



Exempt service provider status assessments under the Port Terminal Access (Bulk Wheat) Code of Conduct

Riordan Grain Services - Port of Portland and Port of Geelong

Issues paper

Date 26 October 2018

Summary

The Australian Competition and Consumer Commission (ACCC) is:

- seeking views on whether it is appropriate for the ACCC to determine Riordan Grain Services (RGS) to be an exempt service provider of port terminal services provided through its port terminal facility at Port of Portland;
- advising interested parties that
 - the ACCC made a determination on 28 July 2017 that determined RGS to be an exempt service provider of port terminal services provided by means of its port terminal facility located at Berth 3, Lascelles Wharf, Port of Geelong; and
 - the ACCC intends to amend the determination made on 28 July 2017 by removing the words “Berth 3, Lascelles Wharf”. As a result RGS will be an exempt service provider by means of its port terminal facility at Port of Geelong.

Exempt service providers are not required to comply with Parts 3 to 6 of the Port Terminal Access (Bulk Wheat) Code of Conduct (the Code) in relation to port terminal services provided through specified port terminal facilities.¹ Accordingly, exempt service providers are not required to (among other things) have their process for allocating access to their port terminal services approved by the ACCC, allocate capacity according to the Code’s non-discrimination and no hindering obligations, or publish information on expected port capacity, performance indicators, or stocks at port.

The Code states that in making a determination that a port terminal service provider (PTSP) is an exempt service provider the ACCC must have regard to the matters listed at subclause 5(3) of the Code. The ACCC will consider these matters in subclause 5(3), along with submissions provided in response to this issues paper, prior to making its draft determinations.

RGS has provided a submission in support of exempt service provider status at Portland. RGS has also provided a submission about the relocation of its mobile ship loader facility from Berth 3, Lascelles Wharf at Geelong to the Corio Quay berth at Geelong. Further details of these submissions are set out as relevant in section 2 of this issues paper. The submissions are available on the ACCC’s website for interested parties to consider.²

The ACCC invites comments in response to this issues paper by **5.00pm EST on Friday 16 November 2018**. The ACCC asks submitting parties to clearly identify whether their submission relates to Riordan’s facility at Portland or Geelong, or both.

Further information on the ACCC’s exemption role is available at **Appendix A**.

¹ Competition and Consumer (Industry Code—Port Terminal Access (Bulk Wheat)) Regulation 2014, s.4(8)

² See <https://www.accc.gov.au/regulated-infrastructure/wheat-export/wheat-export-projects>

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1. Introduction

The Code was prescribed by regulation under section 51AE of the *Competition and Consumer Act 2010 (Cth)* (CCA). It commenced on 30 September 2014 and regulates the conduct of bulk wheat port terminal service providers.

The Code provides that the ACCC or the Minister for Agriculture may exempt a port terminal service provider from the application of Parts 3 - 6 of the Code in relation to port terminal services provided at a specified port terminal facility. Exempt service providers face a lower level of regulation as they remain subject to only Parts 1 and 2 of the Code. The obligations under each of these Parts are discussed further in section 1.2.

This section sets out why the ACCC has a role assessing whether PTSPs should be determined to be exempt service providers, what that assessment process will involve, and how interested parties can participate in the assessment.

1.1. How the ACCC will assess whether it is appropriate to determine Riordan Grain Services to be an exempt service provider

The ACCC is assessing whether it is appropriate to determine Riordan Grain Services (**RGS**) to be an exempt service provider of port terminal services provided by means of its port terminal facility at Port of Portland (**Portland**).

The ACCC is also advising interested parties that it intends to amend an existing exemption so that RGS is an exempt service provider of port terminal services provided by means of its port terminal facility at Port of Geelong (**Geelong**).

As a result of a determination made by the ACCC on 28 July 2017, RGS is currently an exempt service provider with respect to its port terminal facility at Geelong. At the time of the ACCC's determination, RGS' port terminal facility was located at Berth 3, Lascelles Wharf, Port of Geelong and the berth location was therefore named in the ACCC determination. The wording of the ACCC's amended determination will remove reference to "Berth 3, Lascelles Wharf". This will mean that RGS is an exempt service provider by means of its port terminal facility located at Port of Geelong, irrespective of the exact location within the Port.

The assessments for Portland and Geelong relate to the use of the same mobile ship loading facility operated by RGS that will be moved between Portland and Geelong by road in order to load at both ports. Accordingly the ACCC considers it appropriate and practical to make these assessments at the same time.

