

From:  
Viva Energy Australia Pty Ltd  
(As Operator of the Sydney JUHI Joint Venture)  
Level 16  
720 Bourke St  
Docklands Vic 3008

To:  
The Commissioners  
Economic Regulation of Airports

via e-mail: [airports@pc.gov.au](mailto:airports@pc.gov.au)

20 March 2019

Re: Economic Regulation of Airports - Productivity Commission Draft Report

Dear Commissioners

The Sydney Joint User Hydrant Installation (JUHI) Joint Venture (JV) wishes to respond specifically to the additional information request made by the Productivity Commission following the release of their draft report into the Economic Regulation of Airports. Viva Energy Australia, as the operator and on behalf of the Sydney JUHI JV would like to note the following:

- The Sydney JUHI JV is an unincorporated JV comprising BP, Caltex, Mobil, Viva Energy and Qantas
- The JUHI JV owns and operates the jet fuel infrastructure located at Sydney Airport, principally the storage tanks and the hydrant reticulation system which connects the storage tanks to the airport apron
- The JUHI JV itself does not play a role upstream of the JUHI tank farm, and is not commercially involved downstream in provision of into-plane services at Sydney Airport, nor in sales of jet fuel to airlines. It also does not own the fuel it is transferring.
- The JUHI JV maintains a strict confidentiality protocol amongst member companies, which is adopted from a global standard, provided by the Joint Inspection Group (JIG). This means that data relevant to the JUHI JV is ring-fenced, and as such is only accessible to the Operator, in all respects in the role of Operator, and nominated participant company representatives in respect of that individual participant company information and for the JUHI JV in the aggregate.
- The JUHI JV has provided a safe, reliable and efficient model of storage operation for many years and considers the joint venture structure be the optimal model for the provision of these services to Sydney Airport.

The JUHI JV would like to note there are five bullet point requests for information from fuel infrastructure owners, made by the Productivity Commission:

- Fuel companies' return on assets for the terminals, pipelines, JUHI infrastructure and into-plane services
- Terms of third party access, including price, to infrastructure services for the provision of jet fuel
- The number of applications for access to JUHI infrastructure that have been successful and unsuccessful over the past 10 years
- Details of the JUHI access application process, including the information required from access seekers, time taken for a decision on access to be made and reasons as to why access seekers were unsuccessful
- The assessment process for granting access to JUHI infrastructure at individual airports.

**Fuel companies' return on assets for the terminals, pipelines, JUHI infrastructure and into-plane services**

We consider the return on assets in the case of terminals, pipelines JUHI infrastructure and into plane services to be a matter for individual owners of those assets. In the case of the Sydney JUHI infrastructure, the JUHI operates on a cost recovery mechanism, with users who utilise a larger proportion of the assets paying a proportionally larger share of the costs. How the JUHI JV costs are applied to Jet fuel prices is a matter for individual fuel suppliers marketing businesses. The JUHI JV has no knowledge as to how these costs manifest themselves in the outright cost of fuel.

**The number of applications for access to JUHI infrastructure that have been successful and unsuccessful over the past 10 years**

The below table lists the range of applications to join the Sydney JUHI JV over the last 10 years. Company names have been removed for confidentiality reasons. No party has been unsuccessful or has been rejected through this process.

Party	Date of application	Stage of application reached	Reason given for not pursuing application
A	30/6/2011	Formal application fee paid and Environmental Site Assessment shared.	Advised JUHI JV that lack of JUHI lease tenure did not support equity investment
B	20/9/2011	Formal Application fee paid and admission documents sent to Party B which included the purchase contribution value	Advised JUHI JV that lack of JUHI lease tenure did not support equity investment
C	17/2/2014	Signed confidentiality agreement returned and entry requirements shared and discussed.	Inquiry only to gain understanding of joining process
D	3/3/2015	Signed confidentiality agreement returned and entry requirements shared and discussed.	No feedback given
E	15/6/2017	Signed confidentiality agreement returned, entry requirement questionnaire returned. JUHI JV sought clarification on some	Advised JUHI lease tenure an issue with continuance of application

		responses. No further correspondence received	
--	--	---	--

Table 1: Summary of Sydney JUHI applications

The JUHI JV would like to draw the Commission to the key issue identified by the majority of applicants. It was communicated by more than 50% of the applicants that the available lease tenure remaining at the airport did not support their ability to progress with the purchase of JUHI assets. The JUHI JV has tried to resolve the issue of lease tenure with Sydney Airport for a number of years, and would like to make the obvious point, that with appropriate long term lease tenure, investment by existing and new equity partners would make sense and could be expected to proceed based on the level of enquiry the Sydney JV has observed.

