

MinterEllison

20 July 2023

Mr Tony Hilton
Director | Competition Exemptions
Australian Competition and Consumer Commission
Level 1 | The Quadrant, 1 William Street Perth
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Dear Mr Hilton

Application for minor variation of authorisation A40062 – A40070 and authorisation A91205 - A91207

1. We refer to our recent engagement, including our most recent discussion on 9 June 2023.
2. We confirm that we act on behalf of Rio Tinto Aluminium Limited ACN 009 679 127 (**RTA**) and the Gladstone Power Station Joint Venture Participants (the **JV Participants**) in relation to an application for a minor variation of authorisation A40062 – A40070 and authorisation A91205-A91207 (the **Authorisation**).
3. The application for minor variation is made by RTA on behalf of itself as Manager of the Gladstone Power Station Joint Venture and the JV Participants (together, the **Applicants**) which are listed below:
 - (a) GPS Energy Pty Limited ACN 063 207 456;
 - (b) GPS Power Pty. Limited ACN 009 103 422;
 - (c) Sunshine State Power B.V. ARBN 062 295 425;
 - (d) Sunshine State Power (No. 2) B.V. ABRN 063 382 829;
 - (e) Southern Cross GPS Pty Ltd ACN 063 779 028;
 - (f) Ryowa II GPS Pty. Limited ACN 063 780 058; and
 - (g) YKK GPS (Queensland) Pty Limited ACN 062 905 275.
4. Please find enclosed:
 - (a) a confidential letter of application for minor variation of a non-merger authorisation (**Application**);
 - (b) a redacted version of the Application, which can be placed on the public register;
 - (c) a confidential submission in support of the application (**Submission**); and
 - (d) a redacted version of the Submission, which can be placed on the public register.
5. The application for minor variation concerns further minor amendments to the Restated Operation and Maintenance Agreement relating to the Gladstone Power Station (the **OMA**).



6. Specifically, the amendments have been made to various terms including extension periods, payment terms, liability caps, removal of obligations under previous carbon reduction/emissions laws and policies which have now ceased effect. The amendments also modernise the language and correct typographical errors.
7. The Applicants request that the parts of the Application and Submission which are redacted are to be excluded from the public register on the basis that they are confidential.
8. The Applicants submit that the information highlighted in red in the Submission over which confidentiality is claimed is commercially sensitive and its release may give the Applicants' domestic and/or international competitors a commercial advantage. We are instructed that the information over which confidentiality is claimed is not otherwise in the public domain.
9. The Applicants also request that the references to the "Former Submission" in the Submission be taken to be references to the submission supporting the Applicants' applications for authorisation lodged with the Commission on 24 December 2009.
10. The Applicants will provide a copy of the following documents to the Commission on a confidential basis under separate cover:
 - (a) Deed of Amendment and Restatement of Operation and Maintenance Agreement; and
 - (b) Operation and Maintenance Agreement with mark-up showing the proposed amendments the subject of this application for minor variation.

If you have any questions in relation to this application or require further information, please do not hesitate to contact us.

Yours faithfully
MinterEllison



Contact: Kathryn Finlayson T: [REDACTED]

OUR REF: 1408793

enclosure



Public Version

20 July 2023

Submission in support of application for minor variation

Authorisations A40062 – A40070 and A91205 –
A91207

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Rio Tinto Aluminium Limited (ACN 009 679 127)

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Submission in support of application for minor variation

Authorisations A40062 – A40070 and A91205 – A91207

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Executive summary

Rio Tinto Aluminium Limited ACN 009 679 127 (**RTA**), the manager of the Gladstone Power Station Joint Venture, makes an application for a minor variation to authorisation no. A40062 – A40070 dated 3 March 1994 (**1994 Authorisation**) and authorisation no. A91205 – A91207 dated 2 June 2010 (**2010 Authorisation**) as amended by minor variations determinations dated 19 January 2011, 7 September 2011, 12 February 2016 and 29 October 2021 (together, the **Authorisation**) on behalf of itself and participants in the Gladstone Power Station Joint Venture (the **JV Participants**).

The Authorisation authorises the commercial arrangements under a number of agreements (the **GPS Agreements**) relating to the Gladstone Power Station (**GPS**) and the Boyne Island Aluminium Smelter (the **Smelter**). Arrangements in relation to the GPS and the Smelter have been the subject of a previous authorisation in 1979.

Similarly to the previous applications for minor variation approved by the Australian Competition and Consumer Commission (**Commission**), a minor variation is sought to authorise further amendments to the Restated Operation and Maintenance Agreement relating to the Gladstone Power Station (the **OMA**) which are described in section 3 of this submission, and which primarily reflect changes in commercial arrangements (including extension periods, payment terms, liability caps), removal of obligations under previous carbon reduction/emissions laws and policies which have now ceased effect, and other minor drafting amendments.

It is submitted that the variation sought satisfies the definition of a minor variation and will not result in any reduction in the extent to which the benefit to the public of the Authorisation outweighs any detriment to the public caused by the Authorisation.

It is submitted that the variation will not detract from the significant public benefits of the arrangements under the amended GPS agreements and will have little or no anti-competitive effect in the relevant markets, being the Queensland market for the supply and acquisition of wholesale electricity and the separate national markets for the supply of primary aluminium for (i) remelt purposes and (ii) extrusion purposes.

For the reasons set out in the attached submission the Commission is requested to grant a minor variation of the Authorisation to authorise further amendments to the OMA. No change to the term of the Authorisation is requested.

Submission

1. Introduction

RTA, the manager of the Gladstone Power Station Joint Venture, makes an application for a minor variation to the Authorisation on behalf of itself and the JV Participants (together, the **Applicant**).

The application concerns further amendments to the OMA.

