

INDEPENDENT STATE OF PAPUA NEW GUINEA
Independent Consumer and Competition Commission Act

Act, Sec 81

Form 2

NOTICE OF APPLICATION FOR CLEARANCE FOR A BUSINESS ACQUISITION

1. **FORM AND CONTENT:** In addition to providing a detailed submission in support of the application, the applicant/s is required to complete the application form in full. The Independent Consumer and Competition Commission (ICCC) may reject any applications that have not been filled out fully and properly in accordance with section 76 (4) (c) of the *Independent Consumer and Competition Commission Act, 2002*, (the Act)
2. **WHERE TO APPLY:** Applications for Clearance for Business Acquisitions should be lodged at the ICCC's office at Level 2 Garden City Building, Boroko, National Capital District or mailed to P.O. Box 6394, Boroko, National Capital District, Papua New Guinea. Ensure to supply one (1) hard copy and (1) soft copy of your application.
3. **WHEN TO APPLY.** It is a legal requirement to apply for clearance under section 81 of the Act if the proposed transaction would fall within the notification thresholds before proceeding to completion.
4. **PENALTIES:** Failure to apply and proceeding to complete a merger or an acquisition (which falls within either of the notification thresholds) will result in pecuniary penalty of K750 000.00. Transactions that were not authorised or cleared and it has raised competition concerns under section 69; and successfully prosecuted by the ICCC, the penalties (1) are up to K500, 000 for an individual, (2) K10, 000 000 for a body corporate under section 95 (3) of the Act, (3) divestiture of assets or shares under section 98 of the ICCC Act.
5. **FEE:** The fee for processing of a business acquisition clearance application is K20, 000. This must be paid by a cheque made out to the ICCC before any work is done on the application.
6. **COLLECTION OF DETERMINATION:** It is the ICCC's duty to inform an applicant of its determination, in writing, in accordance with section 81 (3). The ICCC must determine the application within 20 days after the date of registration of the notice or for such period as mutually agreed by the ICCC and the Applicant.
7. **LEGAL ADVICE:** Although it is not a requirement under the Act, the ICCC encourages applicants to seek independent legal advice before applying to the ICCC for clearance.
8. **CONFIDENTIALITY:** The consideration of applications for clearance is a public process. All documents provided to the ICCC that were intended to form part of the application, will be placed on public record on the ICCC's Public Register. The ICCC may reject any claim for confidentiality if it considers that disclosure is in the best interest of the public. If the ICCC decides to disclose any information claimed to be confidential, the applicant will be provided with an opportunity to withdraw the information. If confidential information has been withdrawn, they will not be considered in the assessment and determination of the application. Where the applicant would like to apply for confidentiality, the applicant must complete an Application for Confidentiality Form (*ICCC Form-4*). The ICCC will consider, make a decision and inform the applicant accordingly.

PLEASE FOLLOW DIRECTIONS ON THE BACK TO COMPLETE THIS FORM

A Notice is hereby submitted under *Section 81 of the Independent Consumer & Competition Commission Act of 2002 (ICCC Act)* for Clearance for a Business Acquisition under *Section 69*, to acquire assets or shares in a business. All references made to provisions are to those provisions contained in the ICCC Act of 2002.

1. Applicant (the Acquirer)

- (a) Name of Applicant and registered office, including the IPA registration number:
(Refer to direction 1)

ENEOS Xplora Papua LNG Limited (IPA no. 1-142922509) of c/- Abacus (PNG) Limited, PricewaterhouseCoopers PNG, PWC Haus, Level 6 Harbour City, Konedobu, Moresby South, National Capital District (Port Moresby), Papua New Guinea. The Acquirer was recently incorporated in PNG on 19 September 2025.

Note: The Target has a similar name, ENEOS Xplora Papua LNG Pty Ltd (see details in answers to Question 2).

The Applicant is a new entity incorporated on 19 September 2025.

- (b) Address in PNG for service of documents:

- (i) Physical address:

c/- Corrs Chambers Westgarth
Level 3, Deloitte Haus
MacGregor Street
Port Moresby, National Capital District
Papua New Guinea

- (ii) Postal address:

c/- Corrs Chambers Westgarth
Level 3, Deloitte Haus
MacGregor Street
Port Moresby, National Capital District
Papua New Guinea

- (iii) Phone and email address:

Vaughan Mills, Partner
Corrs Chambers Westgarth
+675 303 9800
vaughan.mills@corrs.com.au

with a copy to:
James Cameron, Special Counsel
Corrs Chambers Westgarth
james.cameron@corrs.com.au

- (c) Provide details of the business carried on by the Applicant including the goods and services the Applicant supplies:
(Refer to direction 2)

The Applicant is a newly formed PNG company. Assuming that the Proposed Acquisition (defined in section 3 below) is granted ICCC clearance or authorisation and ultimately completes, it will carry on business in relation to oil and gas exploration, development, and production.

