

# Notice of Intention to commence Arbitration

**Date: 20 October 2023**

Senator the Hon. Penny Wong  
Minister for Foreign Affairs  
Department of Foreign Affairs and Trade  
RG Casey Building  
John McEwen Crescent  
Barton ACT 2600

**By delivery & email:**

**Email:** foreign.minister@dfat.gov.au

Mr Jesse Clarke  
First Assistant Secretary  
Office of International Law  
Attorney-General's Department  
3-5 National Circuit  
BARTON ACT 2600

**By delivery & email: Email:**

Jesse.Clarke@ag.gov.au

Dear Minister

**Zeph Investments Pte Ltd: Notice of Intention to commence arbitration under the Singapore-Australia Free Trade Agreement** (entered into force on 28 July 2003 with subsequent amendments entering into force on 24 February 2006, 13 February 2007, 11 October 2007, 2 September 2011, 1 December 2017, and 8 December 2020) (“**SAFTA**”).

## **A: PRELIMINARY MATTERS**

### **1. Zeph Investments Pte Ltd**

- 1.1 Zeph Investments Pte Ltd (“**Zeph**”), is a company incorporated in Singapore with its address at 80 Genting Lane, #11-02, Ruby Industrial Complex, Singapore 349565. Zeph was registered as a Foreign Company in Australia pursuant to the Corporations Act in March 2019. Zeph applied for registration as a foreign company to the Australian Government by completing a form 402 dated 8 March 2019 which was stamped by the Australian Governments’ ASIC on 12 March 2019 and 28 March 2019.
- 1.2 The relevant section of the Corporations Act under which the company is registered in Australia as a foreign company is s. 601CE (per ASIC: <https://asic.gov.au/regulatory-resources/forms/forms-folder/402-application-for-registration-as-a-foreign-company/>). Zeph’s registered office address in Australia (as confirmed by ASIC in 2019) is Level 17, 240 Queen Street, Brisbane City QLD 4000.
- 1.3 Exhibit “**Exh. C-001**” is the corporate structure of Zeph.

### **2. Notice of Intention**

- 2.1 Zeph hereby gives notice of its intention to commence an arbitration against the Commonwealth of Australia (“**the Commonwealth**”) under Article 24 of Chapter 8 of SAFTA. This notice satisfies the requirements of Article 24.2 of Chapter 8 of SAFTA.
- 2.2 Zeph proposes to commence an arbitration under Article 24 of SAFTA seeking compensation for each of its claims under SAFTA. Zeph reserves its right in full to add to (or otherwise amend) its case as set out in this Notice once the Arbitration has commenced, in its Statement of Claim and submissions to be served in due course.

### **3. Zeph has satisfied the preconditions for arbitration**

- 3.1 Zeph owns and controls certain Australian companies, including Mineralogy Pty Ltd (“**Mineralogy**”) and Waratah Coal Pty Ltd (“**Waratah Coal**”). Zeph owns 100% of the shares in Mineralogy. Through a 100% owned subsidiary, Mineralogy owns 100% of the shares in Waratah Coal. Waratah Coal is the proponent of a coal mining project in the Galilee Basin (“**China First Project**” or the “**Project**”). Accordingly, Zeph’s investment in the shares and rights is a “covered investment” (within the meaning of SAFTA Chapter 8). The enterprises undertaken by Mineralogy and Waratah Coal (including Zeph’s Assets) are “covered investments” (within the meaning of SAFTA Chapter 8) of Zeph.
- 3.2 Zeph’s investments in Mineralogy and Waratah Coal are investments in the “territory” of Australia. Both companies are domiciled in Australia. Each is incorporated in Queensland and has its principal place of business at Level 17, 240 Queen Street,

Brisbane. The Project and Project Assets (defined in paragraph 18.9) which is the subject of this dispute are located within Australia.

- 3.3 Therefore, Zeph satisfies the jurisdictional requirements of the SAFTA. Zeph is an Investor with a Covered Investment under the SAFTA.
- 3.4 Article 23 of Chapter 8 of SAFTA relevantly provides that *“In the event of an investment dispute, the claimant and the respondent should initially seek to resolve the dispute through consultation and negotiation”*. Article 23.2 requires the claimant to *“deliver to the respondent a written request for consultations setting out a brief description of facts regarding the measure or measures at issue.”* Article 24.1 provides that if *“an investment dispute has not been resolved within six months of the receipt by the respondent of a written request for consultations”*, then the disputing investor may submit a claim to arbitration, after having provided 90 days’ notice of its intention to do so.
- 3.5 Zeph delivered to the Commonwealth a request for consultations on 5 December 2022. The dispute has not been resolved, and the Commonwealth has purported to deny Zeph the benefits of Chapter 8 of SAFTA. Accordingly, unless the dispute is resolved in the meantime, Zeph will have satisfied the preconditions to arbitration set out in Articles 23 and 24 of Chapter 8 of SAFTA when 90 days have expired following the date of this notice and Zeph intends thereafter to submit the dispute to arbitration.
- 3.6 Zeph does not accept that the Commonwealth has properly or effectively denied Zeph the benefits of Chapter 8 of the SAFTA. One of the grounds upon which the Commonwealth has purported to deny Zeph the benefits of the SAFTA is an assertion that Zeph *“has no substantial business activities in the territory of Singapore”*. That assertion is demonstrably false, and Zeph has demonstrated to the Commonwealth that it is false. Zeph further reserves its right to add to or amend its position in light of any future application or submissions served by the Commonwealth.

#### 4. **Queensland’s measures are attributable to the Commonwealth.**

- 4.1 SAFTA provides (in Article 2.5 of Chapter 8) that a Party’s obligations under that chapter include *“measures adopted or maintained by... the central, regional or local governments or authorities of that Party”*. Consequently, to the extent that the measures impacting on Zeph’s interests were actions of the Queensland government, those actions are “measures” of Australia for the purposes of SAFTA.

### **B: COMPLIANCE WITH REQUIREMENTS OF ARTICLE 24(2) OF CHAPTER 8 OF SAFTA**

#### 5. **Article 24**

- 5.1 Article 24(2) requires that this notice of intention shall specify:
- (a) *the name and address of the claimant and, if a claim is submitted on behalf of an enterprise, the name, address and place of incorporation of the enterprise;*
  - (b) *for each claim, the provision of this Agreement alleged to have been breached and any other relevant provisions;*
  - (c) *the legal and factual basis for each claim; and*
  - (d) *the relief sought and the approximate amount of damages claimed.*

- 5.2 In compliance with Article 24:
- (a) Section A above specifies the matters set out in article 24(2) (a);
  - (b) Section D sets out background information;
  - (c) Section E specifies the matters set out in article 24(2)(b) and 24(2)(c) being the provisions of SAFTA alleged to have been breached and any other relevant provisions; and the legal and factual basis for each claim; and
  - (d) Section F specifies in accordance with article 24(2)(d) the relief sought and the approximate amount of damages claimed.

**6. Date of Breaches of SAFTA**

- 6.1 As set out in Section E below (SAFTA breaches), the date on which Zeph “*first acquired, or should have first acquired, knowledge of the breaches alleged under Article 24*” (see Ch 8 article 26(1)) was 25 November 2022 and subsequent breaches occurred after that date.
- 6.2 The claims are therefore within the 3 years and 6 months’ time limit specified in SAFTA Article 26(10).

**C: SUMMARY**

**7. Background**

- 7.1 From 2008 until 2023, Zeph’s Waratah Coal made a very large investment in the development of the Project, which is a major greenfield thermal coal project in the Galilee coal basin in Queensland, Australia.
- 7.2 At all relevant times, the Commonwealth and the Queensland Government actively committed to, encouraged, and supported both directly and indirectly Zeph’s investment and development of the Project. The Commonwealth and Queensland Government had a public pro-coal mining development policy which encouraged investment and development in new coal mines, including in particular new mines in the Galilee basin (where the Project is located). The Commonwealth and Queensland Government also directly, both publicly and privately, encouraged and supported Waratah Coal in developing the Project and encouraged potential investors in Waratah Coal and the Project. Zeph’s Waratah Coal had obtained all necessary ‘Preliminary Approvals’ (as defined below in paragraph 18.4) from the Commonwealth and Queensland government and had reached the final stage of obtaining necessary approvals.
- 7.3 Relevantly, for the Project to be able to proceed, Zeph’s Waratah Coal required:
- (a) the Minister of the Department of Environment and Science to issue an environmental authority; and
  - (b) the Minister for Resources to issue a mining lease.
- 7.4 In all other respects, if the environmental authority and mining lease were issued, Zeph’s Waratah Coal was able to fully implement the Project and would have either (i) developed and operated the Project itself or (ii) sold the Project or in some other similar

way commercialised the Project. The net present value of the Project as at 25 November 2022 (the date of breach) was AU\$69 billion.

- 7.5 Before the Ministers' decisions could be made, first a "mining objection hearing" was required to be held in a specialist tribunal, the Queensland Land Court, to provide recommendations to the two decision making Ministers. In the history of applications in Queensland, no comparable coal mining project had ever not been recommended for approval by the Land Court. The only issue ever in question was the nature and extent of conditions to be attached to the Land Court recommendation for approval.
- 7.6 Second, guided by the Land Court recommendation, the two relevant decision-making Ministers were required to make a decision to either approve or reject the applications for environmental authority and mining lease. Again, in the history of applications in Queensland, no comparable coal mining project had ever not been approved by the relevant Ministers. The only issue ever in question was the nature and extent of conditions to be attached to the environmental authority and the mining lease.
- 7.7 At the mining objection hearing in respect of the Project, the mining lease application and environmental authority application were opposed by environmentalists who were represented by the Environmental Defenders Office, a law firm established on the initiative of the Commonwealth and supported and funded by the Commonwealth. Whereas the Commonwealth had made promises and representations of support for the Project, the Commonwealth in fact supported and funded the Environmental Defenders Office law firm to oppose the Project. The Land Court recommended the rejection of the mining lease and environmental authority. That is, the Land Court rejected the applications outright and did not recommend approval (even subject to conditions). The decision was contrary to established precedent and jurisprudence, replete with error, illogicality, unreasonableness and involved findings of fact and law made to fit a predetermined and prejudicial outcome.
- 7.8 Subsequent to the Land Court decision, Zeph's Waratah Coal learned that the presiding judge was a political appointee with an anti-coal, pro-climate change activist agenda who had prior to the Land Court hearing secretly coached EDO, its lawyers and environmentalists on how to oppose the Project in the Land Court, had improper secret meetings with EDO (the legal representatives of the objectors) and publicly expressed her support for the extremist climate change action organisation 'Extinction Rebellion' which was contemporaneously conducting a public protest and civil disobedience campaign to stop new coal projects, including the Project, in Queensland.
- 7.9 The decision of the Land Court judge breached the minimum standard of treatment required under article 6 of Chapter 8 of SAFTA. For the reasons above, there was an absence of due process in the Land Court decision and a failure to give Zeph's Waratah Coal fair and equitable treatment. Zeph's Waratah Coal only became aware of the absence of due process and that Zeph's Waratah Coal rights to the minimum standard of treatment had been breached by the Commonwealth and the Commonwealth's State of Queensland after the Land Court Decision had been handed down, full details of which are set out below in paragraph 25.33.
- 7.10 The consequence of the Land Court decision and the breach of Waratah Coal's entitlement to the minimum standard of treatment was that the mining lease and environmental authority were not granted. This breached Waratah Coal's reasonable

expectations that such approvals would be given and thereby breached the requirement for fair and equitable treatment in article 6 of Chapter 8 of SAFTA. The conduct also constituted an expropriation in breach of article 13 of Chapter 8 of SAFTA.