The GPS Agreements have been the subject of previous authorisations by the Commission (and its predecessors):

- In 1979, authorisation was granted to the formation of a joint venture for the construction and operation of the Smelter.
- In 1994, authorisation was granted in relation to the expansion of the Smelter and the formation of a joint venture for the acquisition and operation of the GPS.
- In June 2010, authorisation was granted for certain amendments in the GPS Agreements, including the OMA. The GPS Agreements were amended in 2009 to accommodate certain changes to commercial arrangements which occurred against the background of the introduction and operation of the National Electricity Market (**NEM**).
- On 19 January 2011, the Commission approved a minor variation to the June 2010 authorisation in respect of certain amendments to Schedule 6 of the OMA which sets out the fees to be paid by the JV Participants to the operator for the provision of services for the GPS.
- On 7 September 2011, the Commission approved a minor variation to the June 2010 authorisation in respect of certain amendments to Schedule 16 of the Interconnection and Power Pooling Agreement (**IPPA**). These further amendments were intended to correct and clarify the operation of certain definitions and formulae in the IPPA to ensure that the IPPA accurately reflects the original intention of the parties at the time of entry into the IPPA in 2009.
- On 12 February 2016, the Commission approved a minor variation to the June 2010 authorisation in respect of certain amendments to Schedule 6 of the OMA to reflect a revised fee structure and Schedule 2 to include a revised organisational chart for the operator as well as certain minor drafting amendments to record the commercial arrangements of the revised fee structure.
- On 29 October 2021, the Commission approved a minor variation to the June 2010 authorisation in respect of amendments to the authorised IPPA and the Power Purchase Agreements relating to the Smelter (the **PPAs**) following a change to a five minute settlement period, rather than on a per-30 minute basis, under the National Electricity Rules (the **Five Minute Rule Change**). These amendments were made to allow the generation and supply of electricity at the GPS to continue to operate as they did prior to the Five Minute Rule Change.

The Applicant is now seeking a minor variation of the Authorisations to authorise further amendments to the OMA, which are described in section 3 of this submission and which primarily reflect changes in commercial arrangements (including extension periods, payment terms, liability caps), removal of obligations under previous carbon reduction/emissions laws and policies which have now ceased effect, and other minor drafting amendments.

The amendments to the OMA have been executed by the parties but the amendments will not take effect unless and until those amendments are authorised by the Commission or the Commission grants a minor variation.

It is submitted that the variation sought by the Applicants satisfies the definition of a minor variation under the *Competition and Consumer Act 2010* (Cth) (**CCA**) and that the proposed minor variation will not result in any reduction to the net benefit of the arrangements authorised. In assessing the

application, the Commission is requested to have regard to the submission made by the Applicant in support of its applications for authorisation A91205-A91207, lodged on 24 December 2009 (the **Former Submission**).

1.1 The Applicant

RTA is the manager of the GPS Joint Venture and Boyne Smelters Limited ACN 010 061 935, the incorporated joint venture that owns the Smelter.

The GPS Joint Venture is an unincorporated joint venture of the following JV Participants:

- GPS Energy Pty Limited ACN 063 207 456;¹
- GPS Power Pty. Limited ACN 009 103 422;
- Sunshine State Power B.V. ARBN 062 295 425;
- Sunshine State Power (No. 2) B.V. ABRN 063 382 829;
- Southern Cross GPS Pty Ltd (formerly SLMA GPS Pty Ltd) ACN 063 779 028;
- Ryowa II GPS Pty. Limited ACN 063 780 058; and
- YKK GPS (Queensland) Pty Limited ACN 062 905 275.

Annexure A sets out the contact details and a short description of the business carried out by each of the JV Participants.

1.2 The Application

The Applicant makes an application under subsection 91A(1) of the CCA for a minor variation of the Authorisation to authorise further amendments to the OMA, which are described in section 3 of this Submission.

Attachment 1 to this submission is a copy of the OMA with the proposed amendments showing in mark-up. The Applicant has highlighted in yellow the amendments in respect of which it is seeking minor variation to the 1994 Authorisation, and in blue the amendments in respect of which it is seeking minor variation to the 2010 Authorisation.

2. The Authorisation

2.1 1994 Authorisation

In late 1993, Comalco Limited lodged eight applications for authorisation and Comalco Aluminium Limited lodged one application for authorisation, relating to the proposed expansion and operation of the Smelter and the proposed acquisition and operation of the GPS, summarised as follows:²

- (a) Applications A40062 and A40063 were made under sub-section 88(1) of the *Trade Practices Act 1974* (Cth) (**TPA**) for an authorisation:³
- (i) to make a contract or arrangement, or arrive at an understanding, where a provision of the proposed contract, arrangement or understanding would be, or might be, an exclusionary provision within the meaning of section 45 of the TPA; and
 - (ii) to give effect to a provision of a contract, arrangement or understanding where the provision is or may be an exclusionary provision within the meaning of section 45 of the TPA.

Comalco described the contract, arrangement or understanding relevant to application A40062 as the Initial and First Expansion Tolling Agreements being part of the joint venture agreements relating to the Smelter, its operation and expansion; and relevant to

¹ GPS Energy Pty Limited and GPS Power Pty. Limited are wholly owned subsidiaries of RTA.

² Trade Practices Commission, Determination: Comalco Limited and Comalco Aluminium Limited (1994) ATPR (Com) 50-142 (1994 **Final Determination**), 50-142.

³ 1994 Final Determination, section 1.2.

application A40063 as the IPPA being part of the joint venture agreements relating to the GPS.

- (b) Applications A40064 and A40065 were made under sub-section 88(1) of the TPA for an authorisation:⁴
- (i) to make a contract or arrangement, or arrive at an understanding, a provision of which would have the purpose, or would have or might have the effect, of substantially lessening competition within the meaning of section 45 of the TPA; and
 - (ii) to give effect to a provision of a contract, arrangement or understanding which provision has the purpose, or has or may have the effect, of substantially lessening competition within the meaning of section 45 of the TPA.

Comalco described the contract, arrangement or understanding relevant to application A40064 as the joint venture agreements relating to the Smelter, its operation and expansion; and relevant to application A40065 as the project agreements relating to the GPS.

- (c) Applications A40066 to A40070 were made under sub-section 88(8) of the TPA for authorisation to engage in conduct that constitutes or may constitute the practice of exclusive dealing. The applicant described the conduct that would or may constitute exclusive dealing as:⁵
- (i) the long term supply and acquisition of the service of converting alumina into aluminium pursuant to the Initial and First Expansion Tolling Agreements (application A40066);
 - (ii) the long term supply of management and technical services in respect of the Smelter (application A40067);
 - (iii) the long term supply of operating and maintenance services for the GPS (application A40068);
 - (iv) the long term provision of existing technology and third potline core technology for the Smelter (application A40069); and
 - (v) the long term alumina supply agreements (application A40070).

