



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

DIRECTIONS

TRIBUNAL: Justice O'Bryan (Deputy President)

DATE: 6 May 2021

WHERE MADE: Melbourne

THE TRIBUNAL DIRECTS THAT:

1. New South Wales Minerals Council be permitted to provide the following paragraphs of the Affidavit of Simon Byrnes affirmed on 15 March 2021 (**Byrnes Affidavit**):
 - (a) paragraphs 38(a), 44 (other than the first sentence), 45, 46, 47, 52, 53 (other than the first 12 words), 55(d), 57, 60 (other than the first 20 words), 63(a) and Confidential Annexures SB-9, SB-11, SB-14, SB-17 and SB-18 to Geoff Hardes of **Peabody** Energy Australia Pty Ltd;
 - (b) paragraphs 38(b) and 61 to Brett Lewis of **Bloomfield** Collieries Pty Ltd;
 - (c) paragraph 38(c) to Chris Thoroughgood and Chris Lauritzen of **MACH Energy** Australia Pty Ltd;
 - (d) paragraph 38(d) to Alistair Baben Der Erde of **Bengalla** Mining Company Pty Ltd;
 - (e) paragraph 40 (including the chapeau and subparagraphs (a) and (b)) to Anthony Pitt of **Glencore** Coal Assets Australia Pty Ltd;

- (f) paragraphs 41 (other than the first seven words), 55(a), 57, 68, 69, 70, 71, 74, 75, 76 and Confidential Annexure SB-24, SB-25, SB-26 and SB-27 to Mike Dodd of **Yancoal** Australia Ltd;
- (g) paragraphs 42, 43(a), 50, 55(b), 57, 63(b) and Confidential Annexures SB-6, SB-10, SB-12 and SB-19 to Keiron Rochester of **Whitehaven** Coal Mining Ltd;
- (h) paragraphs 42, 43(b), 55(c), 57, 59, 63(c) and Confidential Annexures SB-7, SB-13, SB-16 and SB-20 to Timothy Edwards of **BHP** Group Ltd (on behalf of its wholly-owned subsidiary, Hunter Valley Energy Coal Pty Ltd);
- (i) paragraph 58 to Timothy Edwards, Adam Lancey and Roxann Di Pietro of BHP;
- (j) paragraphs 42, 43(c), 55(e), 57 and Confidential Annexures SB-8 and SB-15 to Craig Forster of **Idemitsu** Australia Resources Pty Ltd;
- (k) paragraphs 63 (chapeau only), 64 (including the chapeau and subparagraphs (a) to (c)), 66 (including the chapeau and subparagraphs (a) and (b)), 73, 77 (including the chapeau and subparagraphs (a) and (b)), 78 (including the chapeau and subparagraphs (a) and (b)), 79 and Confidential Annexures SB-21, SB-22, SB-23 and SB-28 to Geoff Hardes of Peabody; Brett Lewis of Bloomfield; Chris Thoroughgood and Chris Lauritzen of MACH Energy; Alistair Baben Der Erde of Bengalla; Anthony Pitt of Glencore; Mike Dodd of Yancoal; Keiron Rochester of Whitehaven; Timothy Edwards, Adam Lancey and Roxann Di Pietro of BHP; Craig Forster of Idemitsu.



[Handwritten signature]

REGISTRAR
Australian Competition Tribunal