- 7.11 Finally, whilst rejecting Waratah Coal's applications, the Queensland government was contemporaneously approving comparable projects to investors of Australia and investors of non-Parties to the treaty, in breach of articles 4 and 5 of Chapter 8 of SAFTA.

## 8. SAFTA Breaches

- 8.1 The measures set out above taken by the Commonwealth and the Commonwealth's State of Queensland breach the following articles of Chapter 8 of SAFTA:
- (a) Article 4 – National Treatment (no less favourable treatment than its own investors);
  - (b) Article 5 – Most favoured-Nation Treatment (no less favourable treatment than investors of a non-Party);
  - (c) Article 6 – Minimum Standard of Treatment (fair and equitable treatment and full protection and security); and
  - (d) Article 13 – Expropriation and Nationalisation; including Annex 8-A paragraph 3(a) indirect expropriation (due to economic adverse effect on the economic value of the investment).

## 9. Damages

- 9.1 (*Due Process*) As a consequence of the measures taken by the Commonwealth and the Commonwealth's State of Queensland (and the associated breaches), Zeph's Waratah Coal lost the opportunity to have a fair hearing in the Land Court which followed precedent and established jurisprudence.
- 9.2 But for the failure to afford Zeph's Waratah Coal a fair hearing in the Land Court in accordance with precedent and established jurisprudence:
- (a) the outcome of the Land Court proceedings would have been the same as every prior comparable mining objection hearing in the Land Court, that is, a recommendation to approve the mining lease application and environmental approval application, subject to reasonable and relevant conditions; and
  - (b) all past practice would have been followed and the mining lease and the environmental authority applications would have been approved subject to reasonable and relevant conditions; and
  - (c) thereafter Zeph's Waratah Coal would have developed, sold or commercialised the Project which as at 25 November 2022 had a net present value of AU\$69 billion.
- 9.3 (*Reasonable expectations for approvals*) But for the failure of the decision-making Ministers to approve the mining lease and environmental authority (in accordance with Waratah Coal's reasonable expectations that such approvals would be given):

- (a) the decision-making Ministers would both have approved the mining lease application and the environmental authority application; and
- (b) thereafter, Zeph's Waratah Coal would have developed, sold or commercialised the Project which as at 25 November 2022 had a net present value of AU\$69 billion. As a result of the breaches set out above, Zeph's Waratah Coal has lost such opportunity.

9.4 In consequence, Zeph, through its 100% investment in Waratah Coal, has suffered a loss of AU\$69 billion and Zeph claims that amount as damages from the Commonwealth.

## **D: BACKGROUND INFORMATION**

### **D1: Overview of Contents of Section D**

- 10. Section D sets out background information and the history of the Project up until the time when the Queensland Land Court recommended that applications for a mining lease and environmental authority be rejected, and the relevant Ministers of the Queensland Government refused the applications and thereby the Commonwealth and the Commonwealth's Queensland Government breached certain provisions of Chapter 8 of SAFTA:
  - 10.1 Section D2 sets out the details of the application for an environmental authority and mining lease, the recommendation of the Queensland Government's Land Court to not recommend approval of the applications and the decisions of the Queensland Government Ministers to refuse the applications.
  - 10.2 Section D3 sets out the history of the development of the Project, including:
    - (a) the history of the Project and the applications for government approvals and the granting of preliminary approvals to enable the Project to proceed;
    - (b) the Project, known as the "China First Project", had overwhelming support of the Commonwealth and the Commonwealth's State of Queensland; and details of the representations made to Waratah Coal regarding the Project by the Commonwealth;
    - (c) Rail access obtained by Waratah Coal from Adani which owns a similar Galilee Basin operational coal mine, located regionally north of the Project;
  - 10.3 Section D4 sets out the facts and circumstances regarding Zeph's legitimate expectations of reasonable treatment including that the representations made to Waratah Coal (that it could expect to receive a Mining Lease and Environmental Authority) would be honoured and that it could develop and sell coal from its mining tenements.
  - 10.4 Section D5 sets out the facts and circumstances regarding Zeph's legitimate expectations, including in relation to the minimum standard of treatment, due process including a fair hearing by an impartial court, adherence to precedent and consistent with previous relevant jurisprudence.
  - 10.5 Section D6 sets out the facts relating to the hearing in the Land Court and the failure to afford Waratah Coal due process and the minimum standard of treatment as a result of conduct of the presiding judge.

## **D2: The Applications for Mining Lease and Environmental Authority, the Land Court Decision and the Ministers' Decisions**

11. Waratah Coal applied for the following approvals:
    - 11.1 Mining Lease Application 70454 (**MLA**) dated 12 May 2011; and
    - 11.2 Environmental Authority Application EPML00571313 (**EAA**) dated 30 May 2011.

Exhibit “**Exh. C-002**” is a true copy of the MLA. Exhibit “**Exh. C-003**” is a true copy of the EAA.
  12. On 18 October 2019, the MLA and EAA were publicly notified by Waratah Coal and in April 2020, the applications were referred to the Queensland Land Court for the purpose of hearings in which the Land Court judge was empowered to make a recommendation to the relevant Queensland Government Ministers to either approve or reject the applications for approvals.
  13. Never in the history of such Land Court proceedings (or prior to the establishment of the Land Court) had any applications in respect of a “coordinated project” under the *State Development and Public Works Organisation Act 1971* (Qld) (see below at paragraph 18.4(a)) been rejected. The focus of such proceedings had been the determination of relevant and reasonable conditions to accompany the recommendation for approval.
  14. On 19 April 2022, the trial in the Land Court proceedings commenced. Hearings were held between April and July 2022.
  15. On 25 November 2022, President Kingham of the Land Court handed down judgment in *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors (No 6)* [2022] QLC 21 in which she:
    - 15.1 recommended under s 269 of the Mineral Resources Act 1989 (Qld) (MRA) that the MLA be refused; and
    - 15.2 recommended under s 222 of the EPA that the EAA be refused.
- (“**Land Court Decision**”)
16. On 3 April 2023, a delegate of the Chief Executive of the Department of Environment and Science issued a decision to Waratah Coal that the EAA be refused. Exhibit “**Exh. C-004**” is a true copy of the decision letter of the Department of Environment and Science issued to Waratah Coal stating that the EAA was refused, dated 3 April 2023.
  17. On 17 May 2023, a delegate of the Minister for Resources issued a decision to Waratah Coal that the MLA had been refused. Exhibit “**Exh. C-005**” is a true copy of the decision letter of the Minister for Resources issued to Waratah Coal stating that the MLA was refused, dated 17 May 2023.

The two decisions referred to above are called the **Ministers' Decisions**.

## **D3: The China First Project**

18. **The Project and History of Applications**



- 18.1 Zeph has made investments in Australia that include its indirect shareholding (through its subsidiary, Mineralogy) in Waratah Coal. (Refer to exhibit **Exh C-001** which sets out the corporate structure for Zeph and Waratah Coal).
- 18.2 Zeph acquired its interest in Waratah Coal in January 2019. It owns, indirectly, 100% of Waratah Coal. Through Waratah Coal, Zeph also owns all of the rights, title and interest owned by Zeph's subsidiary Waratah Coal in respect of all assets of the Project which are more particularly described in paragraph 18.9 below.
- 18.3 Waratah Coal is the proponent of the Project, a coal mining project in the Galilee Coal Basin, in relation to which it holds exploration permits for coal ("**EPCs**") 1040 and 1079 and Mineral Development Licence ("**MDL**") 455. Exhibit "**Exh. C-006**" is a true copy of EPC 1040 and 1079. Waratah Coal had applied to the government of Queensland for a mining lease (MLA 70454) and an environmental authority (EPML 00571313). (Refer Exhibit "**Exh. C-002**" and "**Exh. C-003**").
- 18.4 The Project has been declared a project of state and national significance by both State and Federal governments. From 2008 onwards, the Project has been subjected to high levels of government scrutiny, and Waratah Coal has taken extensive steps to satisfy government requirements, including:
- (a) On 28 November 2008, the Queensland Coordinator-General declared the Project a coordinated project under the *State Development and Public Works Organisation Act 1971* (Qld) for which an Environmental Impact Statement (EIS) was required. Exhibit "**Exh. C-007**" is a true copy of declaration of the Queensland Coordinator General dated 28 November 2008.
  - (b) On 20 March 2009, the Commonwealth Minister for Environment determined the project was a 'controlled action' under *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) ("**EPBC Act**"), and in April that year, the Minister decided it should be assessed by an EIS. Exhibit "**Exh. C-008**" is a true copy of decision of the Commonwealth Minister for Environment dated 20 March 2009.
  - (c) In May 2011, Waratah Coal applied for a mining lease, MLA 70454, and an environmental authority, EPML 00571313. (Refer Exhibit Exh. C-002 and Exh. C-003). In August that year, Waratah Coal lodged an Environmental Impact Statement ("**EIS**") to both the Coordinator-General and the Commonwealth Minister. The EIS was released for public and agency comment between September and December of 2011.
  - (d) In 2012, the Coordinator-General required Waratah Coal to provide further information. Waratah Coal provided a Supplementary EIS ("**SEIS**") in March the following year.

The EIS and SEIS are available at the following links:

EIS:

<https://www.statedevelopment.qld.gov.au/coordinator-general/assessments-and-approvals/coordinated-projects/completed-projects/galilee-coal-project/eis-documents>

SEIS:

<https://www.statedevelopment.qld.gov.au/coordinator-general/assessments-and-approvals/coordinated-projects/completed-projects/galilee-coal-project/supplementary-info-to-eis>

- (e) On 9 August 2013, the Coordinator General wrote to Waratah Coal advising that he had completed his evaluation report on the EIS and SEIS Project and said (on page 1):

*“I write to inform you that I have completed my report evaluating the environmental impact statement (EIS) for the Galilee Coal project (Northern Export Facility), which was undertaken pursuant to Part 4 of the State Development and Public Works Organisation Act 1971. A copy of my report is enclosed for your information.*

*I have determined that the project, as described in the EIS, supplementary EIS and additional information documents, can proceed subject to the conditions, recommendations and proponent commitments in the report. [Emphasis added]*

*I have reached my decision on the basis of an evaluation of the information available, including comments from advisory agencies and members of the public.”*

“**Exh. C- 009**” is a true copy of the letter from the Coordinator-General dated 9 August 2013

- (f) The Coordinator-General’s evaluation report in respect of the EIS lodged by Waratah Coal with the Queensland Coordinator-General in 2012 and the SEIS lodged by Waratah Coal in March 2013 is dated 8 August 2013. “**Exh. C-010**” is a true copy of the Coordinator-General report dated 8 August 2013.

- (g) The Coordinator-General report stated at page 126 of the report:

*“The EIS process provided sufficient information to allow an informed evaluation of the project’s potential environmental impacts [for the Project]”.. The Coordinator-General concluded also at page 126 that “that the project could deliver significant benefits to the region and the State and that environmental impacts can be appropriately managed”.*

The Coordinator-General said on page 126 of the report that “*proceed, subject to:*

- *complying with the conditions and recommendations listed in Appendices 1–3*
- *gaining subsequent statutory approvals (including those listed in Appendices 1–3)*
- *implementing the commitments listed in Appendix 5.”*

- (h) On 19 December 2013, the Commonwealth Minister for Environment gave a Controlled Action Approval under the EPBC Act, subject to conditions. Exhibit “**Exh. C-011**” is a true copy of Controlled Action Approval of the Commonwealth Minister for Environment dated 19 December 2013.