On 3 March 1994, the TPC granted the 1994 Authorisation⁶ in relation to the contractual arrangements which supported the proposed expansion and operation of the Smelter and the proposed acquisition and operation of the GPS.⁷ The 1994 Authorisation was granted for an unspecified period.⁸

2.2 2010 Authorisation

In December 2009, the Applicant made the following applications seeking authorisation for certain amendments in the amended GPS agreements:

- (a) an application under subsections 88(1A) and 88(1) of the TPA for an authorisation:
- (i) to make a contract a provision of which may be a cartel provision within the meaning of Division 1 of Part IV of the TPA and which may also be an exclusionary provision within the meaning of section 45 of the TPA; and
 - (ii) to give effect to a provision of a contract that may be a cartel provision within the meaning of Division 1 of Part IV of the TPA and which may also be an exclusionary provision within the meaning of section 45 of the TPA;
- (b) an application under subsection(s) 88(1A)/88(1) of the TPA for an authorisation:

⁴ 1994 Final Determination, section 1.4.

⁵ 1994 Final Determination, section 1.6.

⁶ 1994 Final Determination.

⁷ 1994 Final Determination, 55-104; Paragraph 1.10 of the 2010 Final Determination.

⁸ Paragraph 8.2 of the 1994 Final Determination.

- (i) to make a contract a provision of which may be a cartel provision within the meaning of Division 1 of Part IV of the TPA (other than a provision which would also be, or may also be, an exclusionary provision within the meaning of section 45 of the TPA);
 - (ii) to give effect to a provision of a contract that may be a cartel provision within the meaning of Division 1 of Part IV of the TPA (other than a provision which is also, or may also be, an exclusionary provision within the meaning of section 45 of the TPA);
 - (iii) to make a contract a provision of which may have the purpose or effect of substantially lessening competition within the meaning of section 45 of the TPA; and
 - (iv) to give effect to a provision of a contract which provision may have the purpose or effect of substantially lessening competition within the meaning of section 45 of the TPA; and
- (c) an application under subsection 88(8) of the TPA for an authorisation under that subsection to engage in conduct that constitutes or may constitute the practice of exclusive dealing.

On 2 June 2010 the Commission made a determination granting authorisation for certain amendments to the GPS Agreements until 29 March 2029 (**2010 Determination**). Specifically, the Commission authorised amendments to the OMA that reflected the amendments to the IPPA (clauses 1.7-1.9, 3.1, 3.4(b), 3.9(h), 3.10, 4.1, 6.8(b), 6.9 and Schedule 1, Part II 25-35 and Schedules 5A and 6).⁹

The 2010 Determination stated that any changes to the amended GPS agreements during the term of the Authorisation would not be covered by the Authorisation.¹⁰

In making the 2010 Determination, the Commission found that the conduct for which authorisation was sought is likely to result in a public benefit that would outweigh the detriment to the public constituted by any lessening of competition arising from the conduct.¹¹

Detailed information regarding the Applicant, the history of the arrangements and the history of authorisations and applications is set out in section 2 of the Former Submission.

3. Minor Variation

A minor variation of the Authorisation is sought to authorise further amendments to the OMA.

The further amendments to the OMA reflect changes to the commercial arrangements between the parties against the background of the expiry of the Extended Secondary Period of the OMA in [REDACTED]. The OMA as provided to the Commission in 2009 had an initial term of [REDACTED] years, commencing from March 1994.

After commercial negotiations, the parties agreed to extend the term of the OMA for a period of approximately [REDACTED] years (i.e. until the end of the [REDACTED]) with a rolling option to further extend the agreement for subsequent periods of [REDACTED] years each.¹² These current amendments are a result of such an extension. [REDACTED]

[REDACTED].¹³

The Applicant is now seeking a minor variation of the Authorisations to authorise further amendments to the OMA, which are described in section 3 of this submission and which primarily reflect changes in commercial arrangements (including extension periods, payment terms, liability caps), removal of obligations under previous carbon reduction/emissions laws and policies which have now ceased effect, and other minor drafting amendments.

3.1 Payment Terms and Liability Caps

The amendments to the payment terms primarily reflect the removal of [REDACTED] from the [REDACTED] provisions (clause 8.11), amendments to the consequences of a [REDACTED]

⁹ Determination, 2 June 2010, page 33.

¹⁰ Determination, 2 June 2010, page 33.

¹¹ Determination, 2 June 2010, page 30.

¹² Clause 11.2 of the OMA.

¹³ Clause 11.2 of the OMA.

(clause 8.11), and amendments to the [REDACTED] Payment, [REDACTED] and the introduction of a [REDACTED] (clause 8.1 and Schedule 6). The [REDACTED] have been removed from the [REDACTED] provisions due to [REDACTED], in that the [REDACTED] could trigger default. The [REDACTED] provisions include a methodology to prioritise the use of funds, if any [REDACTED] does not meet their [REDACTED].

Amendments to the liability caps reflect the commercial agreement between the Parties to modernise the liability cap regime that was originally agreed between the parties in 1994. It was considered by the Operator/NRG Participants that the historic provision did not reflect the current market liability regime for such arrangements. Accordingly, the parties agreed to changes to the [REDACTED], including to simplify the calculation of the [REDACTED] (see in particular, amendments to clause 10). The [REDACTED] listed in clause 12.9 has been adjusted but is not subject to the same [REDACTED] as the other [REDACTED].

3.2 Operational revisions

The 2023 OMA includes various amendments to the operational provisions. A summary of these changes is provided below:

- (a) amendments to clause 3.2 to exclude the [REDACTED] from the Services, and to include a new definition of [REDACTED] in clause 1.1;
- (b) amendments to clause 4.5, in relation to [REDACTED], to remove references to [REDACTED] and the [REDACTED] (and other related amendments in the OMA), as these [REDACTED];
- (c) amendments to clause 4.8, in relation to the consequences of [REDACTED];
- (d) amendments to clause 5.7(b), in relation to [REDACTED];
- (e) amendments to clause 8.1(c) and Schedule 6, in relation to [REDACTED] of payment, including to include additional terms in relation to [REDACTED];
- (f) amendments to clause 11.2 and various other clauses, to reflect agreed amendments to the Term (including minor amendments to Schedule 6), including to include a new definition of [REDACTED] in clause 1.1. The [REDACTED] Period is a period of approximately [REDACTED] years commencing on the expiry of the [REDACTED] Period. This [REDACTED] year period is shorter than the [REDACTED] Period of [REDACTED] years and is [REDACTED] and [REDACTED];
- (g) amendments to clause 11A, which provides for the Operator to [REDACTED] only under [REDACTED] circumstances. Such circumstances have been extended in the new OMA to include [REDACTED]. The amendments also reflect agreed amendments to the Term and other minor drafting amendments (see clauses 11A.1 and 11A.3);
- (h) amendments to clause 12, in relation to termination. There have been amendments in relation to termination events (12.3), rights of termination (12.4), refund of [REDACTED], survival of rights on termination or expiry (12.6), payments [REDACTED]. Termination events and rights of termination have been amended to reflect [REDACTED]. Amendments to clause 12.3 remove [REDACTED] from a [REDACTED];
- (i) inclusion of a new clause 12.5A, to facilitate [REDACTED], payable by the Operator (except where the Operator qualifies to draw on [REDACTED]);
- (j) amendments to clause 13.1, in relation to the definition of force majeure, to include [REDACTED] as force majeure events;
- (k) amendments to clause 15, in relation to intellectual property, including removal of an [REDACTED], other minor wording changes to clauses 15.1 and 15.2, amendments to [REDACTED] and amendments to clause 15.5 in relation to the [REDACTED];