- (d) Detailed description of all related business/es or company/ies of the Applicant including the goods and services

that each of them provide including the IPA registration number:
(Refer to direction 3)

Company name	IPA no. (if any)	Good and/or services supplied	Relationship
ENEOS Holdings, Inc.	Not applicable.	Not applicable.	Ultimate holding company listed on the Tokyo Stock Exchange, Japan.
ENEOS Xplora Inc. (formerly, JX Nippon Oil & Gas Exploration Corporation)	NA	Oil and gas exploration, development and production.	Parent company, incorporated in Japan.
ENEOS Xplora Papua LNG Pty Ltd (i.e. the Target)	3-120964704	Oil and gas exploration, development and production – Papua LNG Project in PNG.	Affiliate company, incorporated in Australia.
Nippon Papua New Guinea LNG LLC	3-70171	Oil and gas development and production – PNG LNG Project Petroleum Development Licence Number 9 in PNG.	Affiliate company, incorporated in the United State of America.
Merlin Petroleum Company	3-9624	Oil and gas development and production – Kutubu-Agogo, Moran, Gobe Main, SE Gobe, SE Mananda and Application for Petroleum Development Licence Number 13 in PNG.	Affiliate company incorporated in the United States of America.

(e) Name, address and phone number of any person/s (if any) for whose benefit or behalf the shares or assets acquired will be held:

Not applicable.

2. The Target Company

a. In the case of a registered business or company whose shares or assets are to be acquired:

(i) Name of the business or company including the IPA registration number

ENEOS Xplora Papua LNG Pty Ltd

The Target is registered in PNG as an overseas company incorporated in Australia (ACN 665 972 574), operating in PNG under IPA registration number 3-120964704.

The principal place of business of the Target in PNG is c/-Abacus (PNG) Limited, PricewaterhouseCoopers PNG, PWC haus, Level 6 Harbour City, Konedobu, Moresby South, National Capital District (Port Moresby), Papua New Guinea.

Note: The former name of the Target was "JX Nippon Oil & Gas Exploration (Papua LNG) Pty Ltd". That former name appears on agreements relating to the Papua LNG Project referred to in this document.

(ii) Registered office of the business or company

Level 8, 340 Adelaide Street
Brisbane, Queensland, 4000
AUSTRALIA

(iii) Brief description of the business/es carried on by the business or company including the goods and services supplied

Oil & gas exploration, development, and production in PNG in the Papua LNG Project (noting that the Papua LNG Project is currently progressing towards Final Investment Decision (FID) and so is not yet operational).

(iv) Number and types of shares or description of assets to be acquired

The Applicant will acquire a 2.580645% participating interest in the Papua LNG Project and joint venture, and a corresponding 2.580645% interest as tenant-in-common in PRL 15.

b. Where it is a company whose shares are to be acquired, provide details of:

(i) The issued capital of the company

Not applicable – shares not being acquired.

(ii) The holders of issued capital

Not applicable – shares not being acquired.

c. Provide details of all related business/es or company/ies of the business or company whose shares or assets are to be acquired by the applicant.

(Refer to direction 4)

The table below lists companies related to the Target:

Company name	IPA no. (if any)	Relationship
ENEOS Holdings, Inc.	Not applicable	Ultimate holding company listed on the Tokyo Stock Exchange, Japan.
ENEOS Xplora Inc. (formerly JX Nippon Oil & Gas Exploration Corporation)	Not applicable	Parent company, incorporated in Japan.

ENEOS Xplora Papua LNG Limited	1-142922509	Affiliate company, incorporated in Papua New Guinea.
Nippon Papua New Guinea LNG LLC	3-70171	Affiliate company, incorporated in the United States of America.
Merlin Petroleum Company	3-9624	Affiliate company incorporated in the United States of America.

d. Where it is a person whose assets are to be acquired

(i) Name and address of that person

Not applicable.

(ii) Detailed description of the business/es carried on by the person including the goods and services that person supplies

Not applicable.

(iii) Describe the assets to be acquired

Not applicable.

