

## 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



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

REGISTRAR

Dated: 28/06/2021 9:15 AM

#### 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

**AFFIDAVIT**

I, Keiron Rochester, of Level 4, 6 Newcomen Street, Newcastle, New South Wales, affirm:

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

**Whitehaven**

3. Whitehaven currently operates four coal mines in the Gunnedah Coal Basin in North West NSW, exporting metallurgical and thermal coal through the **Port** of Newcastle.
4. Whitehaven is a leading Australian producer of premium-quality coal. It is a dominant player in Australia's only emerging high-quality coal basin. It helps power developed and emerging economies in Asia where there is strong and growing demand for its product, particularly for use in high-efficiency, low-emissions coal-fired power stations.

**Port charges**

5. Whitehaven does not directly pay the Navigation Service Charge (NSC) imposed by Port of Newcastle Operations Pty Ltd (PNO) under its standard "Free on Board" commercial terms. This charge is passed on to Whitehaven's customers.



**Discussions with PNO in relation to Port charges**

[Redacted]

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Affirmed by the deponent )  
at )  
in New South Wales )  
on \_\_\_\_\_ 2021 )  
Before me: )

\_\_\_\_\_  
Signature of deponent

\_\_\_\_\_  
Signature of witness