- (l) inclusion of new clause 37 in Schedule 1, Part II to provide for the [REDACTED] at the end of the term of the Agreement;
- (m) removal of clause 1.2 in Schedule 1, Part II, in relation to the approval of press releases and publicity material, and including a similar clause in clause 2.3 of Schedule 1, Part III;
- (n) amendments in Schedule 2, to change roles titles in the organisational chart;
- (o) amendments to Schedule 6, to include the [REDACTED] Period and [REDACTED] Period;
- (p) amendments to Schedule 9, Part I and II, in relation to the format of the annual budget and annual operating plan.

3.3 Minor changes

In addition to the primary changes, there are a number of minor changes which relate to the removal of statutory obligations under expired legislation or commercial changes. These include:

- (a) in clause 1.1 'Definitions' to update certain definitions, to remove unused definitions, or to add new definitions. For example, in relation to the amended definition of [REDACTED], this definition previously adopted the meaning given to that term in the IPPA, and the current amendments now replicate the definition from the IPPA in the OMA;
- (b) removal of clause 6.9 and 8.13, which related to the previous requirements of the [REDACTED] that is no longer in effect;
- (c) minor drafting changes in various clauses (13.5, 18.2, 19.2, Schedule 1, Part II, clauses 13 and 16, Schedule 8);
- (d) in clause 3.9, to clarify the Operator's [REDACTED] to a Participant;
- (e) in clause 20.1, to replace facsimile with email as a way of giving notices;
- (f) in clause 20.2 and Schedule 4 [REDACTED], updating addresses for service; and
- (g) in Schedule 5 [REDACTED] definition, to include [REDACTED].

3.4 Submission

It is submitted that the variation sought to authorise the further amendments to the OMA satisfies the definition of minor variation in subsection 87ZP(1) of the CCA, as the variation is a single variation that does not involve a material change in the effect of the Authorisation. In particular, the conduct being authorised has not changed.

4. Competition Issues – Effect on Competition

Under the OMA, the JV Participants agree to appoint NRG Gladstone Operating Services Pty Limited ACN 061 519 275 (**NRGGOS**) as operator to manage the GPS on a day-to-day basis and agree the terms and conditions of that appointment, including the fee payable to NRGGOS. Authorisation was sought for amendments to the OMA because these provisions raise issues in relation to price fixing under the cartel conduct provisions and arrangements or contracts containing a provision which may substantially lessen competition under section 45.

As was submitted in the 1994 and 2009 applications and the application for Minor Variation approved by the Commission in January 2011 and February 2016, the appointment of NRGGOS by the JV Participants does not result in a lessening in competition in respect of the acquisition of various services or supplies for the GPS because, absent the joint venture, the JV Participants would not otherwise be in competition with each other. It is also necessary on a practical level for the operation of the GPS that there be a single operator.

Further, the joint payment of NRGGOS by the JV Participants does not amount to price fixing because the JV Participants are not competitors and, in any event, the exemption for collective acquisition of services in section 45AU applies.

Although the effect of these provisions is that the JV Participants are acquiring all operating and maintenance services for the GPS from NRGGOS, because the JV Participants are not in competition with one another and given the importance of a single operator as a practical matter, there is no issue of exclusive dealing under section 47(2).

In summary, the Applicant submits that there is little or no anti-competitive effect in any of the relevant markets.

5. The Relevant Markets

In the determination granting the Authorisation, the Commission identified the relevant areas of competition affected by the proposed conduct as likely to be:

- the Queensland market for the supply and acquisition of wholesale electricity; and
- separate national markets for the supply of primary aluminium for (i) remelt purposes and (ii) extrusion purposes.

Sections 3, 6 and 7 of the Former Submission set out in detail the Applicant's submissions in relation to the relevant markets. **Annexure B** also sets out a list of current potentially interested parties and, where possible, their contact details.

It is submitted that a minor variation to the Authorisation to authorise further amendments to the OMA, which are described in section 3 of this submission, will have little or no effect on competition in the Queensland market for the supply and acquisition of wholesale electricity or national markets for the supply of primary aluminium.

6. Effect on Net Benefit of the Arrangements

The Commission may make a determination varying an authorisation if the Commission is satisfied in all the circumstances that the variation would not result in a reduction in the extent to which the benefit to the public of the authorisation outweighs any detriment to the public caused by the authorisation.¹⁴

In the Former Submission the Commission was requested to consider the interdependent relationship between the expanded Smelter and the GPS in assessing the public benefits of the arrangements under the amended GPS Agreements. Section 8 of the Former Submission sets out in detail the Applicant's submissions in relation to the benefits to the public of the arrangements under the amended GPS agreements.

In the determination granting the Authorisation, the Commission found that the amendments to the GPS agreements would be likely to give rise to continued public benefits as follows:

- benefits associated with a mechanism that provides for a secure, reliable and cost effective supply of power to the Smelter, including contributions to the value of exports and the development of the Australian economy; and
- a mechanism that facilitates the supply of electricity into the NEM and enhances the flexibility of CS Energy Limited's (formerly: Stanwell Corporation Limited) ability to utilise the GPS to participate in the NEM.¹⁵

In assessing the public detriment of the arrangements, the Commission did not consider that the amendments would be likely to give rise to an anti-competitive detriment in any of the relevant markets, in particular because it would be unlikely that the Applicant would be able to influence the domestic price of aluminium or the price of electricity in Queensland.¹⁶ The Commission concluded that the public benefit that is likely to result from the conduct is likely to outweigh the public detriment.¹⁷

Similarly to the applications for Minor Variation approved by the Commission in January 2011 and February 2016, this application concerns an adjustment to the price payable to the operator to reflect their engagement to operate GPS being extended for a further [REDACTED] year period, along with other amendments to the commercial terms of the OMA to modernise an agreement that was originally agreed in 1994.