3. The Acquisition

(a) Outline the details of the offer contract, arrangement, understanding or proposal for the acquisition and, where possible also provide a copy of that document.
(Refer to direction 5)

The proposed acquisition involves a transfer of the Target's 2.580645% participating interest in the Papua LNG Project and joint venture, and a corresponding 2.580645% interest as tenant-in-common in PRL-15 (referred to in ICCC Determination C2023/39 released 28 June 2023 - see answer to Question 5(c), below), to ENEOS Xplora Papua LNG Limited (referred to in this document as the **Proposed Acquisition**).

A 'before and after' corporate structure diagram for the Proposed Acquisition is shown below:

Proposed Transaction so as to substitute the Acquirer for the Target, however only to the extent of any extant obligations.

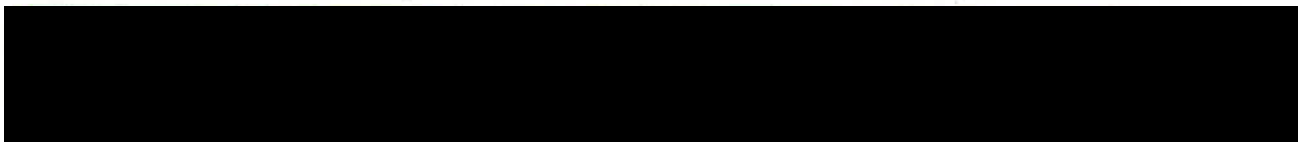
A range of secondary documents are also intended to be novated to the Acquirer (such as lifting agreements, confidentiality agreements, non-disclosure agreements and other agreements) however none of these will involve the transfer of any share or assets of a business to the Acquirer.

(d) Provide a copy of the draft Sale or Purchase agreement.



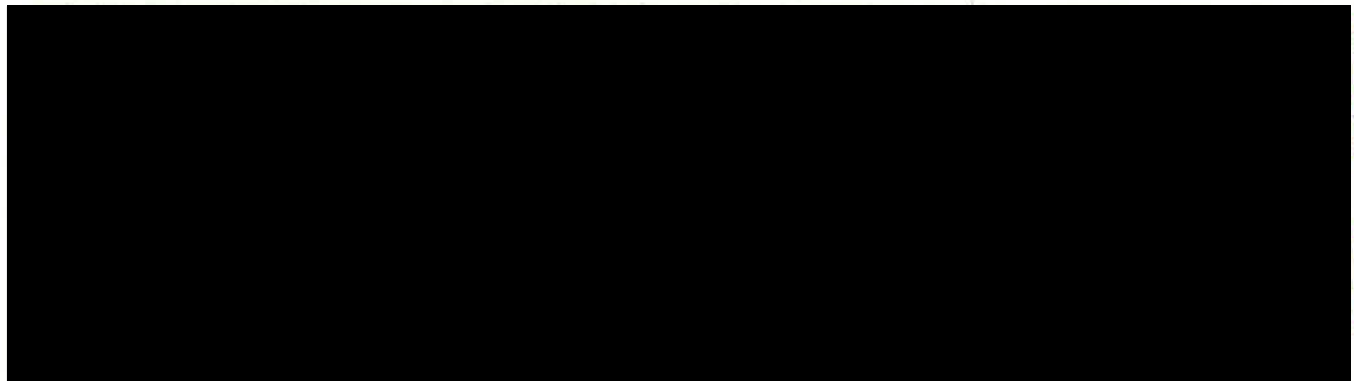
4. Threshold

(a) What is the purchase price of the proposed transaction in terms of PNG Kina?



(b) What are the market shares of the parties involved in the proposed transaction?

The transaction is an internal restructure within the ENEOS group. The Acquirer is a newly incorporated entity and therefore does not have any current operations or market share in PNG.



Accordingly, given that FID has not yet occurred for the Papua LNG Project, it is not possible to give any reasonably accurate estimate of the market share of the Target and, in any event, consideration of market share is irrelevant to assessing the competition effects for the Proposed Acquisition because it is an internal restructure (no concentration event or any horizontal or vertical effects as one might see in a traditional merger between competing firms).

5. Background Information

(a) Describe the industry sector/s in which the acquisition relates.
(Refer to direction 6)

Oil and gas exploration, development, and production (noting that the Papua LNG Project is currently progressing towards Final Investment Decision (FID) and so is not yet operational).