- (i) In June 2014, by regulation made under the *State Development and Public Works Organisation Act 1971*, the government of Queensland declared the Galilee Basin State Development Area (“**Galilee Basin SDA**”). The Galilee Basin SDA included an area to the north of Waratah Coal’s EPCs (which was to be used for a rail corridor) and an area to the east of Waratah Coal’s EPCs (which was to be used for transport infrastructure). Exhibit “**Exh. C-012**” is a true copy of the Galilee Basin SDA dated June 2014.
- (j) In 2015, Waratah Coal submitted and then revised an Environmental Management Plan (“**EMP**”). On 6 November 2015, the Department of Environment and Heritage Protection, as the Department of the Environment and Science (“**DES**”) was then called, wrote to Waratah Coal and stated (on page 1):

*“The Department of Environment and Heritage Protection (the department) has assessed the Galilee Coal Project Environmental Management Plan (EM Plan) submitted by Hansen Bailey (on behalf of Waratah Coal Pty Ltd) on 9 October 2015 under section 205 of the Environmental Protection Act 1994, current as at 14 March 2013 (EP Act). This EM Plan was submitted as part of the application for a Level 1, Non-Code Compliant Environmental Authority (EPML00571313, previously MIN102735511) for Mining Lease 70454.*

*The Coordinator General declared the Galilee Coal Project to be a 'significant project' requiring an Environmental Impact Statement under section 26(1)(a) of the State Development and Public Works Organisation Act 1971.*

*The department has found that the EM Plan meets the content requirements as per section 203 of the EP Act.”* [Emphasis added]

Exhibit “**Exh. C-013**” is a true copy of the advice from the Department of Environment and Heritage Protection dated 6 November 2015.

- (k) On 4 December 2015, the DES issued Draft Environmental Authority Galilee Coal Mine EPML00571313. Exhibit “**Exh. C-014**” is a true copy of the Draft Environmental Authority issued by DES dated 4 December 2015.

All of the above declarations, approvals, referrals, and draft authorities are collectively referred to as “**Preliminary Approvals**”

- (l) As set out below in Section E (“Breaches”) the decision of the Land Court to reject the application for an environmental authority and the decision of the relevant Minister to not grant the environmental authority, after having previously advised that the EMP satisfied all of the requirements for the environmental authority, constituted a breach of the representations which had been made by the Commonwealth and Commonwealth’s State of Queensland (including in particular the representation constituted by the issue of the Draft Environmental Authority Galilee Coal Mine EPML00571313, and thereby constituted a breach of Zeph’s Waratah Coal’s entitlements under article 8 of Chapter 8 of SAFTA to fair and equitable treatment and to the minimum standard of treatment.

- 18.5 The Project would have created a new mine 30 km north of the township of Alpha in Central Queensland to mine 1.4 billion tonnes of raw coal for a term of 30 years. A combination of open-cut and underground operations would produce a total run-of-mine coal extraction of 56 million tonnes per annum (Mtpa). After washing the raw coal and with an overall product yield of 72%, the Project is to produce 40 Mtpa of product thermal coal.
- 18.6 The Project was proposed to incorporate:
- (a) open-cut mine 1 mining three seams (then called the C, DU & D seams) producing 10 Mtpa in total;
  - (b) open-cut mine 2 mining one seam (the B seam) producing 10 Mtpa in total;
  - (c) longwall underground mines 1, 2 and 3 variously mining the DU and DL seams producing 27 Mtpa in total;
  - (d) longwall underground mine 4, mining the B seam producing 9 Mtpa;
  - (e) two coal preparation plants each with a raw washing capacity of 28 Mtpa;
  - (f) two product coal stockpiles handling product coal to rail load-out facilities;
  - (g) water management structures including raw water and environmental dams, creek diversions, levee banks/bunds, drainage channels and sediment traps;
  - (h) dry tailings storage facilities and coarse rejects spoil disposal areas integrated into the mine spoil pile areas; and
  - (i) mine industrial area.
- 18.7 The surface mining method was proposed to be a combination of draglines for overburden removal in conjunction with truck and shovel fleets. Truck and shovel fleets also used for overburden removal, partings removal and coal recovery. Underground mining was to be undertaken by the longwall method.
- 18.8 Over its life, the Project was to generate significant economic benefits to the State of Queensland, estimated at AU\$163 billion, both by boosting employment and through the payment of mining royalties to the State of Queensland. State royalties, accounting for the fluctuation with the market price of coal, were forecast to be around AU\$116 billion.
- 18.9 Waratah Coal invested substantial funds in developing the following Project assets (“**Project Assets**”) including the Preliminary Approvals and without limitation:
- (a) the 28 November 2008 declaration by the Queensland Coordinator-General that the Project was a coordinated project under the *State Development and Public Works Organisation Act 1971 (Qld)* for which an Environmental Impact Statement (“EIS”) was required (refer Exhibit **Exh. C-007**);
  - (b) the 20 March 2009 determination by the Commonwealth’s Minister for Environment that the Project was a ‘controlled action’ under the Commonwealth’s EPBC Act and the April 2009 determination by the Minister that the Project should be assessed by an EIS (refer Exhibit **Exh. C-008**);

- (c) the Coordinator-General's evaluation report on the EIS and the SEIS issued on 8 August 2013 (refer "Exh. **C-010**")
- (d) the 19 December 2013 Controlled Action Approval under the EPBC Act given by the Commonwealth Minister for Environment (refer Exhibit **Exh. C-011**);
- (e) the 4 December 2015 draft Environmental Authority issued by the Commonwealth's Queensland Department of Environment and Heritage Protection (as the DES was then called) (refer Exhibit **Exh. C-014**);
- (f) Waratah Coal's rights and interests under Exploration Permits for Coal 1040 and 1079 (EPC 1040 and EPC 1079) issued under the Commonwealth's State of Queensland *Mineral Resources Act 1989 (Qld)* (refer Exhibit **Exh. C-006**);
- (g) Waratah Coal's rights and interests under Mining Lease Application 70454 ("MLA 70454") applied for under the Commonwealth's State of Queensland *Mineral Resources Act 1989 (Qld)* (refer Exhibit **Exh. C-003**);
- (h) Waratah Coal's rights and interests under Application for Environmental Authority 00571616 applied for under the Commonwealth's State of Queensland *Environmental Protection Act 1994* ("EPML 00571313") (refer Exhibit **Exh. C-006**);
- (i) all of the rights, title and interest of Waratah Coal as applicant in proceedings numbers MRA050-20 (MLA 70454) and EPA051-20 (EPML 00571313) conducted in the Commonwealth's Queensland Land Court ;
- (j) all of the plans and intellectual property relating to the Project; and
- (k) all of Waratah Coal's contractual rights relating to the Project.

18.10 To date, Waratah Coal has invested over AU\$160 million in the planning and development of the Project.

## 19. **China First Project**

19.1 By 2009, Waratah Coal had established the "China First Project" in which major Chinese companies such as Metallurgical China Corporation, Sino-coal International, China Railway Group and China Communication Construction Company signed statements of intent with Waratah Coal to design, develop and operate the Galilee mine and strategic infrastructure. Project finance had been procured through Eximbank to provide debt funding for Waratah Coal's projects. Statements of intent were signed between Eximbank and Waratah Coal. Coal offtake agreements of 20Mtpa over 21 years were signed between Waratah Coal and China Power International.

19.2 Such was the support of the Commonwealth and the Queensland Government that the Queensland Premier and Treasurer visited the mine site and signing ceremonies for the China First Project were held at Parliament House Canberra at which were present then Australian Prime Minister Hon Kevin Rudd and present President of the Peoples Republic of China Xi Jinping.

This photograph is from a visit on 2 November 2009 to Waratah Coal's China First Project site in	
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central west Queensland by the then Premier of Queensland, the Hon. Anna Bligh (centre), and the then Treasurer of Queensland, the Hon. Andrew Fraser (on right), shown above with a Waratah Coal staff member, Peter Lynch (on left).



This photograph depicts Domenic Martino, director of Waratah Coal executing an MOU on 21 June 2010 with Chinese companies in the presence of the then Australian Prime Minister, the Hon. Kevin Rudd, and the current President of China, Xi Jinping.



Signing Ceremony of the China First Coal Development Cooperation Agreement held at Parliament House in Canberra, Australia on 21 June 2010. Group Photo (from left to right): Mr Yuan Xingyong, Assistant President of the Export-Import Bank of China; Madame Li Xiaolin, Chairperson of China Power International Holding Ltd; Mr Xi Jinping, Vice President (President Elect) of the People's Republic of China; The Honourable Kevin Rudd, Prime Minister of Australia at the time; Mr Shen Heting, President of Metallurgical Corporation of China Ltd; Mr Domenic Martino, Director of Waratah Coal Pty Ltd.



## 20. Rail Access

- 20.1 Waratah Coal had available to it 2 rail options to transport coal from the Project mine site to an export port. They were an existing southern rail route to Gladstone Port or a proposed northern rail route connecting to the Aurizon Newlands Network.
- 20.2 At the same time as Waratah Coal was seeking approvals for to the Project, Adani was also pursuing and ultimately obtained all necessary approvals for its essentially identical major thermal coal project which is located to the north of the Project. As part of its approvals, Adani's related entity, Carmichael Rail Pty Ltd, built a rail network known as the Carmichael Rail Network which connected the Adani coal mine to an existing export rail network known as the Aurizon Newlands System, thereby providing rail transport for coal from the Adani mine to port for shipping to export markets.
- 20.3 During 2022, Waratah Coal negotiated with Adani and Carmichael Rail Pty Ltd for access to the Carmichael Rail Network upon agreed terms and subsequently entered into a Rail Access Deed with Carmichael Rail Pty Ltd which guarantees access to Waratah Coal to the rail network to enable Waratah Coal to export its coal to export markets.
- 20.4 In consequence, Waratah Coal had available to it 2 rail transport to port options and could have used either of them.

## D4: Zeph's Expectations to Receive Queensland Government Approvals for the Project

### 21. Zeph's rights and expectations

- 21.1 As set out below, between 2008 and January 2019, Waratah Coal formed legitimate expectations that the Commonwealth's Queensland Government would afford Waratah Coal due process and act fairly by issuing approvals for a mining lease and environmental authority in respect of the Project.
- 21.2 Upon Zeph investing in Waratah Coal in January 2019, Zeph was aware of all such background facts and circumstances through the common directorships in the ownership chain of companies. Accordingly, at the time Zeph invested in Waratah Coal in January 2019, Zeph also held the same legitimate expectations regarding the Project as Waratah Coal.
- 21.3 Subsequent to Zeph's investment in Australia, those expectations were strengthened further as set out below up until the time of breach of SAFTA as set out in Section E.

### 22. Approval of coal projects including the Project

#### *Zeph expected Waratah Coal's applications to be approved based on representations by the Commonwealth and State Governments and consistent past practice*

- 22.1 Zeph legitimately expected Waratah Coal's applications MLA 70454 and EPML 00571313 (refer **Exh. C-002** and **Exh. C-003**) to be approved and the Project to proceed, because the applications satisfied the existing criteria for approval in both State and Commonwealth law and comparable applications by other investors had always been approved in the past.
- 22.2 The Commonwealth and Queensland Governments had consistently been supportive of the Project and there was no reason to believe that Waratah Coal's applications would not be treated the same as other applications that had been approved.