In deciding whether to determine a PTSP to be an exempt service provider, the ACCC is required to consider the matters listed at subclause 5(3) of the Code:

- (a) the legitimate business interests of the port terminal service provider
- (b) the public interest, including the public interest in having competition in markets
- (c) the interests of exporters who may require access to port terminal services
- (d) the likelihood that exporters of bulk wheat will have fair and transparent access to port terminal services
- (e) the promotion of the economically efficient operation and use of the port terminal facility
- (f) the promotion of efficient investment in port terminal facilities

- (g) the promotion of competition in upstream and downstream markets
- (h) whether the port terminal service provider is an exporter or an associated entity of an exporter
- (i) whether there is already an exempt service provider within the grain catchment area for the port concerned
- (j) any other matters the ACCC considers relevant.

To inform its consideration of these matters, and consistent with the exemption guidelines,³ the ACCC considers that it is appropriate to seek the views of interested parties.

The ACCC is therefore conducting a public consultation during which interested parties are invited to comment on specific questions and matters relating to the appropriateness of RGS receiving exempt service provider status at Portland.

Following a consideration of the matters listed at subclause 5(3) and the views expressed by interested parties during the course of the ACCC's public consultation process, the ACCC will make its final determination on whether to exempt or not exempt RGS at Portland, and whether to amend the determination in relation to RGS' facility at Geelong.

The ACCC has previously considered issues relating to the Victorian grain market in its consideration of exemptions for GrainCorp's and Emerald's Victorian facilities.⁴

1.2. What a determination of a port terminal service provider as an exempt service provider means

PTSPs are required to comply with Parts 1 to 6 of the Code (that is, the entire Code). RGS is a PTSP at Geelong and Portland.

PTSPs that are determined by the ACCC or the Minister of Agriculture to be exempt service providers are:

- only required to comply with Parts 1 and 2 of the Code
- **not** required to comply with Parts 3 to 6 of the Code.

Part 1 of the Code contains general provisions about the Code.

Part 2 of the Code requires all PTSPs to deal with exporters in good faith, publish a port loading statement and policies and procedures for managing demand for their services, and make current standard terms and reference prices for each port terminal facility publically available on their website.

Part 3 of the Code requires a PTSP:

- not to discriminate in favour of itself or its trading business or hinder third party exporters' access to port terminal services,
- to enter into an access agreement or negotiate the terms of an access agreement with an exporter to provide services if an exporter has applied to enter into an access agreement and certain criteria are satisfied, and
- to deal with disputes during negotiation via specified dispute resolution processes including mediation and arbitration.

³ ACCC, Guidelines on the ACCC's process for making and revoking exemption determinations, October 2014.

⁴ ACCC, ACCC Determinations – Exemptions in respect of Emerald's Melbourne Port Terminal Facility, GrainCorp's Geelong Port Terminal Facility and GrainCorp's Portland Port Terminal Facility, 25 June 2015.

Part 4 of the Code requires a PTSP to have, publish and comply with a port loading protocol which includes an ACCC approved capacity allocation system.

Part 5 of the Code requires a PTSP to regularly publish its expected capacity, stock at port information and key performance indicators.

Part 6 requires retaining records such as access agreements and variations to those agreements.

Exempt service providers are still required to comply with general competition law.

1.3. Consultation

The ACCC invites interested parties to provide their views on whether it is appropriate for the ACCC to determine RGS to be an exempt service provider of port terminal services provided by means of its port terminal facility at Portland.

The ACCC also invites interested parties to provide their views on the ACCC's proposed amendment to its determination in respect of RGS's port terminal facility at Geelong, noting that the amendment will remove reference to "Berth 3, Lascelles Wharf".

Interested parties are to clearly state in their submissions whether their submission relates to Portland or Geelong, or both.

Section 2 of this issues paper contains what the ACCC considers to be key questions and issues relevant to the ACCC's assessment, as well as information provided by RGS in support of exemption.⁵

The ACCC invites interested parties to respond to these questions, comment on the information provided by RGS, and provide any additional information they consider relevant to the ACCC's assessment.

⁵ Submissions by RGS are available on the ACCC's website at: <https://www.accc.gov.au/regulated-infrastructure/wheat-export/wheatexportprojects>

1.3.1. Making a submission

Please address submissions to:

Mr Matthew Schroder
General Manager
Infrastructure & Transport - Access & Pricing Branch
ACCC
GPO Box 520
MELBOURNE VIC 3001
Email: transport@acc.gov.au

The ACCC prefers that submissions be sent via email in Microsoft Word format (although other text readable document formats will be accepted).