The JUHI JV would also like to note that it is in favour of implementation of an open access regime, based on a fee-for-use model (as distinct from an equity participation model) at Sydney Airport, which has been one of the items identified by the parties seeking access to the JUHI JV as a requirement. The JUHI JV has been in discussions on the model for implementation with Sydney Airport as part of recent discussions on a lease renewal for the JUHI site.

**Details of the JUHI access application process, including the information required from access seekers, time taken for a decision on access to be made and reasons as to why access seekers were unsuccessful**

The JUHI JV follows recommended industry best practise in the evaluation of participant applications, and substantially follows the globally recommended process proposed by JIG for evaluation of potential JV entrants. An entrant gains an equal share in the JV assets, and becomes a member of the JUHI JV with the same rights and obligations as all other participant members.

The summary below was supplied publicly as part of the Sydney JUHI JV submission to the NCC in 2011. This document has been appended as a link to this submission for reference.

The process is as follows:

1. An applicant makes an entry enquiry to the Joint Venture Operator (Viva Energy)
2. The applicant is sent a questionnaire to allow an appropriate assessment of competence in a number of areas, as articulated by the following qualifying criteria:
  - The Applicant shall acquire a shareholding in Component A (JUHI depot and international pipeline)
  - If the Applicant requires a shareholding in Component C (domestic pipeline), a shareholding in Component B (cross runway pipeline which connects the international pipeline to the domestic pipeline) shall be required;
  - If legally required, the Applicant shall establish that it has a Certificate of Approval from the Civil Aviation Authority for the distribution of aviation fluids and greases.
  - The Applicant's demand upon the JUHI shall be such that it will not in any way prejudice the use of the JUHI by the Participants;
  - The Applicant shall be able to deliver to the JUHI on a continuing basis compatible aviation fuels sufficient to supply its customers' and or its requirements in full, which meet the product specifications defined in this Agreement and have access to a National Association of Testing Authorities approved laboratory testing facilities consistently and promptly to confirm such quality;
  - The Applicant shall be financially capable of fulfilling the obligation of a Participant, have sufficient qualified manpower to perform the obligations of a Participant, and have insurance coverage which is adequate to meet the indemnity obligations of a Participant. In particular, the Applicant shall be capable of providing an into-plane fuelling service to its own customers;

- The Applicant shall be technically capable of assuming the obligations and responsibilities of the JUHI Operator when required to do so in accordance with the provisions of the Joint Venture Agreement;
  - The Applicant shall comply with any other entry criteria imposed by the Participants; and
  - The Applicant shall become a party to this Agreement, including all such supplementary amendments that have heretofore become part of this Agreement; and become a party to any related Agreements, including in particular the indemnification agreement relating to liabilities arising out of aircraft refuelling and including agreements with appropriate government authorities
3. The applicant provides responses on the above items to the Joint Venture. In this response, the JV may request further information or clarification if required.
  4. Once the response is finalised and the JUHI JV Operating Committee is satisfied, the applicant is advised in writing, along with the process for evaluation of the cost of entry.
  5. The Operating Committee assesses the cost of purchase of an equal ownership share in the JUHI. This involves an external valuation of the facility. A secondary independent valuation takes place if the applicant is not satisfied with the initial independent valuation.
  6. Once the purchase price is agreed and the applicant pays the agreed entry fee, the applicant becomes the owner of an equal share of the JUHI, and therefore a member of the JUHI.

The Sydney JUHI would like to note that the criteria are designed to ensure any potential entrant has the capacity to act as a responsible long-term owner of a high risk, high complexity asset delivering a high quality product such as the JUHI. The criteria are not designed to exclude applicants and that is not the approach the Operator takes on behalf of the JUHI JV. Furthermore, the above criteria were assessed in 2012 by the National Competition Council (NCC) and deemed not to create a barrier to entry for applicants, page 29 item 4.56

The Sydney JUHI JV hopes the above information provides further detail on entrant applications to join the Sydney JUHI JV, and clarifies sufficiently the assessment process for new entrants. Further information can be made available confidentially should the Commission require it.

Regards

Mr. Lachlan Smith  
Joint Venture Manager  
Viva Energy Australia Pty Ltd  
(on behalf of the Sydney JUHI Joint Venture)

### **References**

Sydney JUHI response to NCC in relation to BARA's declaration application

<http://ncc.gov.au/images/uploads/DEJFBASu-002.pdf>

NCC Final Report

<http://ncc.gov.au/images/uploads/DEJFBAFR-001.pdf>