

## National Competition Council

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20 September 2018

Mr Andrew Christopher  
Partner  
Webb Henderson  
Level 18  
420 George Street  
SYDNEY NSW 2000

*By email: [andrew.christopher@webbhenderson.com](mailto:andrew.christopher@webbhenderson.com)*

Dear Mr Christopher

**Re: Possible recommendation to revoke declaration of service at the Port of Newcastle – Submissions and documents provided by Port of Newcastle Operations Pty Ltd on 17 September 2018**

I refer to the submission and documents provided by Port of Newcastle Operations Pty Ltd (**PNO**) in response to the letter from the National Competition Council (the **Council**) dated 4 September 2018, including certain documents over which PNO has claimed confidentiality on the basis that the documents contain highly confidential and commercially sensitive information about PNO's business and strategy.

As stated in its 4 September 2018 letter, the Council intends to publish PNO's response, subject to any claims of confidentiality.

The Council has considered PNO's claim that part of its response is confidential, and the reasons in support of that claim and accepts that the information the subject of the claim is confidential. The Council will not publish those documents the subject of the claim at this time or disclose them to any party (except the NCC's advisors, ACCC staff assisting the NCC pursuant to the NCC-ACCC Memorandum of Understanding, and the designated Minister as the circumstances require).

Should the Council come to the view that it cannot rely on the confidential information without giving interested parties an opportunity to respond to it, the Council will provide PNO an opportunity to withdraw the documents. In those circumstances, the Council will not be able to have regard to the information contained in the documents in deciding whether to make a revocation recommendation to the designated Minister.

The Council intends, by mid-day 21 September 2018, to publish on its website the submission and non-confidential documents provided by PNO in response to the Council's 4 September 2018 letter, along with this letter. Interested parties will be invited to make submissions in response to PNO's material within 14 days.

If you would like to further discuss this matter, please contact me on 02 .

Yours sincerely

Linley Johnson  
Executive Director  
National Competition Council