1.3.2. Due date for submissions

Submissions must be received before **5.00pm AEST on Friday 16 November 2018**.

1.3.3. Confidentiality of information provided to the ACCC

The ACCC strongly encourages public submissions. Unless a submission, or part of a submission, is marked confidential, it will be published on the ACCC's website and may be made available to any person or organisation upon request.

Sections of submissions that are claimed to be confidential should be clearly identified. The ACCC will consider each claim of confidentiality on a case by case basis. If the ACCC refuses a request for confidentiality, the submitting party will be given the opportunity to withdraw the submission in whole or in part. The ACCC will then conduct its assessment in the absence of that information.

For further information about the collection, use and disclosure of information provided to the ACCC, please refer to the *ACCC & AER Information Policy – collection and disclosure of information*, available on the ACCC website.

1.3.4. Further information

If you have any queries about any matters raised in this document, please contact:

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2. Matters for comment

Port of Portland

On 4 October 2018 RGS provided a written application to the ACCC seeking to be determined an exempt service provider of port terminal services for bulk wheat exports at Portland.

RGS will be moving its mobile ship loader between Geelong and Portland in order to carry out shipments at both ports.

As noted, the ACCC will consider whether to determine RGS as an exempt service provider in relation to services provided by means of its port terminal facility at Portland, having regard to the matters listed in subclause 5(3) of the Code.

Interested parties are encouraged to reference these Code matters in their response.

Port of Geelong

On 28 July 2017, the ACCC determined RGS to be an exempt port terminal provider of port terminal services provided by means of its facility (mobile ship loader), which at the time was located at Berth 3, Lascelles Wharf, Geelong.

On 30 January 2018 RGS wrote to the ACCC stating that it would be relocating its mobile ship loading facility from Lascelles Wharf to Corio Quay Geelong, and sought that the ACCC determine RGS as exempt in relation to its facility located at the new berth at Geelong.

The ACCC's determination made on 28 July 2017 means that RGS is currently an exempt port terminal provider of port terminal services provided by means of its facility at Port of Geelong. That determination names "Berth 3, Lascelles Wharf". The ACCC's amended determination will remove reference to "Berth 3, Lascelles Wharf" and will mean that RGS is an exempt service provider by means of its port terminal facility located at Geelong, irrespective of the exact location within Geelong. In amending the existing determination, the ACCC will have regard to the matters listed in subclause 5(3) of the Code.

2.1. Legitimate business interests of the service provider

In making a determination to exempt or not exempt a PTSP, the ACCC is required to consider the PTSP's legitimate business interests. Therefore the ACCC is seeking views on how removing the obligation to comply with Parts 3 to 6 of the Code would impact on RGS's business interests.

In relation to the interests of the service provider, RGS submits:

- Exemption will encourage not only RGS but others to pursue innovative supply chain solutions for export of grain out of Australia.⁶
- Exemption will reduce the compliance burden on RGS and encourage smaller scale operators to pursue innovation in agricultural supply chain.⁷

⁶ RGS Exemption Application submitted 4 October 2018, p7

⁷ RGS, p7

Key questions and issues

1. *How and to what extent are the legitimate business interests of RGS affected by having to comply with Parts 3 to 6 of the Code when providing port terminal services?*
2. *In what ways would an exemption for RGS impact on the efficient operation and use of its respective port terminal facilities at Portland and Geelong?*

2.2. Access to port terminal services

Subclause 5(3) requires the ACCC to consider the interests of exporters who may require access to the relevant port terminal services when determining whether to exempt a PTSP. Therefore the ACCC is seeking views on how removing obligations on RGS to comply with Parts 3 to 6 of the Code will impact on the interests of access seekers, including their ability to secure fair and transparent access.

In relation to the interests of exporters who may require access to port terminal services, RGS submits:

- Exemption will encourage others to pursue supply chain solutions and enable access to improved quality and pricing opportunities that increased competition and supply chain innovations can provide.⁸

The ACCC notes that there are several competing port terminals in the relevant catchment area, as discussed below in section 2.3.

