



Our ref: AA1000541
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By email

Dear Interested Party

Dalrymple Bay Coal Producers Proposed Collective Negotiation and Collective Arbitration with Dalrymple Bay Infrastructure Management Limited - Application for authorisation AA1000541 – Draft determination

The Australian Competition and Consumer Commission (the **ACCC**) has issued a draft determination in respect of the application for authorisation lodged by a group of 13 coal miners who are current access holders and current access seekers of the Dalrymple Bay Coal Terminal (the **Terminal**) (the **Applicants**) to collectively negotiate and collectively arbitrate the terms and conditions of access to the Terminal with Dalrymple Bay Infrastructure Management Limited (**DBIM**), lodged on 20 December 2021.

For the reasons set out in its draft determination, the ACCC proposes to grant authorisation, with a condition, for 10 years.

The proposed condition will require the Applicants to notify the ACCC of any additional parties that seek to join the collective negotiations and collective arbitrations in the future.

The ACCC is satisfied that the proposed collective negotiations and collective arbitrations are likely to result in public benefits by creating transaction cost savings and increased efficiency from improving input into access negotiations.

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

On 5 March 2021, the ACCC granted interim authorisation, with a similar condition, so that the Applicants, other parties and future access seekers could commence engaging in the Proposed Conduct while the ACCC continues its assessment of the substantive application for authorisation.

Next steps

The ACCC invites submissions on the draft determination.

Submissions are due by 5:00pm Friday 21 May 2021 and can be lodged by emailing exemptions@acc.gov.au with the subject "AA10000541 – Dalrymple Bay Coal Terminal – submission". The ACCC will consider any submissions received by this date in making its final decision about whether to grant authorisation.

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 a draft determination. If a conference is called in this matter, it will be open to the Applicants and interested parties to attend and make oral submissions. 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 for the ACCC to hold a pre-decision conference in relation to the draft determination you must notify the ACCC in writing **by 5:00pm on 21 May 2021**. Any request for a conference should be emailed to 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
21 December 2020	Lodgement of application.
22 December 2020	Public consultation process commenced.
5 March 2021	Interim authorisation granted.
6 May 2021	Draft determination released.
21 May 2021	Consultation on the draft determination ends.
28 May 2021	Applicants respond to submissions on the draft determination.
June 2021	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 Simon Bell on 02 6243 1232.

Yours sincerely



David Hatfield
Director
Competition Exemptions