

2 September 2015

Submissions – Port of Newcastle
National Competition Council
GPO Box 250
Melbourne VIC 3001

By email: pon@ncc.gov.au

**Submission on Draft Recommendation
Application for Declaration of the Shipping Channel Services at the Port of Newcastle**

The Bloomfield Group ("**Bloomfield**") wishes to provide this submission on the NCC's Draft Recommendation relating to Glencore's application for declaration under Part IIIA of the Competition and Consumer Act 2010 (Cth) of the Shipping Channel Services at the Port of Newcastle.

Bloomfield notes that the NCC has formed a preliminary view that the only criterion under section 44(G)(2) of the CCA that is not met is criterion (a); namely that access (or increased access), to the services will promote a material increase in competition in at least one other market.

Bloomfield's support for Glencore's application was in the context that the Port of Newcastle ("**PON**") increased vessel charges for accessing the shipping channel without any consultation with coal exporters as to the impact on their business or the nature in which such increases were to be levied. This action was particularly notable in that at the same time PON was increasing charges other key service and supply providers to Bloomfield were either holding or reducing charges in response to the current challenging coal market conditions.

As a comparatively small producer such increases may be problematic on their own, but as we explained in our letter of 16 June 2015, the issue is the manner in which this has been undertaken by PON, which appears to be representative of future, likely larger increases based upon their purchase price for the Port.

Particularly as a small producer, PON's ability to increase charges to access the channel has a material impact on Bloomfield's operations. That impact on our operations arises because the increase impacts our profit margin for the sale of coal. The NCC's focus on overall costs of producing and exporting coal is not determinative of the impact on us – the impact is on our profit margin (in an environment where we are a price taker) and therefore the impact of this increase and future increases can have a material impact on our business. These increases and any future increases will affect our perspectives and decisions in relation to mine operation, expansion and development and associated financing and therefore our ability to supply coal into the global market. The performance of our primary coal export business also

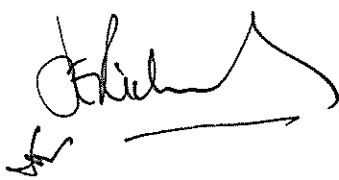
impacts the sustainability of our engineering divisions operations and part owned businesses which account for approximately 50% of the Bloomfield Group's employees.

Bloomfield notes that in its Draft Recommendation the NCC stated at paragraph 4.23 that it is "difficult to conclude that changes to those charges would have a material impact on decisions that would affect competition in any market". First, the initial cost increase by PON was not the focus of the application by Glencore as supported by the Hunter Valley coal producers, it was the manner of the increase and the likely future increases. Second, for the reasons discussed above, Bloomfield respectfully disagrees with the NCC's assessment of the impact of such increases – it is the impact on the profit margin that is relevant (not the overall cost of a product) and that is material.

In the Draft Recommendation, the NCC suggests that access on reasonable terms (capable of being arbitrated with the assistance of the ACCC), would not materially increase competition in relation to mining operations or the financing of such operations. We again respectfully disagree with the NCC's position, on the basis that an appropriate regulatory process (which is currently missing), would assist in providing some constraints and at the very least an engagement process for PON with the coal industry before it levies charges on accessing the channel. In that respect Bloomfield notes that in financing our operations, a form of regulatory process is important as it would provide a constraint on unreasonable cost increases that could be imposed by PON, therefore providing some certainty as to a process in financing our operations. Therefore the declaration of the channel is also likely to lead to a material increase in the competitiveness of financing mining operations in the Hunter Valley.

Bloomfield employs over 500 people in the Hunter Valley in NSW and we seek to contribute to the local community. Our mines export through the coal terminals at the Port of Newcastle. We ask that the NCC reconsider its views and recommend declaration given that the NSW Government sold the rights to access the channel, which is our only means of exporting from our mines, to a private party in respect of which we have no ability to seek reasonable pricing and access terms.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Brett Lewis', with a horizontal line underneath it.

Brett Lewis
Deputy CEO / Director
The Bloomfield Group