¹⁴ Subsection 91A(4) of the CCA.

¹⁵ Determination, 2 June 2010, page 24.

¹⁶ Determination, 2 June 2010, page 25.

¹⁷ Determination, 2 June 2010, page 27.

It is submitted that the minor variation sought by the Applicant will not result in any reduction in the extent to which the benefit to the public of the Authorisation outweighs any detriment to the public caused by the Authorisation for the following reasons:

- (a) a summary of the amendments has been included in section 3. The nature of the amendments is such that the conduct in respect of which a minor variation is sought is the same species of conduct previously authorised by the Commission;
- (b) as such, the variation would not detract in any way from the public benefits identified by the Commission in granting the Authorisation; and
- (c) the variation is unlikely to give rise to an anti-competitive effect in any of the relevant markets (see section 4 above).

It is submitted that the further amendments to the OMA do not change the substantive arrangements under the OMA or the amended GPS Agreements more broadly. The amendments are mechanical in nature and reflect changes to the commercial arrangements between the parties.

7. Summary

For the reasons set out above, it is submitted that the variation to the Authorisation sought by the Applicant to authorise further amendments to the OMA satisfies the definition of a minor variation and will not result in any reduction in the extent to which the benefit to the public of the Authorisation outweighs any detriment to the public caused by the Authorisation.

Annexure A Contact Details of Joint Venture Participants

Parent Entity	JV Participant	Description of business	Contact details
<p>NRG Energy, Inc (NRG)</p>	<ul style="list-style-type: none"> • Sunshine State Power B.V.; and • Sunshine State Power (No 2) B.V. 	<p>NRG owns Sunshine State Power B.V. and Sunshine State Power (No 2) B.V. Sunshine State Power B.V. has a 20% interest in the GPS Joint Venture. Sunshine State Power (No 2) B.V. has a 17.5% interest in the GPS Joint Venture.</p> <p>Founded in 1989, NRG is a wholesale power generation company, registered in Delaware, USA, primarily engaged in the ownership and operation of power generation facilities and the sale of energy, capacity and related products in the United States and internationally. NRG has a diverse portfolio of electric generation facilities in terms of geography, fuel type and dispatch levels, which help NRG mitigate risk.</p>	<p>Sunshine State Power B.V. Gladstone Power Station Hanson Road GLADSTONE QLD 4680 Fax No: +61 7 4976 5211 with a copy to: NRG Energy, Inc. 804 Carnegie Center PRINCETON NJ 08540 UNITED STATES OF AMERICA Attention: The Corporate Secretary Telephone No: +1 (609) 524 4500 Fax No: +1 (609) 524 1941</p> <p>Sunshine State Power (No 2) B.V. Gladstone Power Station Hanson Road GLADSTONE QLD 4680 Fax No: +61 7 4976 5211 with a copy to: NRG Energy, Inc. 804 Carnegie Center PRINCETON NJ 08540 UNITED STATES OF AMERICA Attention: The Corporate Secretary Telephone No: +1 (609) 524 4500</p>

Parent Entity	JV Participant	Description of business	Contact details
Marubeni Corporation (Marubeni)	Southern Cross GPS Pty Ltd	<p>Marubeni (directly and indirectly) owns 52.95% of the shares in Southern Cross Aluminium Pty Ltd, the holding company of Southern Cross GPS Pty Ltd which in turn owns an 8.5% interest in the GPS Joint Venture.</p> <p>Marubeni is a Japanese company with eight main operating groups, including textiles, metals, machinery, development and construction, energy, chemicals, agri-marine and forest products, and general merchandise.</p>	<p>Fax No: +1 (609) 524 1941</p> <p>Southern Cross GPS Pty Ltd c/- Marubeni Aluminium Australia Pty Ltd Level 17 120 Collins Street MELBOURNE VIC 3000 Attention: The Directors Telephone No: +61 3 9618 8188 Fax No: +61 3 9618 8150</p>
Sumitomo Corporation (Sumitomo Corp)	Southern Cross GPS Pty Ltd	<p>Sumitomo Corp (directly or indirectly) owns 47.05% of the shares in Southern Cross Aluminium Pty Ltd, the holding company of Southern Cross GPS Pty Ltd which in turn owns an 8.5% interest in the GPS Joint Venture.</p> <p>Sumitomo Corp is a Japanese company with seven main operating groups including metals, machinery, chemicals and fuels, foodstuffs, textiles, construction and real estate and general products.</p>	<p>Southern Cross GPS Pty Ltd c/- Marubeni Aluminium Australia Pty Ltd Level 17 120 Collins Street MELBOURNE VIC 3000 Attention: The Directors Telephone No: +61 3 9618 8188 Fax No: +61 3 9618 8150</p>
Mitsubishi Corporation (Mitsubishi) and Mitsubishi Materials Corporation (Mitsubishi Materials)	Ryowa II GPS Pty Ltd	<p>Mitsubishi (66 2/3 %) and Mitsubishi Materials (33 1/3 %) own (directly or indirectly) the shares in Ryowa Development II Pty Ltd, the holding company of Ryowa II GPS Pty Ltd which in turn owns a 7.125% interest in the GPS Joint Venture.</p> <p>Mitsubishi is one of Japan's largest trading companies with major interest in information systems and services, fuels, metals (including aluminium), machinery, foods, chemicals and textiles. Mitsubishi Materials is a leading metal and ceramics firm, specialising in super hard tools, aluminium cans and electronic metals such as silicon.</p>	<p>Ryowa II GPS Pty Ltd Level 16 480 Queen Street BRISBANE QLD 4000 Attention: The Directors Telephone No: +61 3 9275 3999 Fax No: +61 3 9275 3919</p>