22.3 Representatives of the Commonwealth and the State of Queensland consistently made statements and representations relief upon by Waratah Coal between May 2009 and the date of the breaches (as referred to in Section E below) that the Project would proceed. Official government policy, and the approvals and regulatory framework applicable to the Project, was also consistent with these statements and representations.

*Official Commonwealth and State Government Policy and Representations by the Commonwealth and State regarding support for coal mining in Queensland*

22.4 Coal mining is a pillar of the Queensland economy providing significant regional development, jobs, economic activity and a significant portion of the Queensland Government's revenues.

22.5 The Queensland Government official coal mining policy is staunchly, even fervently pro-coal mining and promotes the development of new coal mines and coal mining regions. The policy supports job creation and the earning of coal royalties which represented a significant proportion of the revenue for the Queensland budget.

22.6 In 2010, the Commonwealth's Queensland Government released its 20-year coal plan titled: *CoalPlan 2030*. Exhibit "**Exh. C-015**" is a true copy of *CoalPlan 2030 issued in 2010*.

22.7 In the foreword to the plan on page 2, the Queensland Government Minister for Infrastructure and Planning the Hon Stirling Hinchcliffe MLA said:

*"Coal is Queensland's largest export industry. In 2008-09, Queensland coal exports were 159.5 million tonnes with a value of approximately \$41 billion. At 30 June 2009, the industry directly employed approximately 25,900 workers, the majority of whom live in regional areas, particularly Central Queensland.*

*As a guide for infrastructure planning, the coal production estimates in this plan indicate that, over the next 20 years, the Queensland coal industry has the potential to significantly increase its production of saleable coal from approximately 190 million tonnes per annum (Mtpa) to up to 340 Mtpa or more, depending on the extent of future coal development in the highly prospective Galilee and Surat Basins.*

*Meeting this potential growth will require considerable increased investment in rail and port capacity, as well as more skilled workers and more services at the local level. Since 2005 the extent of infrastructure investment in relation to the coal industry has been very large. Around \$25.5 billion in rail, port and water infrastructure has either been planned, implemented, or is about to be commissioned.*

*The Queensland Government and government-owned corporations have developed much of this infrastructure. The private sector has also provided significant coal industry infrastructure in the past, and its role looks set to expand in the future. Queensland's coal customers have told us that they rank security of supply of coal as a key factor in building long-term business relationships. Queensland's economic and political stability, combined with the availability of high-quality coal, makes this state an attractive prospect for*



*investors as evidenced by the number of the world's leading resource companies that have already invested here.*

*As a government, it is essential that we allocate resources prudently so that investment is timely and in keeping with the future needs of our coal industry. To ensure that industry is able to meet demand, CoalPlan 2030 focuses on medium to long-term infrastructure requirements. The plan is a living document and the timing and scope of projects identified here may be adjusted in the future.*

*CoalPlan 2030 establishes a coordinated, sustainable and environmentally responsible approach to infrastructure planning and delivery across government and industry, ensuring that the industry can maximise its growth potential over the next two decades to 2030 and beyond.”*

- 22.8 The 2010 *CoalPlan 2030* expressly dealt with the development of new coal mines in the Galilee Basin (including the Waratah Coal China First Project) including on page 44 where it said:

*“Galilee Basin infrastructure projects*

*Significant planning work is underway on major projects that could enable the export of coal from the Galilee Basin by late 2013.*

*Hancock Coal*

*Hancock Prospecting Pty Ltd (Hancock Coal) is one of a number of interested parties that have approached the Queensland Government proposing to export 60 Mtpa of Galilee Basin coal. Two mines (the Alpha Coal Project and the Kevin's Corner Coal Project) each of 30Mtpa capacity are proposed by Hancock Coal. Both projects have been declared 'significant projects' under the State Development Public Works Organisation (SDPWO Act) 1971. An Environmental Impact Statement (EIS) process for both projects is underway. The coal from both projects would be exported through the Port of Abbot Point, via a 495km standard gauge rail network utilizing approximately 3.2 kilometre long trains.*

*Waratah Coal*

*Waratah Coal Pty Ltd (Waratah Coal), is also proposing to export coal from the Galilee Basin through the Port of Abbot Point using a standard gauge rail network which the company has expressed an interest in constructing. Waratah Coal proposes to export 40 Mtpa and has plans to build a 900 Mega Watt (MW) coal-fired power station which will incorporate carbon capture and storage technology. Both of these projects have been declared 'significant projects' under the SDPWO Act 1971. The EIS process for both the mine and the power station is underway.*

[Emphasis added – this is a reference to the China First Project]

*AMCI Limited*

*AMCI Limited, in partnership with Bandana Pty Ltd, (AMCI) is proposing to export coal from the Galilee Basin through the Port of Abbot Point via third*

*party access to the proposed rail network. It is proposed that this project will export between 15-20 Mtpa. The project has been declared a 'significant project' under the SDPWO Act 1971. The EIS process for the mine is underway.*

*Other major proponents*

*Other major companies with mining and gas tenements in the Galilee Basin include Adani, Linc Energy and Vale.”*

- 22.9 In May 2014, the Department of Natural Resources and Mines of the Queensland Government published a policy paper inviting and encouraging foreign and domestic investment in the resources sector, with particular reference to the coal sector. That document is titled: “*Queensland’s mining and petroleum industry overview*”. The document specifically set out the Queensland Government’s support for new coal project development, explicitly encouraged investment by proponents, expressly referred to the emerging Galilee coal basin coal, set out the types of support being provided by the Queensland Government and referred by name to the Waratah Coal Project. Exhibit “**Exh. C-016**” is a true copy of the May 2014 Department of Natural Resources and Mines of the Queensland Government policy paper. The policy document relevantly states (on page 1) as follows:

***“Introduction***

*The Queensland Government actively encourages and welcomes foreign Investment in its resources sector. Queensland offers world standard production of mineral and energy resources, and large areas of underexplored land to encourage investment opportunities in existing and new commodities.*

*Queensland has modern rail, port and pipeline infrastructure to support mining and petroleum industries and exports into International markets, with programs in place to expand infrastructure capacity to meet Increasing demand.*

*New investment in mining and resource projects is encouraged through measures to reduce red tape for business, promote Queensland's competitive advantages and government support for new and emerging Industries.*

*We have a highly skilled and productive workforce, with programs to provide skilled workers to meet the State's growing resources Industry.*

*A subtropical climate, pro-business government, strong and resilient economy, highly skilled workforce and location in the Asia- Pacific region makes Queensland one of the leading destinations in the world to Invest in mining and resource projects.*

***Industry overview***

*Queensland is rich in natural resources with more than 30 billion tonnes of coal deposits along with metals, phosphate rock, oil shale and minerals. Queensland is in the world's top six regions for the production of lead, zinc,*

*bauxite and silver and is one of the largest seaborne exporters of coal in the world (Figure 1).*

*Queensland's mining and energy resources contribution to the State's economy generates A\$ 25.6 billion or 8.8 % of gross state product.*

*It represents 60% of all State exports, worth over A\$ 26 billion, with direct and indirect employment of over 300,000 people. The sector attracted 68% of all capital investment in Queensland and exploration expenditure of over A\$1.3 billion (2012-13 figures).*

*Queensland remains highly prospective for coal, mineral and petroleum resources. In addition, the petroleum industry in Queensland exceeds \$1 billion in production value, and we remain highly prospective for coal, mineral and petroleum resources.*

*A number of initiatives are underway to ensure Queensland remains one of the leading destinations to undertake resource activities. These include opening up land for exploration, making geoscientific discoveries and new data more accessible, and opening the door for new investment opportunities in resources such as rare earths, shale gas, oil shale and uranium.*

*Through government investment programs we are partnering with industry, co-funding exploration and identifying new areas of prospectivity. The Government's flagship \$30 million Future Resources Program is also helping fund projects to maximise the success of exploration ventures and improve the state's geological knowledge.*

### **Coal Industry overview**

*Queensland has a rich endowment of high-quality coal resources, with more than 34 billion tonnes (Bt) (raw in-situ) having been identified. Coking coal accounts for approximately 8.7 Bt, of which about 4 Bt are considered suitable for open-cut mining. The Bowen Basin, which contains almost all of the State's hard coking coal reserves; is the most important source of export coal in Queensland (Figure 2). Queensland currently accounts for almost one eighth of global metallurgical coal production and over 40% of international trade in this commodity. Exports of high-volatile thermal coals are increasing from the Clarence-Moreton and Surat basins which, along with the Callide and Tarong basins, are also important sources of thermal coal for domestic power generation (Figure 2). At approximately 50 million tonnes (Mt), Queensland also accounts for almost 10% of internationally traded thermal coal.*

*In 2012-13, Queensland mines extracted about 275.8 Mt of raw coal and produced a total of about 200.3 Mt of saleable coal. During this period around 179.8 Mt of coal worth A\$ 24.1 billion free-on-board, was exported to over 30 destinations overseas (Figure 3). Markets in Asia account for over 80% of these sales.*

*These coal exports comprised 128.6 Mt of metallurgical coal (coking coal used in iron and steel making and coal used for pulverised coal injection into*

blast furnaces) and 51.2 Mt of thermal coal used for electricity generation and in industrial processes.

Figure 4 highlights the steady increase in exported coking coal since 1997. In 2012-13, an additional 20.5 Mt (includes coal from the domestic stockpile) were supplied to domestic markets in Australia (18.6 Mt to markets within Queensland).

Coal production in 2012-13 was contributed to by 43 open-cut and 13 underground mines, and though four open-cut mines have either closed permanently or ceased operations largely due to depletion of economically recoverable coal reserves, production has continued to trend upward. This is due to the completion of mine expansions and commencement of operations at a number of new mines in the Bowen Basin during the same period. These include Caval Ridge (BHP Billiton Mitsubishi Alliance), Eagle Downs (Aquila Resources), Grosvenor (Anglo American) and Kestrel Mine Extension (Rio Tinto Coal Australia Pty Ltd), Clermont open-cut (Rio Tinto Coal Australia Pty Ltd), Ensham underground (Ensham Resources Pty Ltd) and Daunia (BHP Billiton Mitsubishi Alliance).

For more information on the Queensland coal industry go to DNRM's website.

A large portion of the Queensland resources industry is now foreign owned, particularly in coal where by multinational corporations based in Japan, the United Kingdom, Switzerland, USA, Brazil, and South Korea; and recently China and India are either establishing new developments, or acquiring substantial equity in projects throughout Queensland.

[On page 5]

### **New developments**

New developments in the Bowen Basin include:

- Moranbah South underground mine (Anglo American and Exxaro).
- Olive Downs, Codrilla open-cut mines; Eaglefield, Millennium and Middlemount open-cut expansions (Peabody Energy).
- Byerwen open-cut and underground mine; and Jax and Drake open-cut mines (QCoal Pty Ltd).
- Sarum open-cut and underground mine (Glencore Xstrata pie).

There is also scope for future development such as the Wandoan open-cut mine in the Surat Basin.

Exploration and development of thermal coal deposits to supply large tonnages to the export market now includes a focus on shallow coal occurring along the eastern and northern flank of the Galilee Basin in central Queensland (Figure 2). A number of large-scale coal mines, each with saleable production of between 30-60 Mtpa, are currently being planned in this region. These include:

*Alpha and Kevin's Corner Coal Projects (Hancock Coal, in joint venture with GVK).*

*Galilee Basin Coal Project (Waratah Coal Pty Ltd). [emphasis added]*

*Carmichael Coal Mine and Railway Project (Adani Mining Pty Ltd)*”.

