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Our ref: AA1000473
Contact officer: Jaime Martin
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2 April 2020

Craig Carmody
CEO
Port of Newcastle Operations Pty Ltd

By email: craig.carmody@portofnewcastle.com.au;

CC: Simon.Byrnes@portofnewcastle.com.au
blloyd@claytonutz.com
Gabiella.Sainsbury@portofnewcastle.com.au

Dear Mr Carmody

New South Wales Minerals Council & Ors collective bargaining application for authorisation AA1000473 — interim authorisation decision

The Australian Competition and Consumer Commission (the **ACCC**) has decided to grant interim authorisation in respect of the collective bargaining application lodged by the NSW Minerals Council and coal producers (**the Applicants**) on 6 March 2020.

A copy of the ACCC's interim authorisation decision is enclosed.

Interim authorisation allows the Applicants to commence voluntary collective discussions amongst themselves and negotiations with Port of Newcastle Operations Pty Ltd (**PNO**) in relation to the terms and conditions of access, including price, to the Port of Newcastle.

Interim authorisation does not extend to entering into collectively negotiated agreements. Interim authorisation was not sought, and does not extend to, the members of the collective bargaining group sharing individual coal projection volumes, customer pricing information or marketing strategies.

As noted in the ACCC's decision, the ACCC may review its decision on interim authorisation at any time. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted by the ACCC.

Interim authorisation protects the arrangements for which authorisation is sought from legal action under the relevant provisions of the *Competition and Consumer Act 2010* while the ACCC considers and evaluates the merits of the application.

Next steps

As you are aware, the ACCC invited interested parties to provide a submission in relation to the substantive application for authorisation by **Friday, 3 April 2020**.

Following this, the next step in the process is for the ACCC to release a draft determination which will take account of any submissions from the Applicants and interested parties and will indicate the ACCC's preliminary views on the merits of the application. The ACCC will give both the Applicants and interested parties the opportunity to provide a further submission on the draft determination before the ACCC issues its final decision.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact Ms Jaime Martin on (03) 9290 1477 (jaimemartin@acc.gov.au), or myself on (02) 6243 1266 (david.hatfield@acc.gov.au).

Yours sincerely

A handwritten signature in blue ink that reads "D Hatfield".

David Hatfield
Director
Adjudication