Parent Entity	JV Participant	Description of business	Contact details
YKK Corporation (YKK)	YKK GPS (Queensland) Pty Limited	<p>YKK's Australian subsidiary, YKK GPS (Queensland) Pty Limited, owns (indirectly) a 4.75% interest in the GPS Joint Venture.</p> <p>YKK's major product lines include slide fasteners, aluminium architectural products, ferrous and nonferrous metal products, cotton, synthetic yard and narrow fabrics, precision machinery and die sets, and personal computer equipment.</p>	<p>YKK GPS (Queensland) Pty Limited Unit 3, 1 The Crescent, KINGSGROVE NSW 2208 Attention: Haruhiko Kobayashi Telephone No: +61 2 9577 1955 Fax No.: +61 2 9577 1999</p>
Rio Tinto Aluminium (Holdings) Limited (RTAHL) ¹⁸	<ul style="list-style-type: none"> • GPS Power Pty. Ltd; • GPS Energy Pty Limited; and • GPS Nominee Pty Limited 	<p>RTAHL owns GPS Power Pty. Limited and GPS Nominee Pty Limited. GPS Nominee Pty Limited owns GPS Energy Pty Ltd. GPS Power Pty. Ltd has a 20 % interest in the GPS Joint Venture. GPS Energy Pty Ltd has a 22.125 % interest in the GPS Joint Venture.</p> <p>RTAHL is involved in all three stages of aluminium production: bauxite mining, alumina refining and aluminium smelting, supplying products to both domestic and overseas markets.</p>	<p>Rio Tinto Aluminium (Holdings) Limited 155 Charlotte St BRISBANE QLD 4000 Attention: The Company Secretary Telephone No: +61 7 3625 3000 Fax No: +61 7 3625 3001</p>

¹⁸ This entity was formerly known as Comalco Limited.

Annexure B Potentially interested parties

No.	Name	Contact Details
Companies		
1.	AGL	<p>Email: customer.service@agl.com.au</p> <p>Telephone: 131 245</p> <p>Postal address: Locked Bag 14120 MCMC Melbourne VIC 8001</p>
2.	APA Group	<p>Email: social@apa.com.au / apawebsitefeedback@apa.com.au</p> <p>Telephone: 02 9693 0000</p> <p>Postal address: PO Box R41 Royal Exchange NSW 1225</p>
3.	Arrow Energy	<p>Email: info@arrowenergy.com.au</p> <p>Telephone: 07 3012 4000 (during business hours) / 1800 779 488 (emergency contact)</p> <p>Postal address: GPO Box 5262 Brisbane, Queensland 4001 Australia</p>
4.	Alcoa of Australia / Alcoa World Alumina Australia	<p>Telephone: 08 9316 5111</p> <p>Postal address: PO Box 252 Applecross WA 6953</p>
5.	Alinta Energy	<p>Email: customer.service@alintaenergy.com.au</p> <p>Telephone: 1300 198 496</p> <p>Postal address: PO Box 16196 Collins Street West VIC 8007</p>
6.	Alumina Ltd	<p>Email: craig.evans@aluminalimited.com (General Manager – Strategy and Investor Relations)</p> <p>Telephone: 03 8699 2600 / 03 8699 2603 (Craig Evans)</p> <p>Postal address: Level 36 2 Southbank Boulevard,</p>

No.	Name	Contact Details
		Southbank, Victoria 3006 Australia
7.	Abx Group	Email: corporate@abxgroup.com.au Telephone: +61 2 9251 7177 Postal address: Level 5 52 Phillip Street Sydney NSW 2000
8.	BlueScope Steel	Telephone: 03 9666 4000 / 03 8540 8600 Postal address: Level 11, 120 Collins Street Melbourne VIC 3000
9.	BHP Group Limited	Telephone: 1300 55 47 57 Postal address: 171 Collins Street Melbourne Victoria 3000
10.	Capral Aluminium Ltd	Telephone: 1800 258 646 (general contact) / 02 9682 0710 (NSW office contact) / 07 3816 7000 (Qld office contact) / 03 9930 1500 (VIC office contact) Postal address: 15 Huntingwood Drive HUNTINGWOOD NSW 2148 71 Ashburn Road BUNDAMBA QLD 4304 151 Barry Road CAMPBELLFIELD VIC 3061
11.	CITIC Resources Australia Pty Ltd	Email: ir@citicresources.com Telephone: (852) 2899 8200 Postal address: CITIC Resources Holdings Limited Suites 6701-02 & 08B, 67/F, International Commerce Centre, 1 Austin Road West, Kowloon
12.	CleanCo	Email: retail@cleancoqld.com.au Postal address: GPO Box 952 BRISBANE QLD 4001
13.	CS Energy	Telephone: 07 3854 7777 Postal address: CS Energy Ltd PO Box 2227

No.	Name	Contact Details
		FORTITUDE VALLEY BC QLD 4006
14.	CSR	<p>Telephone: 02 9235 8000</p> <p>Postal address: Locked Bag 1345 North Ryde BC NSW 1670 Australia</p>
15.	Delta Electricity	<p>Email: info@de.com.au</p> <p>Telephone: 02 4352 6111</p> <p>Postal address: PO Box 7285, Mannering Park NSW 2259 (Vales Point Power Station) or Suite 5.01, 580 George Street, Sydney, NSW 2000 (Sydney Office)</p>
16.	Energy Australia	<p>Email: enq@energyaustralia.com.au / legalnotices@energyaustralia.com.au</p> <p>Telephone: 03 9060 0000</p> <p>Postal address: EnergyAustralia Locked Bag 14060 Melbourne City Mail Centre VIC 8001</p>
17.	Energy Development (EDL)	<p>Telephone: +61 7 3541 3000</p> <p>Postal address: PO Box 2768, Queen Street Mall Brisbane QLD 4000</p>
18.	Energy One	<p>Email: enquiries@energyone.com</p> <p>Telephone: 02 8916 2200 (NSW contact number) / 02 8916 2200 (Qld contact number)</p> <p>Postal address: Level 13, 77 Pacific Highway, North Sydney, NSW 2060 Level 1, 1024 Ann Street Fortitude Valley, QLD 4006</p>
19.	Energy Queensland	<p>Telephone: 13 74 66 (Ergon Energy) 13 12 53 (Energex)</p> <p>Postal address: Energy Queensland PO Box 1090 Townsville, QLD 4810</p>
20.	Envestra (now Australian Gas Networks)	<p>Email: agnl@agig.com.au</p>

No.	Name	Contact Details
		Telephone: 08 8227 1500 Postal address: Level 6, 400 King William Street Adelaide SA 5000
21.	Epic Energy	Telephone: 08 8343 8100 Postal address: Level 6, 70 Franklin St Adelaide, SA 5000
22.	ERM Power (now Shell Energy Australia)	Email: sales@shellenergy.com.au / essupport@shellenergy.com.au Telephone: 13 23 76 Postal address: GPO Box 7152, Brisbane QLD 4001
23.	Essential Energy	Email: media@essentialenergy.com.au Telephone: 13 23 91 / 0427 003 760 (media enquires) Postal address: Essential Energy Po Box 5730 Port Macquarie NSW 2444
24.	Glencore / Glencore International AG	Email: info@glencore.com Telephone: +41 41 709 2000 (Switzerland head office) / +44 20 7629 3800 (London office) Postal address: Glencore International AG Baarerstattstrasse 3 CH-6340 Baar Switzerland Glencore UK Ltd 18 Hanover Square London, W1S 1JY
25.	Infratil Energy	Email: info@infratil.com Telephone: +64 4 473 3663 Postal address: PO Box 320 5 Market Lane Wellington 6140
26.	Integral Energy (now Endeavour Energy)	Telephone: 133 718 Postal address: Endeavour Energy Customer Advocacy

