



**COMMONWEALTH OF AUSTRALIA**

*Competition and Consumer Act 2010 (Cth)*

**IN THE AUSTRALIAN COMPETITION TRIBUNAL**

File No: ACT 2 of 2020

Re: Application for authorisation AA1000473 lodged by New South Wales Minerals Council on behalf of itself, certain coal producers that export coal through the Port of Newcastle, and mining companies requiring future access through the Port, and the determination made by the ACCC on 27 August 2020

Applicant: Port of Newcastle Operations Pty Limited

**DETERMINATION**

TRIBUNAL: Justice O'Bryan (Deputy President)  
Dr D Abraham (Member)  
Ms D Eilert (Member)

DATE: 18 February 2022

WHERE MADE: Melbourne

**THE TRIBUNAL DETERMINES THAT:**

1. The determination of the Australian Competition and Consumer Commission dated 27 August 2020 granting authorisation to application AA1000473 made by the NSW Minerals Council on behalf of itself and Glencore Coal Assets Australia Pty Ltd, Yancoal Australia Ltd, Peabody Energy Australia Pty Ltd, Bloomfield Collieries Pty Ltd, Centennial Coal Company Pty Ltd, Malabar Coal Ltd, Whitehaven Coal Mining Ltd, Idemitsu Australia Resources Pty Ltd and MACH Energy Australia Pty Ltd (together, the **authorisation applicants**) be set aside.
2. The interim authorisation granted to the authorisation applicants by the Australian Competition and Consumer Commission on 2 April 2020 in respect of application AA1000473 be revoked.
3. The reasons for determination of the Tribunal in this proceeding are not to be disclosed to any person other than the external legal representatives of the parties in order that any

party may make an application to redact or suppress any part of the reasons on the grounds of commercial confidentiality, any such application to be filed and served on or before 4pm on 4 March 2022. If no application is made by that time, the Tribunal will publish its reasons in full. If any application is made within that time, the Tribunal will determine the question of publication in the resolution of that application.



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

REGISTRAR  
Australian Competition Tribunal