Key questions and issues

3. *If RGS is not required to comply with Parts 3 to 6 of the Code (including the dispute resolution, non-discrimination, and capacity allocation system approval obligations), would exporters still expect to be able to negotiate access to port terminal services at Portland on reasonable commercial terms?*

2.3. Grain catchment area

In making an exemption determination, the Code requires the ACCC to have regard to the public interest, including the public interest in having competition in markets. In order to assess the level of competition between providers of port terminal services the ACCC considers that it is necessary to examine the grain catchment area or port zone that will feed the port.

In regards to the grain catchment for Portland, RGS submits:⁹

- Grain for the Portland port catchment is typically grown in the west of Victoria with roughly a vertical line north and south of Horsham being the west of this line working into Portland and east of this line working into Geelong and Melbourne.
- Movement of grain to ports outside of this rough zone is subject to domestic requirements, rail logistics and demand at ports for grain. With grain on trucks there

⁸ RGS, p7

⁹ RGS, p3

is no physical impediment to moving within or between zones, however pricing points at different zones will ultimately determine end destinations for grain.

- As a result, ports such as Geelong, Melbourne and Adelaide do offer an alternate destination to Portland, however typically over the longer term the best result for the grower in the Portland catchment zone would be for grain destined to Portland port.
- RGS believe that alternate bulk loading capacity at Portland via alternate bulk loading solutions will lead to overall better competition for grain in the Portland zone.

RGS notes that in the Adelaide zone Glencore operate two bulk port terminal facilities and Semaphore Containers and Cargill both operate mobile bulk port loading facilities, and submits that these ports influence grain accumulation in the Portland catchment zone.¹⁰

In relation to whether there is already an exempt service provider within the catchment area for the port concerned, RGS submits that Graincorp Geelong, Emerald Melbourne and Glencore Adelaide are exempt service providers from the Code and are in the catchment area for Geelong and Portland.¹¹

Key questions and issues

4. *What regions should be considered part of the Portland zone? That is, where is bulk grain exported from Portland typically sourced from?*

2.4. Competition in bulk wheat port terminal services

As noted, the ACCC considers that in determining whether to exempt a PTSP an important consideration is whether a PTSP is incentivised to provide exporters with fair and transparent access due to competitive pressures. One of these potential pressures is from other PTSPs.

The ACCC therefore seeks to assess the current and reasonably anticipated levels of competition in port terminal services at Portland. In particular, the ACCC is considering the levels of capacity, demand and spare capacity at Portland. The ACCC notes that it has previously considered similar issues in 2015 in relation to GrainCorp and Emerald's Victorian facilities, and in 2017 in relation to Riordan's Geelong facility.

RGS submits that an exemption will increase competition and reduce regulatory compliance burden on RGS and others to pursue innovation in agriculture and drive supply chain efficiencies.¹²

On the level of competition that RGS will provide, RGS submits that:¹³

- RGS operates a road based delivery system with limited investment at port that limits or reduces the need for on wharf storage.
- Deliveries and loading onto vessel are restricted to approx. 200mt per hour.

¹⁰ RGS, p2

¹¹ RGS, p7

¹² RGS, p7

¹³ RGS, p8

- Given the intensive nature of this loading plus the slower loading rates, RGS anticipates loading a maximum of 300,000mt per year across both Geelong and Portland being approx. 10 vessels, at 30kmt each.
- It is anticipated the tonnage splits would be roughly 50/50 between Geelong and Portland however this is dependent on seasonal and subsequent market conditions in each port zone.
- RGS only has access to the one ship loader and is not intending to be loading at both Geelong and Portland at the same time due to the availability of the loader and logistical constraints.
- The ship loader is not owned by RGS and is available for other parties to purchase or hire.
- The movement of the loader between the two ports (Geelong and Portland) takes about 8 hours by road but is subject to road movement constraints at the time of transit. In addition to moving the loader RGS relocates equipment required for the bulk loading between ports eg sample stand and testing equipment, grain loaders etc.
- Commodities handled at Geelong and Portland would include barley, wheat, canola, corn and pulses.

Key questions and issues

5. *To what extent will the port terminal services provided by RGS at Portland represent a viable competitive alternative to the services offered at other facilities, or vice versa?*
6. *What characteristics or factors are relevant in comparing the services provided at RGS's Portland facility and other port terminal facilities? How do these characteristics or factors affect the level of competition between RGS's Portland facility and other port terminal facilities?*
7. *For grain produced in the Portland port zone, to what extent are other ports a genuine alternative destination to Portland (i.e. do PTSPs at Portland compete against PTSPs at the other Victorian ports and the Adelaide ports)?*
8. *Are there capacity constraints at Portland or is capacity currently underutilised? If capacity is constrained, when and how often does this occur, and what factors affect this?*
9. *In what ways would an exemption for RGS impact on the likelihood of efficient investment in port terminal facilities?*

2.5. Competition in upstream, downstream and related markets

The ACCC's assessment of whether it is appropriate to exempt RGS at Portland requires the consideration of the public interest (including the level of competition between providers of port terminal services at Portland, and the promotion of competition in upstream and downstream markets).