No.	Name	Contact Details
		PO Box 811 Seven Hills, 1730
27.	Genuity Services Pty Ltd	Email: info@genuity.com.au Telephone: 07 3001 7177 Postal address: Central Plaze Level 31/345 Queen Street Brisbane City, QLD 4000 Australia
28.	International Power (now Engie Energy International)	Email: enquiries.au@engie.com Telephone: 03 9617 8400 / 9617 8401 Postal address: Level 33, Rialto South Tower, 525 Collins Street, Melbourne, Victoria, 3000
29.	Japan Alumina Associates (Australia) Pty Ltd	Telephone: 08 9221 3877 Postal address: Level 5/ 28 The Esplanade, Perth WA 6000
30.	Loy Yang B Power Station	Telephone: 03 5177 2000 Postal address: Bartons Lane, Traralgon, Victoria, Australia
31.	Metro Mining Limited	Email: info@metromining.com.au Telephone: +61 7 3009 8000 Postal address: GPO Box 10955 Brisbane Queensland 4000
32.	Mitsui & Co (Australia) Limited	Email: inquiries.au@mitsui.com Telephone: 03 9605-8800 Postal address: Level 15, 101 Collins Street, Melbourne VIC 3000, Australia
33.	Origin	Email: enquiry@originenergy.com.au Telephone: 13 24 61 Postal address: Origin Energy GPO Box 5376 Sydney, NSW 2001
34.	Pacific Blue	Email: support@pacificblue.com.au Telephone: 1800 730 734

No.	Name	Contact Details
		Postal address: Pacific Blue Retail, Retail Operations, PO Box 320 Geelong North VIC 3215
35.	Powerlink	Email: Contact Us Powerlink Telephone: 1800 635 369 Postal address: PO Box 1193 Virginia Qld 4014
36.	QGC (now Shell)	Email: qgccommunity@shell.com Telephone: 1800 030 443 Postal address: QGC Pty Ltd GPO Box 3107 Brisbane QLD 4001
37.	Queensland Alumina	Telephone: 07 4976 2211 Postal address: Queensland Alumina Limited Parsons Point Gladstone, Queensland 4680
38.	Ratch Australia Corporation	Telephone: 1800 280 013 Postal address: Level 7, 111 Pacific Highway North Sydney NSW 2060
39.	Rusal Australia	Telephone: 07 3025 3352 Postal address: Quay Central, Level 10, 95 North Quay Brisbane City, QLD 4000
40.	Santos	Telephone: 08 8116 5000 Postal address: GPO Box 2455 Adelaide South Australia 5001
41.	Sojitz Corporation	Telephone: 02 9234 0811 Postal address:

No.	Name	Contact Details
		Level 11, 115 Pitt Street, SYDNEY NSW 2000
42.	Snowy Hydro	Email: info@snowyhydro.com.au Telephone: 02 6453 2888 Postal address: Snowy Hydro Limited PO Box 332 Cooma NSW 2630
43.	SP AusNet (now AusNet Services)	Email: customersupport@ausnetservices.com.au Telephone: 1300 360 795 Postal address: AusNet Services Locked Bag 14051 Melbourne VIC 8001
44.	Stanwell Corporation	Telephone: 1800 300 351 Postal address: GPO Box 800 Brisbane QLD 4001
45.	Synergy Energy	Telephone: 13 13 54 Postal address: GPO Box K851 Perth WA 6842
46.	Tomago Aluminium Company Pty Ltd	Email: website.enquiries@tomago.com.au Telephone: 02 4966 9669 Postal address: 638 Tomago Rd Tomago NSW 2322
47.	VBX Limited	Email: hello@vbx.limited Postal address: PO Box 589 Leederville WA 6903 Australia
48.	Verve Energy (merged into Synergy in 2014)	Telephone: 13 13 54 Postal address: GPO Box K851 Perth WA 6842
49.	Worsley Alumina Pty Ltd	Telephone: 08 9734 8311/ 08 9324 9000

No.	Name	Contact Details
		Postal address: Worsley Alumina Pty Ltd PO Box 344 Collie, 6225 Western Australia, Australia
Government, consumer and industry bodies		
50.	Australian Aluminium Council	Telephone: 02 6267 1800 Postal address: Level 1, 18 National Circuit, The Realm Barton ACT 2600
51.	Australian Energy Market Commission (AEMC)	Telephone: 02 8296 7800 Postal address: Level 15, 60 Castlereagh Street Sydney NSW 2000
52.	Australian Energy Market Operator (AEMO)	Email: support.hub@aemo.com.au Telephone: 1300 236 600 Postal address: Level 22, 530 Collins Street Melbourne, VIC 3000
53.	Australian Financial Markets Association (AFMA)	Email: info@afma.com.au / secretariat@afma.com.au Telephone: 02 9776 7900 Postal address: GPO Box 3655 Sydney NSW 2001 Australia
54.	CHOICE	Email: ausconsumer@choice.com.au / media@choice.com.au Telephone: 1800 069 552 Postal address: 57 Carrington Road Marrickville, NSW 2204 Australia
55.	Consumer Action Law Centre	Email: info@consumeraction.org.au Telephone: 03 9670 5088 Postal address: Level 6, 179 Queen Street Melbourne, VIC 3000

