



**Australian
Competition &
Consumer
Commission**

Our Ref: A91350-A91351
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20 December 2012

Sent via email

Dear Sir/Madam

Applications for authorisation A91350-A91351 lodged by Endocoal Ltd and other Queensland coal producers – interested party consultation

The Australian Competition and Consumer Commission (the ACCC) has received collective bargaining applications for authorisation from two groups of coal producers in Queensland. The ACCC invites you to comment on the applications. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

In particular, Endocoal Ltd, Whitehaven Coal Ltd, Yancoal Australia Ltd and QC Resource Investments Pty Ltd seek authorisation to:

- collectively discuss and negotiate terms and conditions with Adani Mining Pty Ltd (Adani) for access to each and any of the terminals to be developed at Dudgeon Point by Adani (the Terminal), any expansions to the Terminal and any other infrastructure at or around Dudgeon Point necessary to support the Terminal
- enter into and give effect to contracts, arrangements or understandings with Adani and
- discuss related matters amongst themselves.

In addition, a similar group of coal producers (namely, Endocoal Ltd, Linc Energy Ltd, Whitehaven Coal Ltd, Yancoal Australia Ltd and QC Resource Investments Pty Ltd) seek authorisation to:

- collectively discuss and negotiate terms and conditions with QR Network Pty Ltd for access to the Newlands, Goonyella and Blackwater coal rail systems (to the extent that these systems are used to service each and any of the terminals to be developed at Dudgeon Point by Adani), all expansions to these systems and access to any other QR Network rail infrastructure necessary to support the Terminal (Below Rail Infrastructure)
- enter into and give effect to contracts, arrangements or understandings with QR Network and
- discuss related matters amongst themselves.

A full copy of the applications for authorisation are available on the ACCC's website <www.accc.gov.au/AuthorisationsRegister>.

Interim authorisation

The Applicants have requested interim authorisation to enable them to commence meaningful collective negotiations with Adani and QR Network as soon as possible.

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 benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request 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, possible benefit and detriment to the public, 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.

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements.

If you intend to provide a submission in relation to the Applicants' substantive applications for authorisation, please do so by **Monday 21 January 2013**. Submissions in relation to interim authorisation should also be provided by this date.

Alternatively, if you would like to provide comments orally, please contact Mr Michael Drake on (03) 9658 6517 to organise a suitable time.

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

Timetable

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

7 December 2012	Lodgement of application and supporting submission, including request for interim authorisation.
20 December 2012	Public consultation process begins.
21 January 2013	Closing date for submissions from interested parties on interim authorisation and substantive application for authorisation.
January 2013	Applicant responds to issues raised in the public consultation process.
February 2013	Draft determination and ACCC decision regarding interim authorisation.
February/March 2013	Public consultation on draft determination including any conference if called.

April 2013	Final determination.
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Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the applications at the draft and final determination stages. If you are able to, please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the applications.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Mr Michael Drake (03) 9658 6517 (or at Michael.Drake@acc.gov.au).

Yours sincerely



David Hatfield
Director
Adjudication Branch

Endocoal and Ors – applications for authorisation A91350 and A91351

Initial consultation with interested parties

20 December 2012

1. Adani Mining Pty Ltd
2. QR Network
3. AMCI Australia Pty Ltd
4. Anglo American
5. Asciano
6. Australian Rail Track Corporation
7. BHP Billiton
8. Blackwood Corporation
9. Coll Randall & Associates
10. Dalrymple Bay Coal Terminal Pty Ltd
11. Department of Employment, Economic Development and Innovation (QLD)
12. Department of Infrastructure
13. Department of Natural Resources and Mines (QLD)
14. Department of Resources, Energy and Tourism
15. Department of State Development, Infrastructure and Planning (QLD)
16. Department of Transport and Main Roads (Qld)
17. Hancock Coal Pty Ltd
18. MacMines AustAsia
19. Metrocoal Limited
20. Minerals Council of Australia
21. North Queensland Bulk Ports
22. Ports Corporation of Queensland
23. QR National
24. Queensland Competition Authority
25. Queensland Resources Council
26. Queensland Treasury Office (Economic and Structural Policy)
27. Rio Tinto
28. Surat Basin Rail Pty Ltd
29. Stanmore Coal
30. Waratah Coal
31. Wesfarmers Curragh Pty Ltd
32. Xstrata Coal