In order to make that assessment, the ACCC considers that it is relevant to assess the level of competition in the bulk export supply chain, as well as the container export and domestic

markets, and the extent to which these affect the level of competition of port terminal services at Portland.

A bulk grain exporter's access to transport and/or storage services may have an impact on the exporter's ability to access port terminal services. Accordingly, the ACCC considers that the level of competition in the upcountry supply chain is relevant to the level of competition in the market for port terminal services. The ACCC notes that its examination of competition in the upcountry supply chain in this exemption process is limited to the extent to which it impacts on fair and transparent access to port terminal services.

On the market for upcountry storage, RGS submits:

- RGS owns storage sites that are utilised for its existing domestic business and to link in with its ongoing container packing and bulk loading program.¹⁴
- Approximately 30-50 per cent of RGS's cargo is pre-accumulated at sheds or silos near the Geelong or Portland ports with the balance of tonnes delivered direct from up country origins to the port for loading.¹⁵
- Around Geelong, RGS owns or leases sheds and silos at Lara, Corio, Balliang and Lismore. The capacity of this storage is approx. 130,000mt. These assets are currently utilised for various activities including storage of alternate products (fertiliser, imported meals etc.), storage of grain for domestic customers and storage for export pathways (containers and mobile bulk loading).¹⁶
- Around Portland, RGS has access to sheds to lease at various locations with an approx. storage capacity of 20,000mt. This capacity is currently utilised solely for pre-accumulation for bulk vessel loading.¹⁷
- RGS has storage and handling agreements in place with a wide range of up country private storage sites with the potential to accumulate up to 400,000mt in multi-use private stores. In any given year RGS will carry up to 150,000mt of grain out of harvest and is a buyer of grain throughout the year from growers and the trade.¹⁸

On the market for transport services, RGS submits:

- The storage sites used by RGS are primarily road based and where appropriate RGS utilises the transport capabilities of the storage operator to assist with execution of grain.¹⁹

The ACCC also considers that the domestic and container export markets compete to some extent with the bulk export market for wheat.

The ACCC's 2016-17 Bulk Wheat Ports monitoring report²⁰ noted that in the 2016-17 shipping year Victoria in the proportion of total wheat production volumes that was consumed by the domestic market was 35 per cent. In relation to container exports in the 2016-17 shipping year, for every tonne of bulk wheat exported from Victoria, 0.62 tonnes

¹⁴ RGS, p4

¹⁵ *Ibid*

¹⁶ *Ibid*

¹⁷ *Ibid*

¹⁸ RGS, p4

¹⁹ RGS, p4

²⁰ <https://www.accc.gov.au/publications/serial-publications/bulk-wheat-ports-monitoring-reports/bulk-wheat-ports-monitoring-report-2016-17>

were exported by container. In Victoria, containerised wheat is primarily exported via the Port of Melbourne.

Key questions and issues

10. *What level of competition is there between upcountry storage and handling facilities in the Portland grain port zone? Do third party facilities or on-farm storage provide a competitive constraint?*
11. *What transport services do producers and exporters use to transport grain to Portland for export? How much grain is transported to Portland by rail (if any) and how much by road? What level of competition is there in the provision of these transport services?*
12. *In light of the answers to questions 9 and 10, how does the level of competition in upcountry storage and transportation currently impact on an exporter's ability to secure fair and transparent access to port terminal services at Portland?*
13. *With regard to fair and transparent access to port terminal services, how would an exemption for RGS at Portland impact on competition in the upcountry and transportation markets, and the upcountry supply chain as a whole?*
14. *To what extent do domestic demand and containerised exports provide a competitive constraint on bulk grain exports at Portland?*

Appendix A: Exemption assessments under the Code

The Code, prescribed by regulation under section 51AE of the *Competition and Consumer Act 2010* (CCA), commenced on 30 September 2014. The Code replaced the previous regulatory framework provided for by the *Wheat Export Marketing Act 2008* (WEMA), which required vertically integrated providers of port terminal services to provide the ACCC with access undertakings.