- (b) Describe the area/s where there is an overlap in the operations of the Applicant and the Target and any related businesses of the merger parties.
(Refer to direction 7)

None as the Acquirer (applicant) is a newly incorporated entity that is part of the same group (internal restructure).

- (c) Provide details of any other acquisitions that may have been made by the Applicant or the Target Company and any other acquisitions made in the industry sector/s in the last five years.

Please see ICCC Determination C2023/39 released 28 June 2023 pursuant to which the ICCC granted clearance for the Target (formerly named, "JX Nippon Oil & Gas Exploration (Papua LNG) Pty Ltd") in respect of its acquisition of a minor stake in the Papua LNG Project from TotalEnergies EP PNG Limited.

- (d) Provide details (if any) of existing vertical or horizontal relationship between the Applicant and the Target Company

Please see before and after corporate structure diagram in answer to question 3(a), above.

- (e) Describe (if any) other cooperative agreements that the Applicant or Target Company may be a party to

None.

6. Market definition

Describe the relevant market/s the acquisition is most likely to have a competition effect on – this should include the market/s for the supply of goods and services and markets for the acquisition of goods and services.
(Refer to direction 8)

The market is the market for the exploration, development, and production of LNG, and the international market for the trading and sale of such LNG. However, the proposed transfer of a 2.580645% participating interest in the Papua LNG Project and joint venture, and corresponding 2.580645% interest as tenant-in-common in PRL-15, will not have any effect on competition in these markets as it will merely constitute an *internal transfer*, with the Acquirer being a newly formed PNG company that forms part of the ENEOS Group and which is 100% owned by the same parent company, ENEOS Xplora Inc. and by the same ultimate holding company, ENEOS Holdings, Inc.

7. Suppliers

- (a) Describe the inputs into the production of goods or services by both the Applicant and the Target Company in the relevant market/s and indicate the value of those inputs as a proportion of total production. Where alternative inputs are available, provide a list of substitutes.

Not relevant or able to be determined as the Papua LNG Project is yet to reach FID.

- (b) Provide the names and contact details of a representative selection of suppliers of inputs to both the Applicant and the Target Company in the relevant market/s
(Refer to direction 9)

Not relevant or able to be determined as the Papua LNG Project is yet to reach FID.

- (c) Describe any purchasing arrangements in place with each of the suppliers identified above and outline whether it is expected or anticipated that these arrangements will continue or be varied in anyway post acquisition.

Not relevant or able to be determined as the Papua LNG Project is yet to reach FID.

8. Competitors

- (a) Provide details of alternative suppliers of products now or shortly to be competitive with, or otherwise substitutable for, goods or services produced by the Applicant and Target company in the relevant market/s
(Refer to direction 10)

Other participants in projects in the oil and gas industry in PNG include, for example, Santos, ExxonMobil, TotalEnergies and Twinza. Competing projects include the P'nyang and Pasca A projects, each of which is at varying stages of planning and development however, like the Papua LNG Project, are yet to reach FID and production.

- (b) If the suppliers identified above do not produce goods or services which are substantially the same as those goods and services produced by the merger parties in the relevant market/s, explain why it is considered that these goods or services are viable alternatives.

The goods are a commodity product and so are substitutable in markets for the trade of LNG products.

9. Customers

- (a) Provide the names and contact details of a representative selection of the customers of each of the merger parties in the relevant market/s
(Refer to direction 11)

As the Papua LNG Project is yet to reach Final Investment Decision (FID), it is not yet operational. Accordingly, neither the Acquirer, nor the Target, are currently supplying any LNG to any customers.

- (b) Describe the distribution channels available to the merger parties in supplying goods and services to customers and identify the relevant distribution channels in respect of each of the customers identified above.

LNG is traded on international markets and will currently occur under the terms of the FMA and MSPA referred to in answer to Question 4(b) (assuming that the Papua LNG Project reaches FID and enters commercial production).

- (c) Describe the existing supply arrangements that the Applicant and Target Company have in place with the customers identified above and whether it is expected or anticipated that these arrangements will continue or be varied in anyway post-acquisition

(Refer to direction 12)

Not relevant or able to be determined as the Papua LNG Project is yet to reach FID.

10. Market concentration

Provide estimates of or actual current and post-acquisition market shares for the merger parties and market shares of the existing alternative suppliers or purchasers in the relevant market/s identified above.

(Refer to direction 13)

There will not be any market concentration event given the internal nature of the Proposed Acquisition.

