

COMMONWEALTH OF AUSTRALIA
Competition and Consumer Act 2010 (Cth)



IN THE AUSTRALIAN COMPETITION TRIBUNAL

File No: ACT 2 of 2018

Re: Application by Port of Newcastle Operations Pty Ltd under section 44ZP of the *Competition and Consumer Act 2010 (Cth)* for review of the arbitration determination by the Australian Competition and Consumer Commission in relation to an access dispute between Glencore Coal Ltd and Port of Newcastle Operations Pty Ltd

Applicant: Port of Newcastle Operations Pty Ltd (ACN 165 332 990)

AND

File No: ACT 3 of 2018

Re: Application by Glencore Coal Pty Ltd under section 44ZP of the *Competition and Consumer Act 2010 (Cth)* for review of the arbitration determination by the Australian Competition and Consumer Commission in relation to an access dispute between Glencore Coal Ltd and Port of Newcastle Operations Pty Ltd

Applicant: Glencore Coal Assets Australia Pty Ltd (ACN 163 821 298)

DIRECTIONS

TRIBUNAL: Justice O'Bryan (Deputy President)
Dr D Abraham
Prof K Davis

DATE OF ORDER: 19 March 2021

WHERE MADE: Melbourne

THE TRIBUNAL NOTES THAT:

- a. On 12 March 2021, the High Court of Australia granted Port of Newcastle Operations Pty Ltd special leave to appeal from whole of the judgment of the Full Court of the Federal Court of Australia given on 24 August 2020, insofar as it relates to proceeding NSD1986/2019: *Glencore Coal Assets Australia Pty Ltd v Australian Competition Tribunal* [2020] FCAFC 145 (the **Appeal**).

THE TRIBUNAL DIRECTS BY CONSENT OF THE APPLICANTS THAT:

1. The Tribunal's directions dated 14 December 2020 be vacated.
2. The hearing listed on 30 March 2021 be vacated.
3. Following the delivery of judgment by the High Court of Australia in the Appeal:
 - a. Glencore Coal Pty Ltd is to notify the Tribunal on behalf of the parties of the orders of the High Court, and provide to the Tribunal a copy of the judgment in the Appeal, within 7 days; and
 - b. the proceedings be listed for a case management hearing on a date convenient to the Tribunal as soon as practicable after the date referred to in direction 3(a).
4. Liberty to apply.

Date entered: 19 March 2021



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REGISTRAR
Australian Competition Tribunal