22.10 In June 2022, the Queensland Government released its “Queensland resource industry development plan”. Exhibit “**Exh. C-017**” is a true copy of the June 2022 Queensland Government “Queensland resource industry development plan”. This plan recognises and responds to the impacts on thermal coal mining as a result of climate change and global decarbonization. Nonetheless, the 2022 plan continues to provide support for thermal coal mining projects in Queensland. The plan includes statements including at page (vi)

*“Queensland coal has powered economic growth at home and abroad for decades. Our thermal coal has kept the lights on in Queensland homes and across the globe, and our high-quality metallurgical coal has helped produce the steel that has built the powerhouse economies of Japan, South Korea and China.”*

*[At page 5] There are many views about the future of coal. The market’s attitude to coal continues to evolve as countries seek to limit emissions in response to climate change. Banks, insurance companies, and investors, including superannuation funds, are all closely considering their exposure to fossil fuel projects, both existing and new. Coal projects in Queensland will continue to be supported as long as they stack up economically, environmentally, and socially. The Queensland Government will continue to monitor demand for coal closely and consider any necessary future action to ensure communities and workers are supported.*

*While the global market for thermal coal is likely to decline as countries choose their own path to reduce emissions, demand from the fast-developing countries in the Indo-Pacific region could create pockets of future growth. The high quality of our thermal coal means that Queensland is well placed to respond to these opportunities.”*

22.11 Since the year 2000 alone, there have been 175 mining lease applications for coal in Qld approved and one project has been rejected, namely Zeph’s Waratah Coal’s application.

22.12 Since Zeph’s mining lease and environmental authority applications were rejected in early 2023, no other coal mine application has been rejected.

22.13 The following table is a list of the 175 mining lease applications which have been applied for and approved since the year 2000.

	<b>Permit no.</b>	<b>Permit type</b>	<b>Permit status</b>	<b>Lodge date</b>	<b>Grant date</b>	<b>Authorised holder name</b>	<b>Type</b>
<b>1</b>	ML 10316	Mining Lease	Granted	28-May-04	20-Oct-05	NC COAL COMPANY PTY LIMITED	Coking/ Thermal
<b>2</b>	ML 10317	Mining Lease	Granted	28-May-04	31-Mar-05	NC COAL COMPANY PTY	Coking/ Thermal

3	ML 10322	Mining Lease	Granted	24-Sep-04	14-Apr-05	LIMITED NC COAL COMPANY PTY LIMITED	Coking/ Thermal
4	ML 10345	Mining Lease	Granted	4-Nov-09	16-Aug-12	BOWEN RIVER COAL PTY LTD	
5	ML 10346	Mining Lease	Granted	12-Nov-09	20-Dec-13	JAX COAL PTY LTD	Coking/ Thermal
6	ML 10348	Mining Lease	Granted	20-Nov-09	1-Dec-11	NC COAL COMPANY PTY LIMITED	
7	ML 10349	Mining Lease	Granted	21-Apr-10	11-Feb-14	NORTHERN HUB (DRAKE) PTY LTD	
8	ML 10350	Mining Lease	Granted	21-Apr-10	11-Feb-14	NORTHERN HUB (DRAKE) PTY LTD	
9	ML 10352	Mining Lease	Granted	17-May-10	9-Dec-13	NC COAL COMPANY PTY LIMITED	
10	ML 10361	Mining Lease	Granted	8-Apr-11	9-Dec-13	NC COAL COMPANY PTY LIMITED	
11	ML 10362	Mining Lease	Granted	8-Apr-11	9-Dec-13	NC COAL COMPANY PTY LIMITED	
12	ML 50175	Mining Lease	Granted	13-Feb-01	21-Aug-03	BOGSIDE MINING INDUSTRIES PTY LTD	
13	ML 50208	Mining Lease	Granted	8-Oct-03	29-Jan-04	NEW WILKIE ENERGY PTY LIMITED	Thermal
14	ML 50214	Mining Lease	Granted	28-Jan-05	9-Aug-07	NEW WILKIE ENERGY PTY LIMITED	Thermal
15	ML 50215	Mining Lease	Granted	28-Jan-05	9-Aug-07	NEW WILKIE ENERGY PTY LIMITED	Thermal
16	ML 50216	Mining Lease	Granted	1-Feb-05	7-Dec-06	NEW ACLAND COAL PTY. LTD.	Thermal
17	ML 50229	Mining Lease	Granted	24-May-07	8-Aug-17	WANDOAN HOLDINGS PTY LIMITED	Thermal
18	ML 50230	Mining Lease	Granted	24-May-07	8-Aug-17	WANDOAN HOLDINGS PTY LIMITED	Thermal
19	ML 50231	Mining Lease	Granted	24-May-07	8-Aug-17	WANDOAN HOLDINGS PTY LIMITED	Thermal
20	ML 50232	Mining Lease	Granted	25-May-07	26-Aug-22	NEW ACLAND COAL PTY. LTD.	Thermal
21	ML 50233	Mining Lease	Granted	8-Jun-07	31-Jul-08	SYNTECH RESOURCES	Thermal

<b>22</b>	ML 50254	Mining Lease	Granted	2-Jun-09	1-Jun-20	PTY LTD TAROOM COAL PROPRIETARY LIMITED	
<b>23</b>	ML 50258	Mining Lease	Granted	16-Nov-09	26-Apr-19	SYNTECH RESOURCES PTY LTD	
<b>24</b>	ML 50259	Mining Lease	Granted	16-Nov-09	26-Apr-19	SYNTECH RESOURCES PTY LTD	
<b>25</b>	ML 50260	Mining Lease	Granted	16-Nov-09	26-Apr-19	SYNTECH RESOURCES PTY LTD	
<b>26</b>	ML 50273	Mining Lease	Granted	29-Jan-10	30-Apr-17	NEW COLTON PTY LTD	Thermal
<b>27</b>	ML 50274	Mining Lease	Granted	29-Jan-10	30-Apr-17	NEW COLTON PTY LTD	Thermal
<b>28</b>	ML 50276	Mining Lease	Granted	12-Jul-10	16-Feb-12	NEW WILKIE ENERGY PTY LIMITED	Thermal
<b>29</b>	ML 50280	Mining Lease	Granted	2-Nov-10	30-Apr-17	NEW COLTON PTY LTD	Thermal
<b>30</b>	ML 55004	Mining Lease	Granted	18-Mar-11	16-Feb-12	NEW WILKIE ENERGY PTY LIMITED	Thermal
<b>31</b>	ML 70116	Mining Lease	Granted	12-May-95	8-Jul-04	BHP COAL PTY LTD	
<b>32</b>	ML 70149	Mining Lease	Granted	20-Sep-96	8-Dec-11	ENEX TOGARA PTY LIMITED	
<b>33</b>	ML 70256	Mining Lease	Granted	18-Dec-00	2-Sep-04	PEABODY (BURTON COAL) PTY LTD	Coking/ Thermal
<b>34</b>	ML 70257	Mining Lease	Granted	18-Dec-00	2-Sep-04	PEABODY COKING COAL ONE PTY LTD	Coking/ Thermal
<b>35</b>	ML 70258	Mining Lease	Granted	18-Dec-00	2-Sep-04	PEABODY (BURTON COAL) PTY LTD	Coking/ Thermal
<b>36</b>	ML 70259	Mining Lease	Granted	18-Dec-00	2-Sep-04	PEABODY (BURTON COAL) PTY LTD	Coking/ Thermal
<b>37</b>	ML 70260	Mining Lease	Granted	18-Dec-00	2-Sep-04	NEW LENTON COAL PTY LTD	
<b>38</b>	ML 70288	Mining Lease	Granted	3-Dec-01	2-Apr-09	BHP COAL PTY LTD	
<b>39</b>	ML 70289	Mining Lease	Granted	3-Dec-01	30-Jul-09	BHP COAL PTY LTD	
<b>40</b>	ML 70301	Mining Lease	Granted	9-Sep-02	25-Sep-03	KESTREL COAL RESOURCES PTY LTD	Coking
<b>41</b>	ML 70302	Mining Lease	Granted	9-Sep-02	22-Nov-04	KESTREL COAL RESOURCES PTY LTD	Coking
<b>42</b>	ML 70307	Mining Lease	Granted	10-Dec-02	29-May-03	ROLLESTON COAL HOLDINGS PTY	Thermal

43	ML 70309	Mining Lease	Granted	18-Dec-02	28-Oct-04	LIMITED CAML RESOURCES PTY LTD	
44	ML 70311	Mining Lease	Granted	3-Feb-03	11-Sep-03	ANGLO COAL (GERMAN CREEK) PTY LTD	Coking
45	ML 70312	Mining Lease	Granted	19-Mar-03	16-Dec-04	STANMORE SMC PTY LTD	Coking/ Thermal
46	ML 70313	Mining Lease	Granted	19-Mar-03	16-Dec-04	METRES PTY LTD	
47	ML 70319	Mining Lease	Granted	7-Oct-03	1-Nov-07	PEABODY COPPABELLA PTY LTD	Thermal
48	ML 70326	Mining Lease	Granted	3-Feb-04	15-Sep-05	IDEMITSU AUSTRALIA PTY LTD	
49	ML 70327	Mining Lease	Granted	22-Mar-04	2-Apr-09	OAKY CREEK HOLDINGS PTY LIMITED	
50	ML 70330	Mining Lease	Granted	19-May-04	11-Jun-09	KESTREL COAL RESOURCES PTY LTD	Coking
51	ML 70331	Mining Lease	Granted	9-Jul-04	27-Oct-05	BOWEN BASIN COAL PTY. LTD.	
52	ML 70336	Mining Lease	Granted	6-Aug-04	6-Apr-06	ANGLO COAL (GERMAN CREEK) PTY LTD	Coking
53	ML 70337	Mining Lease	Granted	28-Oct-04	26-Jun-08	NEW LENTON COAL PTY LTD	
54	ML 70338	Mining Lease	Granted	2-Dec-04	15-Dec-05	FITZROY (CQ) PTY LTD	
55	ML 70339	Mining Lease	Granted	17-Dec-04	8-Dec-05	FITZROY (CQ) PTY LTD	
56	ML 70340	Mining Lease	Granted	2-Feb-05	8-Dec-05	FITZROY (CQ) PTY LTD	
57	ML 70342	Mining Lease	Granted	11-Mar-05	1-Dec-05	Stanmore IP Coal Pty Ltd	Thermal
58	ML 70343	Mining Lease	Granted	22-Apr-05	23-Nov-06	GS COAL PTY LTD	
59	ML 70344	Mining Lease	Granted	19-May-05	3-Nov-05	METRES PTY LTD	
60	ML 70345	Mining Lease	Granted	10-Jun-05	22-Jun-06	FITZROY (CQ) PTY LTD	
61	ML 70350	Mining Lease	Granted	12-Oct-05	2-Apr-09	BHP COAL PTY LTD	
62	ML 70354	Mining Lease	Granted	10-Nov-05	2-Apr-09	PEABODY COPPABELLA PTY LTD	Coking
63	ML 70365	Mining Lease	Granted	6-Oct-06	4-Nov-10	IDEMITSU AUSTRALIA PTY LTD	



