

19th November 2020
REF: BL/10052



PO Box 4
East Maitland NSW 2323

Four Mile Creek Road
Ashtonfield NSW 2323
AUSTRALIA

TEL +61 2 4930 2600
FAX +61 2 4933 8940

Mr Richard York
Executive Director
National Competition Council (NCC)
Level 17, Casselden
2 Lonsdale Street
Melbourne VIC 3000.

Dear Mr York,

**RE: APPLICATION FOR DECLARATION OF CERTAIN SERVICES AT THE PORT OF
NEWCASTLE (DRAFT RECOMMENDATION)**

Company Background

Bloomfield is an Australian owned and operated group of private companies operating in the Hunter Valley. 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 allow it to provide employment across a wide skill set and range of education standards. It currently employs 24 apprentices across several trades and as well as a number of university graduates.

Bloomfield is privately owned. Its small group of shareholders are 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.

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.

Bloomfield also has several attributes that distinguish it from other producers in the HVCC.

Bloomfield:

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

Submission

On 30 October 2020, the National Competition Council (**NCC**) released its Draft Recommendation regarding an application for declaration of certain services in relation to the Port of Newcastle (**Port**). The NCC's draft recommendation is that the designated Minister not declare the Service at the Port. The NCC invited interested parties to make written submissions on the Draft Recommendation.

Bloomfield has reviewed the content of the NCC's Draft Recommendation. After considering the arguments and positions made in the paper, Bloomfield maintains its alternative position that the Port should be declared.

The Draft Recommendation provides no compelling expanded or additional reasoning to diminish our key reasons for pressing the argument that the Port should be declared. Our key reasons are –

1. **Port of Newcastle Operations (PNO) is an operator of monopoly infrastructure.**
PNO therefore has both the commercial incentive and the monopoly power to extract as much as it can from Port users. The coal mining industry is, by far, the largest Port user and has the greatest exposure to this behaviour. Without declaration, the ongoing uncertainty and burden that may be imposed on existing coal producers as well as potential new participants will create a significant disincentive to invest in the Hunter Valley. For existing producers, the high level of sunk capital costs make it practically impossible in the short term to relocate operations to an alternative mining area serviced by an alternative port. In the longer term, to the extent that above normal Port charges and the risk of further unconstrained increases make the Hunter Valley unattractive for producers, export customers or both, compared to other jurisdictions, future production volumes, exploration activity and capital investment would be directed to alternative jurisdictions.

2. **Without declaration, PNO has no incentive to actively engage in negotiation with the coal industry.**

This disincentive to participate in meaningful dialogue is currently evident. PNO declines to meet with NSWMC representatives, despite the ACCC support of a producer group approach. This is an important and timely example of how, under the current and proposed arrangements, PNO can act without constraint in relation to negotiation on pricing or, indeed, any other matter.

3. **Success in securing its container terminal at the Port would make PNO vertically integrated and the situation likely worse.**

Without suitable control, PNO will have a clear incentive to favour its container terminal operations with regard to costs and access in order to make its container terminal attractive compared to competing container terminals over those of coal operations. To be clear, Bloomfield is not opposed to a container terminal at the Port. It is opposed to a lack of regulation that would allow PNO the power to require Bloomfield to commercially subsidise the establishment of a container terminal which it does not and will not use. Such costs should correctly be recoverable from users of the container terminal.

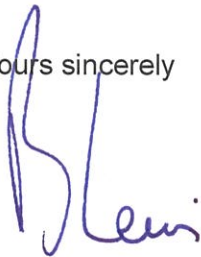
4. **Failure to secure its container terminal at the Port would make PNO almost wholly reliant on the coal industry to support its future business model.**

Without suitable control, PNO will continue to have the unfettered ability to increase current charges and introduce new charges on the coal industry to fill any gaps in its projected revenues and to earn super profits. This will have the impact of reducing the attractiveness of the Port for the coal industry, reducing the likelihood of new entrants and mine expansions, increasing the likelihood of mine closures and production reductions and stunting the long term future of the region and the state of NSW.

Thank you for the opportunity to review the Draft Recommendation. Having done so, we remain firmly of the opinion that the Port must be declared to ensure equity, stability and an environment where investment and competition can thrive not only for the coal industry but for any other sector that may choose to use Newcastle as its gateway to or from the world.

Please feel free to contact me should you require more information or clarification.

Yours sincerely



Brett Lewis
Managing Director/ CEO

☎ 0409 494 366
✉ blewis@bloomcoll.com.au