11. Countervailing Power

(a) Describe the relative strength of bargaining power possessed by customers of the products in the identified markets;

High – the LNG products that will be produced from the Papua LNG Project (if it reaches FID and enters production) will be globally traded hydrocarbon commodities. Customers will therefore have an improved choice among the wide range of suppliers that compete in that market for the supply of LNG products.

(b) Describe to what extent it is possible for customers to bypass the merger parties by either importing or producing the product or service themselves, vertically integrating, or utilizing an alternative supplier; and

High – the nature of the LNG market is such that customers are able to switch between suppliers with relative ease.

(c) Describe the ability of suppliers to identify and switch to alternative customers.

The ability of suppliers to switch to alternative customers will remain unaffected by the transaction with a range of competitors to the ENEOS Group operating in the market including those identified in answer to question 8(a), above.

(Refer to direction 14)

12. Imports

(a) Provide estimates of the actual and potential level of import competition in the relevant market/s and details of the importers

(Refer to direction 15)

Import competition is likely to be very limited due to what is known as the “domestic market obligation” imposed on the target, and other petroleum producers, under section 67 of the Oil and Gas Act 1998 (DMO).

The DMO is reflected as a contractual obligation in the Papua LNG Project Gas Agreement between the Papua LNG Project participants and The Independent State of Papua New Guinea (the State). The DMO provisions allow the State to require up to ■■■ of the natural gas produced annually from the Papua LNG Project to be made available to a nominee designated by the State. Importantly, similar obligations are imposed on other producers of processed natural gas in PNG that enter into gas agreements with the State (the obligation is not exclusive to the target).

(b) Provide historical importation figures

Due to FID not having occurred and the DMO rights of the State, any competitively significant importation of LNG is highly unlikely or would be trivial compared to export volumes.

- (c) List which products are imported into the relevant market/s, and who undertakes the importation and their relative share of the market;

Due to FID not having occurred and the DMO rights of the State, any competitively significant importation of LNG is highly unlikely or would be trivial compared to export volumes.

- (d) Show the relationship (if any) between domestic prices and import product prices

Domestic price movements are strongly correlated to import prices, which in turn are correlated to global energy prices and shipping costs. However, as noted above, it is anticipated that the vast bulk of LNG products that will be produced from the Papua LNG Project (once it is in production) will be traded on overseas markets for export, not for domestic consumption. In any event, as noted in answer to question 12(a) above, any domestic supply of LNG is subject to the DMO, which in turn is priced by referenced to global energy prices.

- (e) Provide details of the extent of which imports provide a constraint on domestic suppliers including the merger parties in the relevant market/s post acquisition
(Refer to direction 16)

Very little constraint due to the DMO rights of the State.

13. Substitutes

Provide information concerning the extent to which substitutes are available in the relevant market/s or are likely to be available in the market
(Refer to direction 17)

The extent of substitution is high due to the nature of LNG as a globally traded commodity.

14. Barriers to entry

- (a) Provide details of any barriers to entry and expansion in the relevant market/s
(Refer to direction 18)

High capital intensity to explore, appraise, and develop assets.

- (b) Provide details of the ability of any firm not currently producing goods or services in the relevant market/s but which could enter the relevant market quickly and provide an effective competitive constraint

A new entrant would either need to acquire an already discovered and appraised LNG field, or conduct the exploration and appraisal work themselves, however with that comes a risk of not finding any LNG.

- (c) Provide details of any firms which have recently tried and failed to enter the relevant market/s, including the reasons (if known) for their failure

Not applicable or relevant given the internal nature of the Proposed Acquisition.

15. Dynamic characteristics

Provide details of the dynamic characteristics of the relevant market/s, including growth, innovation and product and/or service differentiation.

(Refer to direction 19)

Growth: The global oil and gas market (particularly the market for LNG) is growing in size. The growth is being driven by increasing global energy demand and a desire to transition towards cleaner fuels.

Innovation: The global oil and gas market is characterised by moderate to high levels of innovation driven by increasing demand, evolving extraction and processing technologies, and a push for greater market flexibility and sustainability. Innovation in the market is not confined to any specific level and occurs across the entire LNG supply chain, including exploration, upstream production, transportation, storage, and end-use applications.

Technological change: See answer to response on innovation, immediately above.

Product differentiation: LNG is a commodity product that is not characterised by any material product differentiation.

16. Vigorous and effective competitor

Indicate whether the merger parties in the relevant market/s would separately be considered as a vigorous and effective competitor?

