



PORT WARATAH COAL SERVICES

6 August 2018

Submissions – PON Revocation
National Competition Council
GPO Box 250
MELBOURNE. VIC 3001

Email: pon@ncc.gov.au

Dear Sir or Madam

CONSIDERATION OF POSSIBLE REVOCATION RECOMMENDATION TO REVOKE DECLARATION OF SERVICE AT THE PORT OF NEWCASTLE

Introduction

Port Waratah Coal Services Limited (**Port Waratah**), appreciates the opportunity to provide a submission in relation to the application by Port of Newcastle Operations (**PNO**), for the revocation of the declaration of the channel service (**Service**) at the Port of Newcastle (**Port**). Port Waratah opposes the revocation application for the reasons set out in this submission.

The Hunter Valley Coal Chain

Port Waratah owns and operates two export coal terminals in the Port, being the Carrington Terminal and the Kooragang Terminal. Together these terminals comprise the largest coal export facility in the world with combined throughput capacity of 145 million tonnes per annum. We have approximately 320 employees across our business. Port Waratah provides coal handling services to Hunter Valley coal exporters. These services involve the receipt, stockpiling, blending and loading of coal onto vessels for export. Newcastle Coal Infrastructure Group (**NCIG**) is the only other coal terminal at the Port, providing approximately 66 million tonnes of annual loading capacity.

Port Waratah believes that it needs to operate consistently with the interests of its industry stakeholders to ensure that it is efficient and cost effective at both its two terminals, Carrington and Kooragang, to enable its customers to be able to compete effectively on a global stage.

Port Waratah, however, is acutely aware that it is only a part of the overall coal export supply chain for the Hunter Valley and that its operations and their competitiveness can be significantly and detrimentally affected by bottleneck infrastructure, either upstream or downstream to us.

The NCC Consideration of PNO's Revocation Application

When PNO was privatised in 2014 and then significantly increased channel navigation charges in 2015, this was a time of significant downturn in the Australian coal industry. Having regard to the number of people employed in the Hunter Valley and our industry circumstances, Port Waratah managed to decrease charges to its users for loading at its terminals. PNO's monopoly infrastructure position meant that it was under no such constraint at that time.

As we noted in our submission to the NCC dated 10 June 2015 supporting Glencore's application to declare the Service, all vessels that load at Port Waratah's terminals must utilise the shipping channel in the Port in order to enter for loading and then to depart. There is no actual, or in our view feasible, alternative channel facility in Newcastle. It is therefore important to our business and our customers that access to the shipping channel is afforded on reasonable terms and conditions including as to the term of access.

Port Waratah is aware that there is an access dispute arbitration between PNO and Glencore currently before the ACCC as to terms and conditions of access for Glencore. We believe that the outcome of that arbitration is extremely important as it will determine a regulated asset base that we anticipate will theoretically apply for all coal industry exporters, each of which will be users of our terminals or NCIG. It is anticipated that other exporters may wish to follow Glencore's lead in negotiating long term access for the channel and we believe that such certainty will be beneficial for those exporters allowing them to continue to invest for the long term in the Hunter Valley coal chain.

We also note that Port Waratah has directly, and the Hunter Valley export coal industry has indirectly funded the construction of deep-water "berth pockets" associated with the expansion of its Kooragang Terminal berth infrastructure. This infrastructure has been constructed over the past twenty years, culminating with the completion of Port Waratah's K7 Berth in 2011. Accordingly, we and the industry have a keen interest in the channel dredging component of any PNO regulated asset base.



In these circumstances, given that PNO's submission to the NCC does not appear to mention or otherwise discuss the ACCC arbitration and the outcome of that arbitration, we suggest that the NCC defer its consideration of PNO's application for revocation at this time.

Conclusion

Port Waratah operates in a market which is dependent on the Service. If our customers are unable to participate competitively in the global coal export market, this will adversely impact upon the utilisation of our infrastructure. Significant price increases and future uncertainty for use of a key piece of monopoly infrastructure in the export supply chain, such as the shipping channel, can only have a negative impact.

Accordingly, we strongly believe that a revocation of the declaration of the Services will materially decrease competitive conditions in the range of dependent markets and in particular it will impact Port Waratah by removing the regulatory oversight over PNO that the ACCC arbitration under the declaration brings to parties seeking to negotiate equitable commercial outcomes.

We note this issue as we are also conscious that due to the privatisation of the Port, we also need to negotiate with PNO as to the upcoming lease renewal of the Carrington terminal.

Please do not hesitate to contact me on (02) 4907 2344 if you wish to discuss this submission further.

Yours sincerely

HENNIE DU PLOOY
CHIEF EXECUTIVE OFFICER