64	ML 70366	Mining Lease	Granted	6-Oct-06	4-Nov-10	IDEMITSU AUSTRALIA PTY LTD	
65	ML 70367	Mining Lease	Granted	6-Oct-06	4-Nov-10	IDEMITSU AUSTRALIA PTY LTD	
66	ML 70369	Mining Lease	Granted	5-Dec-06	17-Apr-08	BHP COAL PTY LTD	
67	ML 70370	Mining Lease	Granted	5-Dec-06	17-Apr-08	BHP COAL PTY LTD	
68	ML 70374	Mining Lease	Granted	23-Feb-07	10-Sep-09	FITZROY (CQ) PTY LTD	
69	ML 70375	Mining Lease	Granted	23-Feb-07	1-Oct-09	FITZROY (CQ) PTY LTD	Thermal
70	ML 70376	Mining Lease	Granted	10-May-07	17-Jul-08	MINERVA COAL PTY LTD	Thermal
71	ML 70378	Mining Lease	Granted	30-Jul-07	7-Jun-12	MORANBAH NORTH COAL PTY LTD	Coking
72	ML 70379	Mining Lease	Granted	31-Jul-07	10-Sep-09	MIDDLEMOUNT COAL PTY LTD	Coking
73	ML 70384	Mining Lease	Granted	19-Oct-07	25-Nov-14	PEABODY COPPABELLA PTY LTD	Coking
74	ML 70385	Mining Lease	Granted	19-Oct-07	25-Nov-14	PEABODY COPPABELLA PTY LTD	Coking
75	ML 70386	Mining Lease	Granted	19-Oct-07	25-Nov-14	PEABODY COPPABELLA PTY LTD	Coking
76	ML 70387	Mining Lease	Granted	19-Oct-07	25-Nov-14	PEABODY COPPABELLA PTY LTD	Coking
77	ML 70389	Mining Lease	Granted	14-Nov-07	19-Aug-11	SOUTH32 EAGLE DOWNS PTY LTD	
78	ML 70401	Mining Lease	Granted	28-Jul-08	16-Sep-11	METRES PTY LTD	
79	ML 70403	Mining Lease	Granted	16-Oct-08	9-Dec-10	BHP COAL PTY LTD	Coking
80	ML 70411	Mining Lease	Granted	8-Apr-09	13-Jun-17	BHP COAL PTY LTD	Coking
81	ML 70415	Mining Lease	Granted	2-Oct-09	2-Feb-16	ROLLESTON COAL HOLDINGS PTY LIMITED	Thermal
82	ML 70416	Mining Lease	Granted	2-Oct-09	17-Feb-16	ROLLESTON COAL HOLDINGS PTY LIMITED	Thermal
83	ML 70417	Mining Lease	Granted	16-Oct-09	8-Dec-11	MIDDLEMOUNT COAL PTY LTD	Coking
84	ML 70421	Mining Lease	Granted	15-Dec-09	22-Sep-16	BHP COAL PTY LTD	Coking
85	ML	Mining	Granted	18-Dec-	12-Jul-12	OAKY CREEK	Coking

	70424	Lease		09		HOLDINGS PTY LIMITED	
<b>86</b>	ML 70429	Mining Lease	Granted	18-Mar-10	22-Sep-14	CAML RESOURCES PTY LTD	Coking
<b>87</b>	ML 70430	Mining Lease	Granted	18-Mar-10	22-Sep-14	CAML RESOURCES PTY LTD	Coking
<b>88</b>	ML 70431	Mining Lease	Granted	6-May-10	22-Sep-14	CAML RESOURCES PTY LTD	Coking
<b>89</b>	ML 70434	Mining Lease	Granted	30-Jun-10	27-Apr-17	BYERWEN COAL PTY LTD	Coking
<b>90</b>	ML 70435	Mining Lease	Granted	30-Jun-10	16-Apr-15	BYERWEN COAL PTY LTD	Coking
<b>91</b>	ML 70436	Mining Lease	Granted	30-Jun-10	27-Apr-17	BYERWEN COAL PTY LTD	Coking
<b>92</b>	ML 70441	Mining Lease	Granted	8-Nov-10	3-Apr-16	ADANI MINING PTY LTD	Thermal
<b>93</b>	ML 70443	Mining Lease	Granted	11-Feb-11	29-May-17	STANMORE SMC PTY LTD	
<b>94</b>	ML 70445	Mining Lease	Granted	4-Mar-11	16-Apr-15	JELLINBAH GROUP PTY LTD	Coking
<b>95</b>	ML 70446	Mining Lease	Granted	4-Mar-11	16-Apr-15	JELLINBAH GROUP PTY LTD	Coking
<b>96</b>	ML 70448	Mining Lease	Granted	9-Mar-11	16-Apr-15	JELLINBAH GROUP PTY LTD	Coking
<b>97</b>	ML 70449	Mining Lease	Granted	9-Mar-11	16-Apr-15	JELLINBAH GROUP PTY LTD	Coking
<b>98</b>	ML 70450	Mining Lease	Granted	16-Mar-11	28-Jun-12	BAFFLE BOX MINING PTY LTD	COAL
<b>99</b>	ML 70452	Mining Lease	Granted	29-Apr-11	27-Nov-15	SOJITZ BLUE PTY LTD	Thermal
<b>100</b>	ML 70457	Mining Lease	Granted	1-Jul-11	9-Dec-11	METRES PTY LTD	
<b>101</b>	ML 70458	Mining Lease	Granted	6-Sep-11	2-Feb-16	ROLLESTON COAL HOLDINGS PTY LIMITED	Thermal
<b>102</b>	ML 80101	Mining Lease	Granted	2-Apr-02	21-Apr-05	MONTO COAL 2 PTY LTD	
<b>103</b>	ML 80104	Mining Lease	Granted	30-May-02	4-Sep-03	YARRABEE COAL COMPANY PTY. LTD.	
<b>104</b>	ML 80107	Mining Lease	Granted	9-Sep-02	16-Sep-04	Batchfire Callide Pty Ltd	
<b>105</b>	ML 80108	Mining Lease	Granted	26-Nov-02	24-Jul-03	JELLINBAH GROUP PTY LTD	Coking
<b>106</b>	ML	Mining	Granted	5-Sep-03	22-Jul-04	CORONADO	Coking

	80110	Lease					CURRAGH PTY LTD	
<b>107</b>	ML	Mining				31-Mar-05	Batchfire Callide Pty Ltd	Thermal
	80115	Lease	Granted	9-Jun-04				
<b>108</b>	ML	Mining					Batchfire Callide Pty Ltd	Thermal
	80117	Lease	Granted	15-Nov-04	10-Jul-08			
<b>109</b>	ML	Mining					Batchfire Callide Pty Ltd	Thermal
	80118	Lease	Granted	15-Nov-04	6-Dec-07			
<b>110</b>	ML	Mining					Batchfire Callide Pty Ltd	Thermal
	80122	Lease	Granted	28-Jan-05	10-Jul-08			
<b>111</b>	ML	Mining					CORONADO CURRAGH PTY LTD	
	80123	Lease	Granted	10-Feb-05	26-Jul-07			Coking
<b>112</b>	ML	Mining					JELLINBAH GROUP PTY LTD	
	80129	Lease	Granted	24-Nov-05	12-Apr-07			Coking
<b>113</b>	ML	Mining					JELLINBAH GROUP PTY LTD	
	80140	Lease	Granted	24-Apr-07	15-May-08			Coking
<b>114</b>	ML	Mining					ANGLO COAL (DAWSON) LIMITED	
	80142	Lease	Granted	22-Aug-07	4-Dec-08			Coking
<b>115</b>	ML	Mining					ANGLO COAL (DAWSON) LIMITED	
	80146	Lease	Granted	11-Apr-08	11-Jun-09			Coking
<b>116</b>	ML	Mining					Batchfire Callide Pty Ltd	Thermal
	80151	Lease	Granted	31-Oct-08	9-Dec-09			
<b>117</b>	ML	Mining					BARALABA COAL PTY. LTD.	Thermal
	80157	Lease	Granted	14-Jan-09	19-Jul-10			
<b>118</b>	ML	Mining					ANGLO COAL (DAWSON SOUTH) PTY LTD	
	80160	Lease	Granted	21-Apr-09	24-Jun-10			Coking
<b>119</b>	ML	Mining					ANGLO COAL (DAWSON SOUTH) PTY LTD	
	80161	Lease	Granted	21-Apr-09	24-Jun-10			Coking
<b>120</b>	ML	Mining					JELLINBAH GROUP PTY LTD	
	80165	Lease	Granted	17-Dec-09	24-Jun-11			Coking
<b>121</b>	ML	Mining					BARALABA COAL PTY. LTD.	
	80169	Lease	Granted	23-Jul-10	27-Aug-13			
<b>122</b>	ML	Mining					WONBINDI COAL PTY LIMITED	
	80170	Lease	Granted	23-Jul-10	3-Sep-13			
<b>123</b>	ML	Mining					CORONADO CURRAGH PTY LTD	
	80171	Lease	Granted	12-Nov-10	15-Jul-15			Coking
<b>124</b>	ML	Mining					YARRABEE COAL COMPANY PTY. LTD.	
	80172	Lease	Granted	17-Dec-10	4-Oct-12			
<b>125</b>	ML	Mining					CONSTELLATION MINING PTY LTD	
	80173	Lease	Granted	20-Dec-10	1-Dec-15			

126	ML 70468	Mining Lease	Granted	20-Dec- 11	28-Aug- 14	BHP COAL PTY LTD	
127	ML 70469	Mining Lease	Granted	20-Dec- 11	28-Aug- 14	BHP COAL PTY LTD	
128	ML 70470	Mining Lease	Granted	21-Dec- 11	13-Nov- 12	CAML RESOURCES PTY LTD	Coking
129	ML 80184	Mining Lease	Granted	2-Feb-12	3-Sep-13	JELLINBAH GROUP PTY LTD	Coking
130	ML 80186	Mining Lease	Granted	4-Jun-12	2-Jan-18	Batchfire Callide Pty Ltd	Thermal
131	ML 70478	Mining Lease	Granted	6-Sep-12	27-Nov- 15	BHP COAL PTY LTD	Coking
132	ML 70479	Mining Lease	Granted	6-Sep-12	27-Nov- 15	BHP COAL PTY LTD	Coking
133	ML 70481	Mining Lease	Granted	4-Oct-12	21-Mar- 16	KESTREL COAL RESOURCES PTY LTD	Coking
134	ML 70482	Mining Lease	Granted	11-Oct- 12	15-Jul-13	FITZROY (CQ) PTY LTD	
135	ML 70483	Mining Lease	Granted	11-Oct- 12	15-Jul-13	METRES PTY LTD	
136	ML 70484	Mining Lease	Granted	11-Oct- 12	15-Jul-13	FITZROY (CQ) PTY LTD	
137	ML 70485	Mining Lease	Granted	11-Oct- 12	15-Jul-13	METRES PTY LTD	
138	ML 70493	Mining Lease	Granted	17-Dec- 12	16-Nov- 15	BHP COAL PTY LTD	
139	ML 70494	Mining Lease	Granted	17-Dec- 12	28-Aug- 14	BHP COAL PTY LTD	
140	ML 70495	Mining Lease	Granted	18-Dec- 12	29-May- 17	STANMORE SMC PTY LTD	
141	ML 80194	Mining Lease	Granted	18-Feb- 13	22-Sep- 16	BOWEN PCI PTY LTD	Coking
142						YARRABEE COAL COMPANY PTY. LTD.	
143	ML 80195	Mining Lease	Granted	16-May- 13	1-Apr-14	YARRABEE COAL COMPANY PTY. LTD.	
144	ML 80196	Mining Lease	Granted	16-May- 13	1-Apr-14	YARRABEE COAL COMPANY PTY. LTD.	
145	ML 80197	Mining Lease	Granted	16-May- 13	7-May- 14	YARRABEE COAL COMPANY PTY. LTD.	
146	ML 80198	Mining Lease	Granted	16-May- 13	1-Apr-14	YARRABEE COAL COMPANY PTY. LTD.	
147	ML 70505	Mining Lease	Granted	9-Jul-13	3-Apr-16	ADANI MINING PTY LTD	Thermal
147	ML 70506	Mining Lease	Granted	9-Jul-13	3-Apr-16	ADANI MINING PTY LTD	Thermal