No.	Name	Contact Details
56.	Consumer Policy Research Centre	<p>Email: office@cprc.org.au</p> <p>Telephone: 03 9607 7101</p> <p>Postal address: Level 6, 179 Queen Street Melbourne, VIC 3000</p>
57.	Department of Industry, Science, Energy and Resources	<p>Telephone: +61 2 6213 6000</p> <p>Postal address: Department of Industry, Science, and Resources GPO Box 2013 Canberra ACT 2601</p>
58.	Energy Networks Association (ENA)	<p>Email: info@energynetworks.com.au</p> <p>Telephone: 03 9103 0400</p> <p>Postal address: Unit 5, Lvl 12, 385 Bourke St Melbourne VIC 3000</p>
59.	Energy Users Association of Australia (EUAA)	<p>Email: euaa@euaa.com.au</p> <p>Telephone: 03 9909 7103</p> <p>Postal address: Suite 301, 480 Collins Street, Melbourne, VIC 3000</p>
60.	Independent Regulatory and Pricing Tribunal of NSW (IPART)	<p>Email: ipart@ipart.nsw.gov.au</p> <p>Telephone: 02 9290 8400</p> <p>Postal address: PO Box K35 Haymarket Post Shop NSW 1240</p>
61.	Institute of Public Affairs	<p>Email: ipa@ipa.org.au</p> <p>Telephone: 03 9600 4744</p> <p>Postal address: Institute of Public Affairs Level 2, 410 Collins Street Melbourne Victoria 3000 Australia</p>
62.	Mackay Sugar Co-operative (now Mackay Sugar Limited)	<p>Email: info@mkysugar.com.au</p> <p>Telephone: +61 7 4953 8300</p> <p>Postal address: PO Box 5720 Mackay Mail Centre</p>

No.	Name	Contact Details
		Mackay QLD 4741
63.	Minerals Council of Australia	Email: info@mineral.org.au Telephone: 02 6233 0600 Postal address: PO Box 4497, Kingston ACT 2604
64.	Queensland Competition Authority	Telephone: 07 3222 0555 Postal address: GPO Box 2257 Brisbane Q 4001
65.	Queensland Department of Energy and Public Works	Email: legalservices@epw.qld.gov.au Telephone: 13 74 68 Postal address: Department of Energy and Public Works GPO Box 2457 BRISBANE QLD 4001
66.	Queensland Resources Council	Email: info@qrc.org.au Telephone: 07 3295 9560 Postal address: Level 29, 12 Creek Street Brisbane, QLD 4000, Australia

20 July 2023

Mr Tony Hilton
Director | Competition Exemptions
Australian Competition and Consumer Commission
Level 1 | The Quadrant, 1 William Street Perth
anthony.hilton@acc.gov.au

Copy to exemptions@acc.gov.au

Dear Mr Hilton

Application for minor variation of a non-merger authorisation A40062 – A40070 and authorisation A91205 - A91207

On behalf of Rio Tinto Aluminium Limited (ACN 009 679 127) and the Gladstone Power Station Joint Venture Participants, we hereby make the following Application under subsection 91A(1) of the *Competition and Consumer Act 2010* (Cth) for a minor variation of authorisation A40062 – A40070 and authorisation A91205 - A91207.

Please find below information as requested for the Application.

1. Applicants

1.1 *Name, address (registered office), telephone number, and ACN*

The Application is made by Rio Tinto Aluminium Limited on behalf of itself as Manager of the Gladstone Power Station Joint Venture and the participants in the Gladstone Power Station Joint Venture (together, the **Applicants**) which are listed below:

- Rio Tinto Aluminium Limited ACN 009 679 127
- GPS Energy Pty Limited ACN 063 207 456;
- GPS Power Pty. Limited ACN 009 103 422;
- Sunshine State Power B.V. ARBN 062 295 425;
- Sunshine State Power (No. 2) B.V. ABRN 063 382 829;
- Southern Cross GPS Pty Ltd (formerly SLMA GPS Pty Ltd) ACN 063 779 028;
- Ryowa II GPS Pty. Limited ACN 063 780 058; and
- YKK GPS (Queensland) Pty Limited ACN 062 905 275.

Please see section 1 and annexure A of the attached submission for further contact details and business activities for each of the Applicants.

1.2 *Contact person's name, position, telephone number, and email address*

Kathryn Finlayson
Partner, MinterEllison (solicitors for the Applicants)
(07) 3119 6380 / 0422 818 749
kathryn.finlayson@minterellison.com



1.3 *Email address for service of documents in Australia*

The email address for service of documents in Australia is:

kathryn.finlayson@minterellison.com

2. Authorisation to be varied

2.1 *Registration number and date of the authorisation which is to be varied*

The registration number and date of authorisations to be varied are:

- (a) Authorisation A40062 – A40070 granted by the Trade Practices Commission (**TPC**) on 3 March 1994, in relation to the contractual arrangements which supported the proposed expansion and operation of the Boyne Island Aluminium Smelter (the **Smelter**) and the proposed acquisition and operation of the Gladstone Power Station (**GPS**); and
- (b) Authorisation A91205 – A91207 (Public Register number C2010/40) granted by the Australian Competition and Consumer Commission (the **ACCC**) with conditions on 2 June 2010 for amendments to the following agreements in relation to electricity generated by the GPS and supplied to the Smelter and the National Electricity Market:
 - (i) the Restated Joint Venture Agreement for the GPS Joint Venture;
 - (ii) the Restated Interconnection and Power Pooling Agreement relating to the Gladstone Power Station;
 - (iii) the Restated Capacity Purchase Agreements relating to the Gladstone Power Station;
 - (iv) the Restated Master Power Purchase Agreement relating to the Boyne Island Smelter;
 - (v) the Restated Block A Power Purchase Agreement relating to the Boyne Island Smelter;
 - (vi) the Restated Block B Power Purchase Agreement relating to the Boyne Island Smelter;
 - (vii) the Restated Operation and Maintenance Agreement relating to the Gladstone Power Station; and
 - (viii) the Restated Power Sales Administration Agreements relating to the Gladstone Power Station,

as amended by the Determinations of the Applications for Minor Variation for Authorisation dated 19 January 2011, 7 September 2011, 12 February 2016 and 29 October 2021.

2.2 *Other persons and/or classes of persons who are a party to the authorisation which is to be varied.*

CS Energy Limited is a Queensland Government Owned Corporation with an energy portfolio comprising coal, hydro and wind generation facilities across Queensland.

CS Energy became the successor in law of Stanwell Corporation Limited by operation of the *Government Owned Corporations (Generator Restructure) Regulation 2011*.

CS Energy Limited

Level 2
HQ (North Tower)
540 Wickham Street, Fortitude Valley
Queensland 4006

3. Proposed variation

Please see sections 1, 2 and 3 of the attached submission.

4. Competition effects or net public benefit

Please see sections 4, 5 and 6 the attached submission.

5. Contact details of relevant market participants

Please see Annexure B of the attached submission.

6. Additional information

Please see the attached submission for additional information.

Declaration by Applicant(s)

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the Criminal Code (Cth).



Signature of authorised person

Partner, MinterEllison, solicitor for the Applicants

Office held

Kathryn Finlayson

(Print) Name of authorised person

This 20th day of July 2023