(Refer to direction 20)

The Proposed Acquisition will not result in the removal of a vigorous and effective competitor in any market in PNG because it is an internal restructure.

17. Vertical integration

(a) Describe whether the proposed acquisition would, or would be likely to, result in vertical integration between firms involved at different functional levels in the relevant market/s

(Refer to direction 21)

The Proposed Acquisition will not result in any vertical effects because it is an internal restructure.

(b) Describe the extent to which vertical integration currently exists, where either merger party currently operates as a customer or supplier to competitors in the relevant market/s: and

None. The Acquirer is a newly formed entity without any current operations.

(c) Describe whether the proposed acquisition is likely to increase the risk of coordinated behavior.

Not applicable or relevant given the internal nature of the Proposed Acquisition.

18. Prices and profit margins

(a) Provide details of recent and current levels of pricing in the relevant market/s including the use of rebates and

discounts

LNG prices generally track international price movements on the spot market.

- (b) Provide details of supply costs of goods and services supplied by the merger parties including manufacturing, marketing and distribution costs in the relevant market/s

The Papua LNG Project has not yet reached FID and is not yet in production, and so it is not yet possible to accurately determine or predict costs. As the project moves into development and production, the cost of supplies and services will largely be determined by international and domestic supply and demand for those goods and services.

- (c) Describe the competitive constraints, if any, which would, or would be likely to, prevent the merger parties from being able to significantly and sustainably increase, the prices paid by their customers, or lower the prices paid to their suppliers, post-acquisition in the relevant market/s

Not applicable or relevant given the internal nature of the Proposed Acquisition.

- (d) Describe the impact of the acquisition on the potential for coordinated conduct between remaining competitors in the relevant market/s post-acquisition
(Refer to direction 22)

Not applicable or relevant given the internal nature of the Proposed Acquisition.

- (e) Describe the likely impact of the acquisition on the profit margins of the merger parties post-acquisition and the expected cause of any change

Not applicable or relevant given the internal nature of the Proposed Acquisition.

19. Related markets

- (a) Describe the extent of complementarity between products supplied by the merger parties
(Refer to direction 23)

Not applicable or relevant given the internal nature of the Proposed Acquisition.

- (b) Describe the extent to which the products identified above are, or could be, offered to customers as a product range through bundling or tying
(Refer to direction 24)

Not applicable or relevant given the internal nature of the Proposed Acquisition.

- (c) Describe the competitive constraints that would, or would be likely to, prevent such bundling or tying from significantly foreclosing the ability of the merged entity's competitors to compete, including foreclosure of access to distribution by the merged entity's competitors.

Not applicable or relevant given the internal nature of the Proposed Acquisition.

20. Other grounds for grant of clearance

Outline any grounds for the granting by the Commission of the clearance not already addressed above.

As noted above, the Proposed Acquisition does not constitute a traditional merger or acquisition between unrelated firms in the market however is nonetheless caught by the monetary threshold for mandatory notification under section 81(1)(a) of the *Independent Consumer and Competition Act*, which does not have any exception for internal structures and applies to any acquisition of shares or a business in PNG.

21. The counterfactual

Describe the likely state of the relevant market/s in the future if the proposed acquisition does not take place, giving reasons

Markets will be unaffected whether or not the transaction proceeds due its nature as an internal restructure.

22. International

(a) Does the acquisition involve:

(i) A company operating in PNG that has a foreign parent?

The parent company of both the Acquirer and Target is ENEOS Xplora Inc., a company incorporated in Japan. The ultimate parent company of both the Acquirer and Target is ENEOS Holdings, Inc., a public company incorporated in Japan.

(ii) PNG businesses or consumers affected by the occurring overseas?

There will not be any impact on PNG business or consumers as a result of the Proposed Acquisition.

(iii) Foreign consumers affected by the conduct occurring in PNG

No foreign consumers will be affected as a result of the Proposed Acquisition.

(b) Provide details of competition authorities in jurisdictions other than PNG to which the proposed acquisition has been, or is intended to be, notified and the timing of such notifications.

None.

23. Further information

Name, postal address, telephone, facsimile and email contact details of the person authorized by the applicant to provide additional information in relation to this application.

Vaughan Mills, Partner
Corrs Chambers Westgarth
+675 303 9800

Vaughan.Mills@corrs.com.au

24. Information provided in relation to the target

Where the target has been consulted during the preparation of information provided in response to the questions contained in this form relating to the target, an authorized representative of the target must indicate here that information relating to the target is complete and accurate.

