

31 August 2015

Mr David Crawford  
Chairman  
National Competition Council  
Level 35  
360 Elizabeth Street  
MELBOURNE Vic 3000

**Copy:**  
Mr Richard Home  
Executive Director  
National Competition Council  
Level 35  
360 Elizabeth Street  
MELBOURNE Vic 3000

Dear Mr Crawford

**Application for declaration of shipping channel services at the Port of Newcastle – Submission in response to the National Competition Council’s draft recommendation**

Thank you for the draft recommendation, dated 31 July 2015, to the designated Minister not to declare the service subject of Glencore’s Application to the Council.

We agree with the Council's draft finding that Glencore's Application does not satisfy the elements of section 44G(2)(a) of the *Competition and Consumer Act 2010* (Cth) for the reasons set out in our submission to you of 18 June 2015.

We maintain our position, as set out in our submission to you of 18 June 2015, that Glencore's Application does not satisfy the elements of section 44G(2)(f) of the *Competition and Consumer Act* because it would be contrary to the public interest to declare the service. We wish to reserve all of our rights in that regard.

We maintain our position, as set out in our submissions to you of 3 June 2015 and 2 July 2015, that the correct identity of the designated Minister is the Premier of New South Wales. We wish to reserve all of our rights in that regard.

We note the submission made to the Council by the Victorian Department of Treasury and Finance, dated 25 June 2015, about the proper characterisation of the statutory navigation service and berth age charges. We wish to reserve all of our rights in respect of the proper characterisation of those statutory charges.

Yours sincerely

A handwritten signature in black ink that reads "Geoff Crowe".

Geoff Crowe  
**CHIEF EXECUTIVE OFFICER**