



**Australian
Competition &
Consumer
Commission**

Our Ref: 52205
Contact Officer: Luke Griffin
Contact Phone: 02 6243 1114

GPO Box 3131
Canberra ACT 2601
23 Marcus Clarke Street
Canberra ACT 2601

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

26 September 2013

By email

Dear Sir / Madam

Application for minor variation by Australian Amalgamated Terminals Pty Limited - Authorisation A91141-A91142 and A91181-A91182 - interested party consultation

The Australian Competition and Consumer Commission (**ACCC**) has received an application from Australian Amalgamated Terminals Pty Ltd (**AAT**) for a minor variation to conditional authorisation A91141-A91142 and A91181-A91182, which was granted to AAT and the AAT joint venture participants on 3 December 2009 (**Authorisation**) (the **application for minor variation**).

A minor variation is a variation to an authorisation that does not involve a material change in the effect of the authorisation. To grant a minor variation to an authorisation, the ACCC must be satisfied that the variation would not be likely to result in a reduction in the extent to which the benefit to the public of the authorisation outweighs the detriment to the public caused by the authorisation.

The ACCC would like to invite you to comment on the application for minor variation. Attached is a copy of the application for minor variation along with a summary of the authorisation process including how to make a submission to the ACCC.

The Authorisation

The AAT joint venture was established in 2002, and operates automotive and general cargo terminals at various ports around Australia.

The Authorisation allows AAT and the joint venture participants to give effect to provisions in the identified agreements and related arrangements that establish and constitute the AAT joint venture, but only to the extent that those provisions allow the parties to engage in certain conduct set out at clause 5.9 of the Authorisation at

AAT's terminals in existence at the time the Authorisation was granted. A copy of the final determination granting the Authorisation is available on the ACCC's website.

The terminals located at Port Adelaide, Port of Bell Bay, Port of Brisbane, Port Kembla and Port of Melbourne are covered by the Authorisation. The Authorisation does not extend to new terminals established and operated by AAT.

The Authorisation is subject to conditions (as set out in Attachment D to the Authorisation). Broadly, the conditions:

- provide a mechanism for stevedores to seek access to AAT's terminals;
- impose a process for independent review of AAT's price increases to end-users;
- require AAT to provide end-users with a dispute resolution process for non-price disputes; and
- impose reporting obligations.

Authorisation was granted until 31 December 2019.

Proposed minor variation to A91141-A91142 and A91181-A91182

AAT has sought a minor variation to enable it to engage in the conditionally authorised conduct at a new terminal, namely, Appleton Dock at the Port of Melbourne, for a transitional period only.

The transitional period would begin on or before 1 April 2014 and end on 31 December 2017.

The transitional period relates to the port capacity project being undertaken by the Port of Melbourne Corporation (**POMC**) (the **project**). As part of the project, Webb Dock East will be closed for redevelopment and it is proposed that cargo usually directed through Webb Dock East will be redirected to Webb Dock West and Appleton Dock during this transitional period. The POMC approached AAT to act as the single terminal operator to operate Webb Dock West and Appleton Dock during this transitional period.

In the long term, the ACCC understands that the POMC proposes to consolidate all automotive cargo through a single new terminal to be built at Webb Dock West (**new WDW terminal**). The ACCC notes that neither the Authorisation nor the proposed minor variation will extend to the operation of the new WDW terminal, should AAT be selected by the POMC to operate this terminal. Further, this proposed minor variation does not affect the Authorisation as it applies to other Australian ports.

Request for submissions

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

If you intend to provide a submission, please do so by **24 October 2013**.

Alternatively, if you would like to provide comments orally, please contact Luke Griffin on 02 6243 1114 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 for minor variation in a timely manner. An indicative timetable is set out below for your information.

9 September 2013	Lodgement of application and supporting submission.
26 September 2013	Public consultation process begins.
24 October 2013	Closing date for submissions from interested parties.
November 2013	Applicant responds to issues raised in the public consultation process.
December 2013	Determination.

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

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.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch