

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

**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 Pty Ltd

**DIRECTIONS**

TRIBUNAL: Justice Middleton (President), Mr Rodney Shogren and Dr Darryn Abraham

DATE OF ORDER: 6 December 2018

WHERE MADE: Melbourne

**THE TRIBUNAL DIRECTS THAT:**

*Amendment of Application in ACT 3 of 2018*

1. The name of the Applicant in Proceeding ACT 3 of 2018 be amended to “Glencore Coal Assets Australia Pty Ltd”.

## ACCC

2. Pursuant to section 44ZZOAAA(3) of the *Competition and Consumer Act 2010* (Cth) (CCA) the Australian Competition and Consumer Commission (ACCC) is to provide the Tribunal, the Applicant in Proceeding ACT 2 of 2018, Port of Newcastle Operations Pty Ltd (PNO) and the Applicant in Proceeding ACT 3 of 2018, Glencore Coal Assets Australia Pty Ltd (Glencore), with all of the information that it took into account in connection with the making of its Determination made pursuant to s 44V the subject of these applications by 18 December 2018.
3. Pursuant to s 44ZP of the CCA, the ACCC is directed to comply with the directions in this order which apply to it and subject to any further directions, appear at the hearing of the matters and make oral submissions in support of its written submissions.

### Directions re Proceeding ACT 2 of 2018

4. PNO to lodge and serve submissions in support of its application by 1 March 2019.
5. Glencore to lodge and serve submissions in response to PNO's submissions by 22 March 2019.
6. ACCC to lodge and serve submissions in response to PNO's and Glencore's submissions by 5 April 2019.
7. PNO to lodge and serve submissions in reply to Glencore's and the ACCC's submissions, and Glencore to lodge and serve submissions in reply to the ACCC's submissions, by 12 April 2019.

### Directions re Proceeding ACT 3 of 2018

8. Glencore to lodge and serve submissions in support of its application by 1 March 2019.
9. PNO to lodge and serve submissions in response to Glencore's submissions by 22 March 2019.
10. ACCC to lodge and serve submissions in response to Glencore's and PNO's submissions by 5 April 2019.



11. Glencore to lodge and serve submissions in reply to PNO's and the ACCC's submissions, and PNO to lodge and serve submissions in reply to the ACCC's submissions, by 12 April 2019.

Preparation of the Hearing Book

12. PNO, Glencore and the ACCC to exchange lists of documents for inclusion in the Hearing Book by 12 April 2019.
13. PNO to lodge and serve on Glencore and the ACCC a draft index to the Hearing Book comprising all documents referred to in the list of documents exchanged pursuant to order 12 by 16 April 2019.
14. PNO, Glencore and the ACCC to agree on the contents of the Hearing Book by 18 April 2019.
15. PNO and Glencore lodge and serve the Hearing Book by 26 April 2019. The Hearing Book to be served in soft (electronic) format.

Case Management Hearing

16. The applications to be listed for case management hearing on 1 February 2019 at 2.15pm in Melbourne.

Hearing

17. PNO's and Glencore's applications be listed for hearing from 6 May 2019 to 15 May 2019 in Sydney.

Date entered: 6 December 2018



A handwritten signature in blue ink, consisting of a stylized 'A' followed by a 'U'.

REGISTRAR  
Australian Competition Tribunal