

3rd September 2020
Ref: BL/10051



WE CARE. WE DELIVER.

Mr Richard York
Executive Director
National Competition Council (NCC)
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Dear Mr York,

RE: APPLICATION FOR A DECLARATION OF CERTAIN SERVICES IN RELATION TO THE PORT OF NEWCASTLE (Second Submission)

The Bloomfield Group (**Bloomfield**) makes this submission in response to an additional invitation offered by the National Competition Council dated 28th August 2020 to make further comment on the application made by the New South Wales Minerals Council (**NSWMC**) titled "New South Wales Minerals Council - Application for a declaration recommendation in relation to the Port of Newcastle - July 2020" (**NSWMC Application**).

Thank you for the opportunity.

Company Background

Bloomfield is an Australian owned and operated group of private companies operating in the Hunter Valley NSW. It operates the Rix's Creek Mine at Singleton and the Bloomfield Mine at Ashtonfield and holds other Exploration Tenements. Bloomfield has been in business for more than 80 years.

Bloomfield employs more than 500 people in the local area in its businesses which are principally based in the Hunter Valley. These Companies specialise in:

- Coal mining and sales
- Contract coal beneficiation services
- Engineering (manufacture, maintenance and fabrication)
- Biodiesel production
- Waste cooking oil collection and recycling

Bloomfield's diverse activities mean that it can provide employment across a wide skill set and education standard and currently employs 24 apprentices across several trades and a number of university graduates.

Bloomfield is privately owned with its small group of shareholders all Australian nationals and residents.

Bloomfield in the Hunter Valley Coal Chain

100% of Bloomfield's coal production is produced and transported within the Hunter Valley Coal Chain (HVCC), with the product coal exclusively sold in the export market through the port in Newcastle.

Like all other producers in the HVCC, Bloomfield has track, train and terminal contracts and commitments. It is also subject to the current challenges of community interest, the international markets and NSW/Federal government approval and regulatory processes and standards.

When compared with other producers in the HVCC, Bloomfield has several unique attributes. Bloomfield

- is an unlisted private company
- has 100% of its company's production contained within the HVCC and therefore no ability to use ports other than Newcastle
- has a relatively small production level (less than 2% of the total tonnage exported through the port of Newcastle)

Submission

As directed, this second submission is in relation to the decision by the Federal Court (Court) (published 27th August 2020) regarding Glencore Coal Assets Australia Pty Ltd v Australian Competition Tribunal.

The Court's decision requires the Australian Competition Tribunal to take into account user-funded expenditure in setting charges for Glencore. Prior to the sale of the Newcastle port by the NSW government, coal producers (users) funded \$912M of port expenditure and the decision requires this expenditure to be taken into account by reducing the asset base by this value in setting access charges for Glencore.

This Federal Court decision is only binding on Glencore and the Port of Newcastle (Port). However, the basis of the Court's decision ie. that "the Port should not be able to earn a return on expenditures it did not make" should be available to all coal shippers using the port, including Bloomfield.

Bloomfield believes the Court's decision further supports Bloomfield's and the NSWMC's arguments for declaration of the Port as declaration would best ensure –

1. that the calculation of access charges for all coal shippers will not include user-funded expenditure
2. enduring equity and efficiency by providing regulatory oversight of the terms and conditions of access to critical infrastructure (with no reasonably available alternative option) wholly controlled by a single entity
3. a material increase in competition in dependent markets as a result of points 1. & 2.

Yours sincerely



Brett Lewis

Managing Director/ CEO

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