Submissions should be emailed to [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au) with the subject "AA1000544 - Australia Pacific LNG Pty Limited & Ors- submission".

The ACCC will consider any submissions it receives, including any oral submissions made at a pre-decision conference (should one be called - see below), and will then release a final determination in relation to this application. Submissions will be placed on the ACCC's public register subject to any request for exclusion. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

### Optional pre-decision conference

In some cases the applicant or an interested party requests that the ACCC convene a pre-decision conference in relation to its draft determination. If a conference is called it will be open to the applicant and interested parties to attend and make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination you must notify the ACCC in writing by **19 May 2021** by email to [exemptions@acc.gov.au](mailto:exemptions@acc.gov.au).

### Timetable

The ACCC will continue to progress its assessment of the application in a timely manner. An updated indicative timetable is set out below for your information.

Indicative date	Stage in assessment process
<b>24 February 2021</b>	Lodgement of application and supporting submission.
<b>3 March 2021</b>	Public consultation process begins.
<b>5 May 2021</b>	Draft determination & Interim Authorisation Decision
<b>19 May 2021</b>	Public consultation on draft determination including any conference if called.
<b>25 May 2021</b>	Submissions on draft determination due
<b>June/July 2021</b>	Final determination.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact Luke Griffin on 02 6243 1114.

A handwritten signature in blue ink, consisting of the letters 'D' and 'C' separated by a period, followed by a horizontal line.

Yours sincerely  
Danielle Staltari  
Director  
Competition Exemptions