



**Australian  
Competition &  
Consumer  
Commission**

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19 January 2016

Dear Sir/Madam

### **Applications for authorisation A91516-A91517 – Australia Pacific LNG Pty Limited and others – Consultation on possible information disclosure condition**

The Australian Competition and Consumer Commission (the ACCC) is considering the above mentioned applications lodged by Australia Pacific LNG Pty Ltd, the Queensland Curtis LNG Project and Gladstone LNG (together, the **Applicants**). In light of issues raised during its public consultation in relation to the applications, the ACCC is considering whether any authorisation granted should be subject to a condition.

Attached is a draft of a possible condition prepared by the Applicants (taking into account initial feedback from the ACCC). If imposed, the draft condition would require the Applicants to disclose specified information as a condition of authorisation.

The purpose of this letter is to invite you, as a potentially interested party, to comment on the draft condition.

#### **The applications for authorisation**

On 15 October 2015, the Applicants lodged applications for authorisation to discuss, make and give effect to arrangements regarding the sequencing and timing of scheduled maintenance works, and associated shutdowns and outages, at each of the Applicants' LNG facilities on Curtis Island in order to limit the extent to which scheduled maintenance works occur concurrently at the LNG facilities (the **proposed conduct**).

#### **Interested party concerns**

The ACCC has received numerous submissions from interested parties in relation to the proposed conduct. A number of participants in domestic energy trading markets have raised concerns that the proposed conduct would result in each Applicant knowing the timing of all future maintenance at the Curtis Island facilities, and this information could be used to trade advantageously in domestic markets, to the disadvantage of other participants.

These interested parties note that the information asymmetry arising as a result of the proposed conduct would likely raise concerns even if the Applicants did not seek to exploit their information advantage, as the proposed conduct would still mean non-LNG participants are less informed about upcoming periods of potential price volatility than the Applicants. Interested parties suggest that, over time, this may erode confidence and liquidity in these energy trading markets, and reduce efficiency for all participants.

These interested parties submit that public disclosure of the maintenance schedule would resolve the information asymmetry, and remove the potential for non-LNG participants to be disadvantaged by the proposed conduct.

A number of interested parties have suggested that, should the proposed conduct be authorised, the Applicants should be required, as a condition of authorisation, to comply with disclosure requirements comparable to the 'Medium Term Projected Assessment of System Adequacy' (**MTPASA**) required under the *National Electricity Rules*, or the 'Medium Term Capacity Outlook' (**MTCO**) required under the *National Gas Rules*.<sup>1</sup> Interested parties identified the Gas Bulletin Board (operated by the Australian Energy Markets Operator) as the appropriate place for the information to be disclosed.

In response to these concerns, the Applicants submit that the proposed conduct only allows the Applicants to discuss the timing and scheduling of maintenance events, and to categorise the events as minor or major. The Applicants submit that the scope of the proposed conduct would not extend to discussing changes to gas volumes at their facilities as a result of maintenance, or their options for managing excess gas during maintenance events. The Applicants therefore consider that the concerns raised by interested parties are not related specifically to the application for authorisation.

Copies of submissions made by the Applicants and interested parties are available on the [ACCC's public register](#).

### **Possible condition of authorisation**

The ACCC is concerned that the proposed conduct may give rise to the information asymmetry identified by interested parties and thereby result in significant public detriment.

Following the public consultation process, the ACCC requested the Applicants to provide it with the wording for a possible condition of authorisation that would address the issue of information asymmetry by requiring the publication of relevant information.

In making this request, the ACCC noted the Applicants' view that the information disclosure requirements suggested by interested parties (i.e. requirements comparable to the MTPASA and MTCO) go beyond the scope of the proposed conduct and application for authorisation. The ACCC considers that any condition would likely only need to address the information asymmetry arising directly from the proposed conduct (e.g. information relating to maintenance dates and schedules, and general information about each maintenance event).

The Applicants have indicated that they do not consider any condition of disclosure to be necessary, but have provided some suggested wording for a condition of authorisation, should the ACCC be minded to impose such a condition (see attached).

### **Request for submissions**

The ACCC is interested in market participants' views in relation to the draft condition and, in particular, on the extent to which the draft condition would address information asymmetry issues arising as a result of the proposed conduct.

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<sup>1</sup> The ACCC notes that the Australian Energy Markets Commission released a draft report on 4 December 2015 recommending that the Applicants be required to report their MTCO on the Gas Bulletin Board.

The ACCC invites you to make a submission on the draft condition. You may also forward this letter to any other party who may wish to make a submission to the ACCC regarding the draft condition.

The ACCC will consider submissions received by **COB 1 February 2016**. Any submissions should be lodged at [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au). Alternatively, if you would like to provide comments orally, please contact Michael Drake on (03) 9658 6517 to organise a suitable time.

The authorisation review process is a public process. Accordingly, submissions—including oral submissions—are placed on the ACCC's public register subject to any request for exclusion. When making a submission, please confirm that you consent to the submission being placed on the public register, or make a request that your submission (or parts thereof) be excluded from the public register. Please see the ACCC's publication [Guidelines for excluding information from the public register](#).

### Timetable

An updated indicative timetable for the ACCC's assessment of these applications is set out below for your information.

<b>19 January 2016</b>	ACCC commences consultation on draft condition.
<b>1 February 2016</b>	Closing date for submissions on draft condition.
<b>February 2016</b>	ACCC draft determination and decision regarding interim authorisation.
<b>February/March 2016</b>	Public consultation on draft determination, including any conference if called.
<b>March/April 2016</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 Michael Drake on (03) 9658 6517 or at [michael.drake@acc.gov.au](mailto:michael.drake@acc.gov.au).

Yours sincerely



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