148	ML 70507	Mining Lease	Granted	16-Jul-13	22-Mar-18	BENGAL COAL PTY LTD	
149	ML 80201	Mining Lease	Granted	1-Apr-14	16-Jun-16	WONBINDI COAL PTY LIMITED	
150	ML 70528	Mining Lease	Granted	8-Oct-14	21-Mar-16	BOWEN BASIN COAL PTY. LTD.	
151	ML 70000 3	Mining Lease	Granted	22-Jan-15	12-Oct-15	BHP COAL PTY LTD	
152	ML 70001 1	Mining Lease	Granted	9-Jun-15	21-Jul-17	JELLINBAH GROUP PTY LTD	Coking
153	ML 70001 3	Mining Lease	Granted	9-Jun-15	21-Jul-17	JELLINBAH GROUP PTY LTD	Coking
154	ML 70001 2	Mining Lease	Granted	9-Jun-15	21-Jul-17	JELLINBAH GROUP PTY LTD	Coking
155	ML 70000 7	Mining Lease	Granted	15-Apr-15	27-Jun-16	CORONADO CURRAGH PTY LTD	Coking
156	ML 70000 8	Mining Lease	Granted	15-Apr-15	12-Nov-15	CORONADO CURRAGH PTY LTD	Coking
157	ML 70000 9	Mining Lease	Granted	15-Apr-15	12-Nov-15	CORONADO CURRAGH PTY LTD	Coking
158	ML 70000 6	Mining Lease	Granted	15-Apr-15	27-Jun-16	CORONADO CURRAGH PTY LTD	Coking
159	ML 70001 8	Mining Lease	Granted	25-Oct-16	1-Mar-18	Stanmore IP Coal Pty Ltd	Thermal
160	ML 70002 0	Mining Lease	Granted	28-Oct-16	3-Jul-18	GS COAL PTY LTD	Thermal
161	ML 70001 7	Mining Lease	Granted	25-Oct-16	1-Mar-18	Stanmore IP Coal Pty Ltd	Coking/ Thermal
162	ML 70001 6	Mining Lease	Granted	25-Oct-16	1-Mar-18	Stanmore IP Coal Pty Ltd	Coking/ Thermal
163	ML 70001 9	Mining Lease	Granted	25-Oct-16	1-Mar-18	Stanmore IP Coal Pty Ltd	Coking/ Thermal
164	ML 70002 1	Mining Lease	Granted	12-Dec-16	16-Oct-18	BHP COAL PTY LTD	
165	ML 70002 4	Mining Lease	Granted	26-Oct-17	29-Oct-18	FITZROY (CQ) PTY LTD	Coking/ Thermal
166	ML	Mining	Granted	23-Jan-	20-Nov-	WILTON	Coking

	70002 8	Lease		18	22	COKING COAL PTY LTD	
167	ML 70002	Mining Lease	Granted	23-Jan- 18	20-Nov- 22	WILTON COKING COAL PTY LTD	Coking
168	ML 70003 9	Mining Lease	Granted	17-May- 18	29-Sep- 20	PEMBROKE OLIVE DOWNS PTY LTD	Coking
169	ML 70004 2	Mining Lease	Granted	18-Oct- 18	22-Sep- 20	MORANBAH NORTH COAL PTY LTD	Coking
170	ML 70004 3	Mining Lease	Granted	30-Nov- 18	21-Nov- 22	FAIRHILL COKING COAL PTY LTD	Coking
171	ML 70004 6	Mining Lease	Granted	27-May- 19	26-Jul-21	STANMORE IP SOUTH PTY LTD	Coking/ Thermal
172	ML 70004 7	Mining Lease	Granted	27-May- 19	26-Jul-21	STANMORE IP SOUTH PTY LTD	Coking/ Thermal
173	ML 70004 8	Mining Lease	Granted	27-May- 19	26-Jul-21	STANMORE IP SOUTH PTY LTD	Coking/ Thermal
174	ML 70005 8	Mining Lease	Granted	20-Nov- 19	2-Sep-20	BYERWEN COAL PTY LTD	Coking
175	ML 70006 0	Mining Lease	Granted	20-Mar- 20	14-Sep- 21	QUEENSLAND COKING COAL PTY LTD	Coking

*Representations by the Commonwealth and State regarding support for the Project*

23. In addition to the above public policy positions of the Commonwealth and Queensland Government, the following statements were typical of the representations made to Waratah Coal by representatives of the Queensland and Commonwealth Governments:
- 23.1 On 1<sup>st</sup> November 2009, the then Queensland State Premier Anna Bligh and the then Queensland Treasurer Andrew Fraser, spent the day with Waratah Coal executives travelling by plane and helicopter to visit the mine site for the Project (at the time known as the China First Coal Project). Exhibit “**Exh C-018**” is one of the many photos taken during the day.
- 23.2 Following the Premier’s return to Brisbane, on 6 November 2009, the then Queensland Premier, Anna Bligh wrote to Waratah Coal with a letter of support for China First Coal Project, which stated on page 1 that the “*project reinforces the importance of the coal industry to Queensland’s economic prosperity through the provision of jobs, revenue from royalties and other flow-on benefits to regional Queensland... My Government is working very hard on the development of the Galilee Basin... Your project is a project of ‘state significance’ and will be an investment in the future of a sustainable coal industry in Queensland.*” Exhibit “**Exh. C-019**” is a true copy of the letter from Premier Anna Bligh to Waratah Coal dated 6 November 2009.

- 23.3 On 5<sup>th</sup> November 2009, the current Prime Minister of Australia, Hon Anthony Albanese who at the time was Minister for Infrastructure, Transport, Regional Development and Local Government, issued a letter to Waratah Coal granting Major Project Facilitation status to the Project (Northern Export Facility) until December 2012. Exhibit “**Exh.-C-020**” is a true copy of the letter dated 5 November 2009 granting Major Project Facilitation status.
- 23.4 On 24<sup>th</sup> November 2009, the Commonwealth Government General Manager for Department of Infrastructure, Transport, Regional Development and Local Government sent a letter to Waratah Coal and congratulated Waratah Coal on Major Project Facilitation status and encouraged Waratah to utilise the services offered under the Commonwealth program and stated that the Department would coordinate the approval process with information flow and without duplication. Exhibit “**Exh.- C-021**” is a true copy of the letter dated 24<sup>th</sup> November 2009 from the Commonwealth Government General Manager for Department of Infrastructure, Transport, Regional Development and Local Government to Waratah Coal.
- 23.5 On 7<sup>th</sup> December 2009, the Queensland Government Deputy Co-ordinator-General, from the Queensland Government Department of Infrastructure and Economic Development, sent a letter to Waratah Coal encouraging the use of potential areas for coal port facilities at the Abbot Point State Development Area and the commitment by Queensland Government to facilitate major private sector projects including the major coal developments in the Bowen and Galilee Basins and to deliver on the Northern Economic Triangle Infrastructure Plan 2007-2012 strategic agenda. Exhibit “**Exh. C-022**” is a true copy of the letter dated 7<sup>th</sup> December 2009 from the Queensland Government Deputy Co-ordinator-General, Queensland Government Department of Infrastructure and Economic Development, to Waratah Coal.
- 23.6 On 10<sup>th</sup> December 2009, the Hon. Stirling Hinchliffe, the Queensland State Government Minister for Infrastructure and Planning sent a letter to Waratah Coal confirming that the Queensland Government was working hard on facilitating the development of the coal resources of the Galilee Basin and would continue to assist with project facilitation to allow the China First Coal Project to progress. The Hon. Stirling Hinchliffe stated on page 1 of the letter:

*“The coal industry plays a key role in Queensland’s economy, providing jobs and flow-on benefits to regional Queensland, as well as providing royalty revenue to the State. The opening up of the Galilee Basin for coal mining such as China First and others, further underpins the importance of coal mining to the future economic prosperity of the State.”*

Exhibit “**Exh. C-023**” is a true copy of the letter dated 10<sup>h</sup> December 2009 from the Hon. Stirling Hinchliffe, the Queensland State Government Minister for Infrastructure and Planning to Waratah Coal.

- 23.7 On 24<sup>th</sup> December 2009, the Hon. Stephen Robertson, the Queensland State Government Minister for Natural Resources, Mines and Energy and the Minister for Trade, sent a letter of support to Waratah Coal in respect of the China First project. The Minister stated on page, inter alia:

*“I can confirm the normal process for the granting of a Coal Mining Lease in Queensland is finalised following the presentation of an approved*

*Environmental Impact Study (EIS). A coal mining lease application will normally progress to grant following the presentation of an approved EIS, as this is the foremost technical analysis of any potential constraints or barriers to the development and operation of the project.”*

The Hon Stephen Robertson then went on further to say:

*“I would like to reiterate that your project is important to the Government, potentially creating thousands of jobs and providing significant economic benefits to the State of Queensland. A site inspection at Alpha earlier this year by Premier Anna Bligh and Treasurer Andrew Fraser is testament to the high regard in which the project is held.”*

Exhibit “**Exh.-C-024**” is a true copy of the letter dated 24th December 2009 from the Hon. Stephen Robertson, the Queensland State Government Minister for Natural Resources, Mines and Energy and the Minister for Trade, to Waratah Coal.

- 23.8 On 22 June 2011, the Premier of Queensland, Anna Bligh, visited Beijing together with representatives of Waratah Coal to speak with potential Chinese investors in Waratah Coal’s projects. In a speech at Beijing House, the Premier stated that:

*“This project is very important to Queensland... Queensland is a pro-investment State of Australia but to remain competitive we must offer companies such as yourselves an assurance that we are supportive of new frontiers like the Galilee Basin... Major projects like this one get the assurance that they have the Queensland government’s full support and they can feel very confident in the stable regulatory environment and system of law that sits behind them, and investors can be confident that their investment is a safe one”.*

Exhibit “**Exh. C-025**” is a true copy of a transcript of the Queensland Premiers speech in Beijing on 22 June 2011 prepared by Waratah Coal from a video recording of the meeting and speech. The extract above appears at page 1 of the transcript.

- 23.9 On 20 September 2012, the then Premier of Queensland Campbell Newman, sent a letter to Waratah Coal in which he stated that on page 1:

*“The Queensland Government welcomes investment in our State, particularly in mining and resources development, which we have identified as one of the four pillars of our economy, and which we need to grow to strengthen our economy for the future. I urge you to work with relevant Government Departments to address any concerns as they are raised to properly determine and agree on the parameters under which your investment and future development can continue to proceed. As I am sure you are aware, my Government is committed to reducing red tape and providing investment security for the mining and resources sector, in return for nothing less than the world’s best social and environmental outcomes. The Government will be pleased to continue to work with Waratah Coal to achieve an outcome that meets this commitment and delivers mutual benefits for your company and for our State.”*



Exhibit “**Exh. C-026**” is a true copy of the letter from the Premier of Queensland Campbell Newman to Waratah Coal to Waratah Coal dated 20 September 2012.