The purpose of the Code is defined at clause 2 as:

The purpose of this code is to regulate the conduct of port terminal service providers to ensure that exporters of bulk wheat have fair and transparent access to port terminal services.

Port terminal service providers must comply with the Code

The Code applies to PTSPs. A PTSP is defined as:

the owner or operator of a port terminal facility that is used, or is to be used, to provide a port terminal service.

where:

port terminal service means a service (within the meaning of Part IIIA of the CCA) provided by means of a port terminal facility, and includes the use of a port terminal facility.

and:

port terminal facility means a ship loader that is:

- (a) at a port; and
- (b) capable of handling bulk wheat;

and includes any of the following facilities, situated at the port and associated with the ship loader, that are capable of handling bulk wheat:

- (c) an intake/receival facility;
- (d) a grain storage facility;
- (e) a weighing facility;
- (f) a shipping belt.

Obligations on port terminal service providers

Non-exempt PTSPs are required to comply with all six Parts of the Code. PTSPs that are determined by the ACCC or the Minister of Agriculture to be exempt service providers are not required to comply with Parts 3 to 6 of the Code.

Part 1 of the Code contains general provisions about the Code.

Part 2 of the Code requires all PTSPs to deal with exporters in good faith, publish a port loading statement and policies and procedures for managing demand for their services, and make current standard terms and reference prices for each port terminal facility publically available on their website.

Part 3 of the Code requires a PTSP:

- not to discriminate in favour of itself or its trading business or hinder third party exporters' access to port terminal services,
- to enter into an access agreement or negotiate the terms of an access agreement with an exporter to provide services if an exporter has applied to enter into an access agreement and certain criteria are satisfied, and
- to deal with disputes during negotiation via specified dispute resolution processes including mediation and arbitration.

Part 4 of the Code requires a PTSP to have, publish and comply with a port loading protocol which includes an ACCC approved capacity allocation system.

Part 5 of the Code requires a PTSP to regularly publish its expected capacity, stock information and key performance indicators.

Part 6 requires retaining records such as access agreements and variations to those agreements.

How a port terminal service provider can be determined to be an exempt service provider

Exempt service provider determination by the ACCC

Subclause 5(2) of the Code provides that the ACCC may determine a PTSP to be an exempt service provider of port terminal services provided by means of a specified port terminal facility. Subclause 5(3) of the Codes provides that the ACCC must have regard to a list of matters in making a determination under subclause 5(2) of the Code. The ACCC can subsequently revoke an exemption determination under subclause 5(6) of the Code.

Exempt service provider determination by the Minister for Agriculture

Subclause 5(1) of the Code provides that the Minister for Agriculture may determine that a PTSP is an exempt service provider if the Minister is satisfied that the provider is a cooperative that has:

- (a) grain-producer members who represent at least a two-thirds majority of grain-producers within the grain catchment area for the port concerned; and
- (b) sound governance arrangements that ensure the business functions efficiently and that allow its members to influence the management decisions of the cooperative.

The ACCC does not have any role in exemptions under subclause 5(1).

How the ACCC will conduct its assessment process

On 16 November 2014 the ACCC released its *Guidelines on the ACCC's process for making and revoking exemption determinations* (the Guidelines).²¹

The Guidelines state that, when a port terminal service provider submits an exemption application, the ACCC will seek to conduct its exemption assessment and decide whether to make an exemption determination within 12 weeks.

²¹ The guidelines are available on the ACCC's website at <http://acc.gov.au/publications/process-guidelines-for-making-revoking-exemption-determinations>.

This timeframe may vary where the ACCC conducts a public consultation process, and/or requests information from the port terminal service provider. Generally, the length of any consultation period(s) will extend the ACCC's timeframe for the exemption assessment.

Each exemption assessment process may be different and may include requests for information, consultation with interested parties, and a draft determination before the ACCC makes its final determination. The Guidelines, which are available on the ACCC website, provide further detail around the ACCC's process for making and revoking exemption determinations.

Indicative timeline for assessment

Submissions on this issues paper close on **Friday 16 November 2018**.

The ACCC may decide to release a draft determination in respect to Portland, or may proceed directly to publish a final determination. The ACCC anticipates that it will release its determination in December 2018.

The ACCC does not propose to release a draft amendment to its existing determination with respect to Geelong and anticipates that it will release its final amended determination in December 2018.

The ACCC notes that the timeframe for assessing the exemption application will depend on the nature and timeliness of information provided by interested parties.