

NOTICE OF LODGMENT
AUSTRALIAN COMPETITION TRIBUNAL

This document was lodged electronically in the AUSTRALIAN COMPETITION TRIBUNAL and has been accepted for lodgment pursuant to the Practice Direction dated 3 April 2019. Filing details follow and important additional information about these are set out below.

Lodgment and Details

Document Lodged: Affidavit

File Number: ACT 2 of 2020

File Title: 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

Registry: VICTORIA – AUSTRALIAN COMPETITION TRIBUNAL



REGISTRAR

Dated: 17/08/2021 12:20 PM

Important information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Tribunal and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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 (ACN 165 332 990)

AFFIDAVIT

I, Michael Ryan Phillip Dodd, General Manager, of 2/201 Sussex St, Sydney, affirm:

1. I am the General Manager of Infrastructure at Yancoal Australia Ltd (**Yancoal**), a member of the New South Wales Minerals Council (**NSWMC**). I am authorised to make this affidavit on Yancoal's behalf.
2. I have personal knowledge of the facts and matters referred to in this affidavit, except where indicated otherwise.

Yancoal

3. Yancoal is an Australian coal producer producing a mix of premium thermal, semi-soft coking and PCI coals for export. Yancoal's New South Wales mines include Moolarben, Hunter Valley Operations, Mouth Thorley Warkwroth, Stratford-Duralie and Ashton, Austar and Donaldson. Coal from these mines is exported solely through the Port of Newcastle (**Port**).
4. Yancoal is a public company, listed on both the Australian Securities Exchange (ASX: YAL) and the Hong Kong Stock Exchange (HKSE: 3668). It currently supports around 4,400 full time employees, sourcing the majority of its people from the local communities in which it operates.

Port charges

5. Yancoal sells all of its coal "Free on Board" (**FOB**). As such it is not directly responsible to pay the Navigation Service Charge (**NSC**) imposed by Port of Newcastle Operations Pty Ltd (**PNO**). Yancoal's customers pay the NSC. Yancoal pays the Wharfage Charge imposed by PNO.

6. [REDACTED] The charges levied on Yancoal and its customers are the charges stated in

A handwritten signature in black ink, appearing to read "M. R. P. Dodd", is written over the end of the sixth paragraph.

A handwritten flourish or signature in black ink is located at the bottom left of the page.

the Schedule of Service Charges that I understand is made available on the Port of Newcastle's website <<https://www.portofnewcastle.com.au>>.

Discussions with PNO in relation to Port charges

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

~

[Handwritten signature]

[REDACTED]

[REDACTED]

[REDACTED]


[REDACTED]

[REDACTED]


[REDACTED]

[REDACTED]

Affirmed by the deponent
at Sydney
in New South Wales
on 6 MAY 2021
Before me:

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Signature of deponent



Signature of witness

Philip James Le-Neve Arnold
Solicitor of the Supreme Court of New South Wales

COMMONWEALTH OF AUSTRALIA
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Applicant: Port of Newcastle Operations Pty Limited

CONFIDENTIAL ANNEXURE CERTIFICATE
MD-1

This is the Confidential Annexure marked "MD-1" referred to in the affidavit of Michael Ryan Phillip Dodd affirmed at Sydney in New South Wales on **6 MAY** 2021.

Before me:



Signature of witness

Philip James Le-Neve Arnold

Solicitor of the Supreme Court of New South Wales

