



4 February 2019

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Dear Council Secretariat,

**APPLICATION FOR REVOCATION OF THE DECLARATION OF THE SHIPPING CHANNEL SERVICE
AT THE PORT OF NEWCASTLE**

As Chief Executive Officer of The Bloomfield Group, I write with reference to the National Competition Council (NCC) Statement of Preliminary Views dated 19 December 2018 (**Preliminary Recommendation**) in relation to the application by Port of Newcastle Operations (**PNO**) seeking revocation of the declaration of the shipping channel service at the Port of Newcastle (**Port**).

The Bloomfield Group (**Bloomfield**) is an Australian owned and operated group of private companies headed by Big Ben Holdings Pty Limited. It operates the Rix's Creek Mine at Singleton and the Bloomfield Mine at Ashtonfield in the Hunter Valley and holds other Exploration Tenements. Bloomfield recently celebrated 80 years in business. Bloomfield may, in the NCC's terminology, be a "small mining company".

Having read through the NCC Preliminary Recommendation we wish to express our views as a small mining company. We note the previous submissions including those of Glencore, Yancoal, NCIG and the New South Wales Minerals Council. While we support and concur with those views, we wish to provide our own perspective and in particular to provide our input in relation to the NCC's assessment of the effect of the declaration on competition in the global seaborne thermal coal market, the market for Australian produced export thermal coal and the NSW tenements market.

Company Background

Bloomfield employs in the order of 600 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. It currently employs and trains 29 apprentices across several trades, 6 trainee equipment operators and 4 university students alongside its ranks of more experienced employees.

Bloomfield is privately owned and closely held by a small group of shareholders all of whom are Australian nationals, residents and taxpayers.

Bloomfield in the Hunter Valley Coal Chain

All 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.

Unlike most other producers in the HVCC, Bloomfield has several unique features. Bloomfield -

- is an unlisted private company;
- has 100% of its company's production contained within the HVCC and therefore no ability to reasonably reduce its exposure to NSW by reallocating its capital and production profile towards other states and countries should the Newcastle port charges increase sufficiently to make the price of its coals globally uncompetitive; and
- has a relatively small production level (less than 2% of the total tonnage exported through the port of Newcastle).

Bloomfield Supplementary Points

Because of the nature of Bloomfield's business (generally FOB – Free On Board), the 2015 increase in the PNO navigation service charge did not directly impact Bloomfield's cost structure. Rather, the increased price became an additional cost impost on its Asian customers. However, Bloomfield has maintained its concern as to the scale of the increase of PNO's navigation services charges in 2015 because of the potential impact on the desirability of Newcastle as a preferred port for its customers, and more particularly whether this might be an indication of the future trend in PNO price increases for existing (or new) charges. As a relatively small producer, Bloomfield has previously relied on those more directly impacted and with more substantial resources to lead and pursue a declaration or arbitration against PNO.

Based on the events that have unfolded since 2015 (well described in the Preliminary Decision), Bloomfield believes that the declaration provides a necessary constraint on PNO and that the ACCC arbitration decision provides us with the opportunity to negotiate terms with PNO that are reasonable and fair for producers, large and small, and for PNO. As a small mining company, it has been prudent and commercially rational for Bloomfield to await the outcome of the lengthy and costly dispute between Glencore and PNO that Glencore undertook on its own behalf. It is recognised that the outcome of this dispute may also have flow-on effects to the broader NSW coal mining industry, in that other parties may in the future be able to rely on the work done and framework established. However, that does not mean

that Bloomfield as a small mining company is indifferent to the outcome of the proceedings. Hence this submission in response to the Preliminary Decision.

Given the experience of the significant PNO charge increases in 2015, Bloomfield does not share the views of the NCC regarding future PNO pricing, as outlined in the Preliminary Decision. We would expect PNO, in its monopoly position and with unconstrained power with regard to pricing, to again exercise its market position to extract as much as it possibly can from coal exporters in the absence of the declaration and ability to have the ACCC arbitrate. Therefore, we cannot agree with the NCC's analysis in 6.160.

Our customers operate on a global basis, sourcing coal from many ports and numerous countries to deliver a blend at the best value to their businesses. As a small mining company, wholly operating within the HVCC, it is likely that if Bloomfield's customers began to shift tonnage away from the HVCC as a result of increased comparative cost for Bloomfield's products, then because we have no operations outside the HVCC, the impact would be immediate and catastrophic. If Bloomfield or other small mining companies should fail, that would significantly lessen competition by further increasing the market power of large mining companies in the Hunter Valley. This reduced competition and concentration of market power with large mining companies would also negatively impact local supplier and support services as well as the broader seaborne coal market.

I turn now to the impact of the declaration on the coal tenements market, which is an area in which we have particular knowledge and experience. In our experience, the NCC has not given sufficient weight to the risks to investing and acquiring tenements by businesses, such as Bloomfield, if PNO has the unconstrained ability to increase channel charges. Coal mining is a cyclical industry and the coal price fluctuates considerably over the cycle. It is prudent to base an investment decision, using a commercial risk based approach, on coal prices which could return to those which were very low in 2014/2015. History has shown us that, without declaration, PNO's future price changes may be significant, unpredictable and unrelated to market forecasts, economic factors or supply chain constraints that can be reasonably estimated and modelled. Therefore, as a smaller company, the additional risk that would result from revoking declaration will certainly provide larger mining companies a relative advantage as they have greater financial capacity and are therefore better placed to absorb an unforeseen and immitigable cost increase. Without the declaration, smaller mining companies, like Bloomfield, and new start-up entrants will be at a distinct disadvantage in having to take into account the potential impact of the additional risk resulting from PNO's future price uncertainty while possessing more limited resources to absorb unpredictable out of market increases.

Currently the declaration and ACCC's determination provide us with commercial confidence as to the bounds within which PNO may operate and charge. In the absence of the declaration, no such constraint would apply and in this commercial environment revocation of the declaration will impact negatively on our investment decisions. The additional uncertainty is material, and the removal of the declaration would, in our view, result in a significant decrease in competition in the tenements market as we and companies like us may choose not to risk our capital and/or be unable to source project financing from external parties because of the increased uncertainty in projected costs. Furthermore, given that our operations are confined to the Hunter Valley, we (together other small mining companies and any new start-up entrants in the Hunter Valley) have no access to the risk mitigation that is available to the large mining companies, of rebalancing production to other regions.

In conclusion, regarding tenements, and in relation to para 6.161 of the NCC's Preliminary Recommendations, Bloomfield is a current participant in the tenements market in the Hunter Valley region. Given Bloomfield's size, the decision to revoke the declaration and the removal of the constraint that it provides on PNO, would materially affect the nature of our decision to participate in the tenements market (e.g. acquire new tenements) because of the inherent uncertainty of the unfettered ability for PNO to increase channel charges and impact the viability of new projects.

The Council states in 9.64 that it is not positively satisfied that declaration of the Service would promote the public interest. In relation to the NCC's assessment of criterion (d) and the public policy elements, in our view the channel charges imposed by PNO and the uncertainty as to what they may be in the absence of the declaration does have a major impact on our own investment decisions and potentially on continued financial viability. Accordingly, we believe that from a public policy perspective under criterion (d), that the declaration should be maintained.

As a small mining company directly employing 600 people in NSW, and supporting many hundreds more as contractors and service providers, we ask the NCC to change its views and recommend the continued declaration of the channel.

Yours sincerely,

Brett Lewis
Managing Director/CEO
The Bloomfield Group
Big Ben Holdings Pty Limited
(ABN 63 008 562)