ENEOS Xplora Papua LNG Pty Ltd confirms that information relating to it in this Form 2 is complete and accurate.

SIGNED for ENEOS Xplora Papua LNG Pty Ltd

by its authorised representative in the presence of:



Signature of witness



Name of witness - please print

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)
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)
)



Signature of Authorised Representative

25. Declaration

The undersigned declare that, to the best of their knowledge and belief, the information given in response to the questions in this form is true and correct and complete, that complete copies of documents required by this form have been supplied, and that all estimates are identified as such and are their best estimates of the underlying facts and that all the opinions expressed are sincere.

The undersigned are aware of section 128(4)(b) of the ICC Act, in that it is an offence to give information or provide an answer that is false in any particular



Signature of authorized person

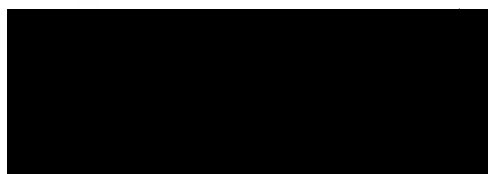
Director

Office held

Kenichi Sato

(Print) Name of authorized person

This 22 day of October 2025



Director

Office held

Shinichi Nakaya

(Print) Name of authorized person

DIRECTIONS

1. If you are an individual making this application on behalf of a company please state the name of the company. Note that the application must only be signed by a person authorized in writing by the company to do so and relevant correspondence confirming that the individual has been authorized to sign on behalf of the company must also be attached.

If the space on this form is insufficient to provide all the information required, the information must be provided on separate sheets of paper, numbered consecutively and signed by or on behalf of the applicant.

The Commission welcomes any other additional information that the applicant deems relevant in support of the application.

2. The response should detail the ownership structure, a list of the shareholders (where applicable) and the applicant's latest annual report (if any).
3. The response should disclose details of a holding company (if any) or subsidiary/ies (if any) as defined under *Section 5 of the Companies Act of 1997*.
4. The response must disclose details of a holding company (if any) or subsidiary/ies (if any) as defined under *Section 5 of the Companies Act of 1997*.
5. The response should disclose:
 - (a) the date the contract, arrangement, understanding or proposal was or is intended to be made,
 - (b) the date the public bid was advertised,
 - (c) the intended date the contract, arrangement, understanding or proposal was or is intended to be concluded,
 - (d) the intended date of consummation of the acquisition,
 - (e) the consideration proposed to be exchanged for the acquisition.

Also provide where possible, a copy of the contract, arrangement, understanding or proposal between the Applicant and the Target.

6. The response should include background information on the industry sector/s relating to the acquisition and the role of the Applicant and Target Company in the industry sector/s related to the acquisition. The information should also include a description of goods and services supplied both locally and internationally.
7. The response should detail all the goods and services produced and/or supplied and identify areas where there is an overlap (same or similar goods and services produced and/or supplied or same area of business conducted by the applicant and target) in the production and/or supply of goods and services by the Applicant and the Target.
8. In determining whether an acquisition breaches *Section 69* of the Act, an assessment of the relevant market/s must be made. The response must detail the product, functional, geographical and time dimensions of the market/s.
 - (a) The product dimension of the market must include the identification of goods and services supplied by the Applicant and the Target Company. The next step is to identify the goods or services that may be considered substitutable or interchangeable with goods and services supplied by the applicant and target by customers – Demand side substitutability. Also identify possibilities of customers to switch to alternative suppliers given a permanent price increase and other suppliers start producing the goods and services in question or produce a substitute product – Supply side substitutability.

- (b) The functional dimension of the market must describe the vertical stages of productions and distribution that comprises the relevant arena of competition. Consider whether products produced or sold at several levels by vertically integrated firms, or by firms at another level of distribution than the merging firms, should be included in the relevant market because the exercise of market power at one stage of distribution can be constrained by firms at an adjacent level of distribution.
 - (c) The geographic dimension of the market must identify the areas over which the Applicant and the Target Company and their competitors currently supply, the relevant products and to which the customers could practically turn. Also identifies other areas where customers could purchase these products given the merged firms raise prices.
 - (d) The time dimension of the market must address the period over which substitution possibilities must be considered.
9. The response should provide details of at least 5 suppliers and should be an even representation of suppliers ranging from small, to medium and then to large suppliers. The response should also include a description of the goods and services supplied by each of the suppliers and an estimated value of the goods and services supplied.
10. The response should include the location of each of the suppliers identified and the areas to which each of the identified entities supplies goods or services.
11. The response should provide details of at least 5 customers (if there are less, list all of them) and should be an even representation of the customers ranging from small, to medium and then to large customers and must include a description of the goods or services and the value of the goods and services purchased by these customers.
12. The response should provide details of any contracts, exclusivity rebates and discounts and identify any customers who have contracts which are about to expire within the next two years and indicate the supply volumes associated with such contracts.
13. The response should describe the market share of the suppliers or purchasers identified earlier, the market share of the Applicant and the market share of the Target Company in the relevant market/s over the last 5 years, including the total size of the domestic market. The documents relied upon to estimate the total market share sizes must be provided. The response should also include the number of buyers and sellers in the market.

