

Our ref: MPB\KYWILS\02-3003-7777
Your ref: SSD 7480
Partner: Mark Brennan
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15 June 2020

BY EMAIL

John Hann
Commissioner and Panel Chair for the Vickery
Extension Project (SSD 7480)
Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2000



Dear Mr Hann

Vickery Extension Project SSD 7480

- 1.1 We act for Whitehaven Coal Limited (**Whitehaven**) and Vickery Coal Pty Ltd (**Vickery Coal**) in relation to Vickery Coal's application for development consent to the Vickery Extension Project (SSD 7480).
- 1.2 Whitehaven and Vickery Coal engaged Ashurst to prepare a submission to the IPC regarding GHG emissions and climate change issues in the context of the IPC's consideration and determination of the Vickery Extension Project. On behalf of Whitehaven and Vickery Coal, Ashurst engaged Alex Tonks, Head of CRU Australia & New Zealand, of CRU International Limited (**CRU**) to carry out an independent study of coal market substitution in the context of the Vickery Extension Project.
- 1.3 The CRU report contains data and analysis that is commercially sensitive and which CRU considers to be proprietary in nature. Accordingly, CRU has only agreed to allow Ashurst to provide a copy of CRU's full report to the IPC if the IPC makes a direction under clause 5 of Schedule 2 to the *Environmental Planning and Assessment Act 1979* (NSW) (**EP&A Act**) that CRU's coal market substitution report is to be treated as a confidential document and is not to be published.
- 1.4 CRU will separately provide a letter to Ashurst that summarises the main findings of its report and which omits the commercially sensitive information. Ashurst has permission from CRU to provide that letter to the IPC with the understanding that the CRU letter may be published on the IPC's website.
- 1.5 Additional commentary on findings contained in CRU's report (omitting commercially sensitive information) will also be included in Ashurst's submission to the IPC which may be published on the IPC's website.
- 1.6 We would be grateful if you could please arrange for the direction pursuant to clause 5 of Schedule 2 to the EP&A Act to be made as soon as possible, and confirm that such a direction has been made, so that we may provide the IPC with a copy of CRU's complete report.

1.7 We note that there is a precedent, in almost identical circumstances, for the IPC making a direction pursuant to clause 5 of Schedule 2 of the EP&A Act. The IPC made such a direction in 2019, at the request of the United Wambo Joint Venture, for a similar report prepared by CRU in relation to the United Wambo Open Cut Coal Mine SSD 7142.

1.8 If you have any questions or would like to discuss any aspect of this letter, please contact Mark Brennan on [REDACTED]

Yours faithfully

[REDACTED]

Ashurst