Also outline the extent to which the Acquirer would be constrained in its actions by existing competitors in the relevant markets

14. The response should detail:
- (a) the ability of competitors in the relevant market/s to increase supply,
 - (b) the ease with which customers could change suppliers including any switching costs that they would incur
 - (c) whether goods and services produced in the relevant market/s should be considered homogeneous or whether there are variations in price or quality and whether the relevant market/s are characterized by brand loyalty.
15. The response should detail whether it is viable for customers to import substitutes. Also indicate the origin of imports and address issues including but not limited to:
- options for the transportation of imports (e.g. by air, sea or land);
 - transportation costs;
 - whether the product is a high or low value product;
 - whether the product is of high or low density; and

- whether the product is durable for transportation without damage or deterioration in quality.

The response should also cover any barriers to importation in the relevant market/s including whether significant investment in facilities or in distribution arrangements is needed to facilitate importation.

16. The response should provide details of the price of actual or potential imports (including, additional costs such as freight and customs duties), whether existing import suppliers can accommodate a significant expansion in capacity without the need for significant investment and whether import competition would provide a constraint on companies post acquisition in the downstream market. The response should also include details of existing importers and their customers.
17. The response should cover relative capacities, cost structures and the cost of expansion in the market.
18. The response should detail –
 - (a) the market conditions that may affect the ability to entry and the ability of existing firms to expand;
 - (b) the nature and height of barriers to entry and expansion;
 - (c) details of exit;
 - (d) entry and expansion in the relevant market/s in the last 5 years;
 - (e) any incentives or disincentives for new entry; and
 - (f) effective competitor.

Barriers which must be addressed include, but are not limited to, the following:

- (a) Sunk costs in production capacity;
 - (b) Accessing shelf space;
 - (c) Advertising and promotion;
 - (d) Legal and Regulatory restrictions such as licensing requirements, industry standards and capital requirements;
 - (e) Requirement for scarce inputs;
 - (f) the extent of Brand loyalty in the relevant market/s;
 - (g) Minimum efficient scales of operation;
 - (h) Goodwill;
 - (i) Access to scarce resources such as intellectual property; and
 - (j) Threat of retaliatory action by incumbents to new entry.
19. The response should have information including but not limited to the following –
 - (a) Growth (whether the relevant market/s is/are growing or declining;
 - (b) Levels of innovation;
 - (c) Technological change (information on new technology used in production); and
 - (d) Product and/or service differentiation in the relevant market/s.
 20. The response should include information of merger parties' respective historical and current pricing, quality, after sales service and purchasing behavior. The response should also include merger parties' record of innovation, its growth relative to the growth of the relevant market/s, and its history of independent behavior.
 21. The response should detail -
 - (a) whether the Acquirer has market power in any market which could be leveraged into a vertically related market;
 - (b) whether the target firm would have been a likely entrant to a vertically related market;
 - (c) whether the merged firm will control access to an essential input;

22. The response should detail factors conducive to coordination in a market including, but not limited to, the following –
- (a) The number of participants in the relevant market/s
 - (b) Transparency
 - (c) Homogeneity of product
 - (d) Homogeneity of firms
 - (e) The size and frequency of purchases
 - (f) The presence of the same firms in more than one market
23. The response should address the complementarity that occurs where there is significant commonality of customers' products and whether the strength of demand for one product is positively correlated with the strength of demand for another, either because the products form part of a range that distributors need to carry because they must be consumed together for technical reasons.
24. The response should detail the circumstances where two or more products are, or could be, supplied only as a bundle (pure bundling) or, if supplied individually, are also offered as a bundle at a price that is lower than the price charged if sold individually (mixed bundling). The response must also address circumstances where customers seeking to acquire one product are required also to purchase a second product or carry amounts of the second product (tying).