- 23.10 In 2012, the Hon. Jeff Seeney the then Deputy Premier and Minister for State Development, Infrastructure and Planning and the Hon. Campbell Newman the then Premier for the State of Queensland requested and encouraged the various Galilee Basin proponents to enter into collaborative discussions regarding the different rail options and potential solutions. On 12<sup>th</sup> December 2012, a letter was provided to Waratah Coal by the Deputy Premier of Queensland, the Hon Jeff Seeney MP, indicating that the State Government would appropriately engage with Waratah Coal to advance where possible Waratah Coal’s projects, and the Deputy Premier’s preparedness to meet on a regular basis to discuss Waratah Coal’s interaction with State Government. Exhibit “**Exh. C-027**” is a true copy of the letter dated 12 December 2012 to Waratah Coal from the Deputy Premier of Queensland, the Hon Jeff Seeney MP.
- 23.11 On 15<sup>th</sup> May 2013, the Hon Anthony Albanese, the current Australian Prime Minister and then Federal Minister for Infrastructure and Transport, Minister for Regional Development and Local Government, renewed Major Project Facilitation (MPF) status to the Project (Northern Export Facility) until 31st December 2016. Exhibit “**Exh.-C-028**” is a true copy of the letter dated 15 May 2013 renewing the grant of Major Project Facilitation status.
- 23.12 On 24 October 2014 the Commonwealth published a report titled: *Coal and coal seam gas resource assessment for the Galilee subregion*. The Commonwealth government website at <https://www.bioregionalassessments.gov.au/assessments/12-resource-assessment-galilee-subregion/12313-china-first-coal-project> contains a copy of this report which expressed support for the Project in at page 21 in the following terms:

*“The China First Coal Project proposal, comprising the mine and rail components, received conditional approval to proceed to development from the Queensland Coordinator-General in August 2013. Subsequent approval under the EPBC Act was granted by the Australian Government in December 2013. The approval is subject to a range of development and operating conditions, particularly around potential impacts to groundwater resources in the Great Artesian Basin and the reduction of ecological integrity and conservation value associated with land clearing and open-cut mining in the Bimblebox Nature Reserve. Information recently released by the Queensland Government indicates that mining of the China First Coal Project may start in 2017. This suggests that construction activities may begin in 2015 or 2016, although this will depend on the timing of granting for the project’s proposed mining lease (MLA 70454) and environmental authority (EA), and ongoing assessment of the economic viability of the project (for example, in light of changes to coal prices and overall market conditions.”*

Exhibit “**Exh C – 029**” is a true copy of the full report available at the Commonwealth webpage <https://www.bioregionalassessments.gov.au/assessments/12-resource-assessment-galilee-subregion/12313-china-first-coal-project>

23.13 On 17 November 2014, the Deputy Premier Minister for State Development, Infrastructure and Planning, sent a letter to Waratah Coal. Exhibit “Exh. C-030” is a true copy of the letter from the Deputy Premier Minister for State Development, Infrastructure and Planning to Waratah Coal dated 17 November 2014.

(a) On page 1 the letter stated:

*“the Galilee Basin is critical to the State’s future economic development. As you are aware, proposed projects in the Basin are valued at between \$14 billion and \$29 billion and include coal mines, rail, port and other economic infrastructure. It is estimated that coal mining development in the basin could create up to 28,000 new jobs and many business opportunities for Queenslanders.”*

(b) The Minister stated that the Queensland Government would consider making an Infrastructure Enabling Investment on commercial terms to Galilee Basin proponents who would meet the majority of the cost of providing the infrastructure necessary to open up the Galilee Basin, because the government wished to identify and on page 1 stated:

*“...opportunities that will facilitate efficient common use infrastructure that will enable the benefits of developing the resources of the Galilee Basin to be realised by Queenslanders as soon as possible.*

And continued on page 2 to state:

*This reflects the Queensland Government’s preparedness to support the coal industry, the value that the State of Queensland places on developing the Galilee Basin and recognition of the significant investment required to deliver these large greenfield projects and to stimulate economic development in the regions.”*

23.14 In November 2014, the Coordinator-General amended the document declaring the Galilee Basin SDA. The November 2014 version of the Galilee Basin SDA states at page 6 that:

*“The vision for the Galilee Basin SDA is to:*

- (a) facilitate increased opportunities for Queensland through supporting the development of the Galilee Basin;*
- (b) ensure development in the Galilee Basin SDA occurs in a logical sequence and is focussed on both the short and long term economic benefits to the region and State;*
- (c) ensure a coordinated approach to the establishment of multi-user infrastructure corridors between the Galilee Basin and the Port of Abbot Point;*
- (d) provide for and facilitate the development, construction and operation of rail infrastructure within the multi-user infrastructure corridors;*
- (e) provide for the establishment of supporting industry and infrastructure to facilitate the mining and export of coal from the Galilee Basin within the Mining Services Precinct;*
- (f) ensure the rail corridor precincts and mining services precincts are protected from incompatible land uses; and*

(g) *provide greater certainty to industry and stakeholders*".

Exhibit "Exh. C-031" is a true copy of the declaration of the Coordinator General amending the document declaring the Galilee Basin SDA dated November 2014.

- 23.15 On 6 August 2015, at a meeting attended by the Director-General, Department of State Development, and the Coordinator-General Department of State Development, Infrastructure & Planning with the Managing Director of Waratah Coal, the potential for Waratah Coal to make application for approval for a Private Infrastructure Facility to link with the rail corridor established under the Galilee Basin SDA was discussed.
- 23.16 On the basis of the Preliminary Approvals, the representations and statements made by the Commonwealth and Queensland Government made generally in support of the coal industry and the representations and statements made directly to Waratah Coal and its investors and potential investors, it was legitimate for Zeph to expect that:
- (a) the State of Queensland was pro-investment, particularly in respect to the mining and resources sector;
  - (b) Waratah Coal was a trusted company in that sector with the full support of the Queensland Government;
  - (c) the Government of Queensland was supportive of Waratah Coal's projects in the Galilee Basin, including the Project;
  - (d) the regulatory environment in Queensland was stable;
  - (e) Waratah Coal could expect the decision-making Ministers to approve a Mining Lease and Environmental Approval; and
  - (f) Waratah Coal could develop its Project.

#### **D5: Entitlements and Expectations of Due Process and Fair and Equitable Treatment**

##### **24. Zeph's expected adherence to the rule of law in the Land Court**

24.1 Zeph was entitled to expect and legitimately expect that:

- (a) the decision of the Land Court would be made in accordance with precedent and prior decisions in respect of comparable coal mining projects;
- (b) the judicial officers appointed by the Queensland Government would review applications with an open mind and not with a personal agenda of stopping new large greenfield thermal coal projects;
- (c) judicial officers would adhere to due process and the minimum standard of treatment; and
- (d) the decisions of the Land Court would be made in accordance with due process and the minimum standard of treatment.

24.2 The Land Court of Queensland previously granted applications for coal projects very similar to that proposed by Waratah Coal. Zeph, entirely reasonably, expected that the Court would deal with objections in a manner that was consistent with previous practices and decisions of that court (including, but not limited to, the decision in *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & ors* [2015] QLC 48) and other

relevant Australian jurisprudence. Exhibit “**Exh. C-032**” is a true copy of the decision in *Adani Mining Pty Ltd v Land Services of Coast and Country Inc & ors* [2015] QLC 48).

- 24.3 On no prior occasion had an application for a mining lease in Queensland not been approved by reason of a negative recommendation of the Land Court.

## **D6 Failure to Afford Zeph’s Waratah Coal Due Process in Land Court Decision - Background Facts**

### **25. Kingham P was a political appointment**

- 25.1 Waratah did not receive due process and a fair hearing in the Queensland Land Court, because of the conduct of the President of the Court, Kingham P, who delivered the Land Court Decision.

- 25.2 In February 2023, Waratah coal engaged solicitor Sameh Morris Iskander to advise it in respect of the conduct of the Land Court proceedings and the conduct of Kingham P in respect of the Land Court Decision. Exhibit “**Exh. C-033**” is a true copy of the statement of Sameh Morris Iskander made 18 October 2023 in respect of the conduct of the Land Court proceedings and the conduct of Kingham P in respect of the Land Court Decision. The following matters are set out in the statement of Mr Iskander and reference to exhibits are references to exhibits to the statement of Mr Iskander.

#### 25.3 Kingham P:

- (a) is a political appointee, whose appointment was made in controversial circumstances by the Queensland Labor Government. Whilst the Queensland Labor Government has officially supported coal mining as set out above in paragraph 22, factions within the Labor Government are opposed to coal mining;
- (b) is a long-standing member of the Labor party with deep political connections both personally and through family to the Labor party and the environmental movement;
- (c) has a history of judicial activism;
- (d) through her connections and relationships with coal mining objectors and the Environmental Defender’s Office (“**EDO**”) (a publicly funded law firm established specifically to oppose private sector projects which have environmental impacts), coached EDO and the objectors on what evidence to present during the Land Court proceeding, which was ultimately decided by her, and how to conduct the case opposing the Project;
- (e) whilst President of the Land Court and despite her obligations of neutrality on public policy matters which are within the core jurisdictional areas of the Land Court, publicly endorsed and supported the extremist anti-coal and anti-gas mining organisation “Extinction Rebellion”; and
- (f) most disturbingly, contrary to the universally accepted and observed Australian court practice and the Solicitor’s Conduct Rules (22.4-22.7) (refer Exhibit **Exh. C-SMI-001.1**) that judicial officers must not have private communications with a practitioner in the opponent’s absence regarding a matter of substance in connection with the Land Court Proceedings, Kingham P nonetheless met privately with EDO lawyers during the pendency of the Land Court proceedings

to discuss the development of a practice direction which had a direct bearing on the manner in which the Land Court proceedings would go on to be conducted.

These are expanded below.

#### *Queensland Government Labor Party connections*

- 25.4 Judge Kingham's appointment came amidst growing public outcry at the number of judicial political appointments of legal figures with strong links to the Labor Party, including spouses and close friends of Members of Parliament and others with enduring connections to the Labor Party. This has been compounded by the subversion of the supposedly independent Judicial Appointments Advisory Panel (which makes recommendations on judicial appointments to the Attorney General) by the appointment of Labor Party associates to that panel.
- 25.5 On 12 March 2022, Queensland's main daily newspaper the Courier Mail published a story under the headline: "*Court of comrades: Meet the ALP's buddies on the bench*". (Refer Exhibit **Exh. C-SMI – 002**). The article was the most recent in a line of similar articles in which criticisms of political appointments to the bench and the public service have been made. The article commences with a photograph of Kingham P and then proceeds:
- "Queensland Labor has routinely handed plum judicial postings – including several Supreme Court bench appointments – to legal figures with strong links to the party, including spouses and close friends of MPs.*
- The Saturday Courier-Mail has obtained an explosive dossier compiled by a senior member of the legal fraternity which identifies at least 17 appointments to lucrative roles that have gone to people with enduring connections to the ALP."*
- 25.6 President Kingham is a long time Labor Party figure. She is married to lifelong Labor Party member David Barbagallo who she has actively assisted in his Labor Party roles including as North Queensland Organiser of the Labor Party. Mr Barbagallo has held numerous staff roles to Queensland Labor government Ministers and most recently was chief of staff to current Queensland Premier Anastacia Palaszczuk but was forced to resign from this role in 2019 amid a scandal over a \$267,500 Queensland Government grant to a company in which he was a shareholder.
- 25.7 Judicial appointments in Queensland are made by the executive government and the usual practice is for the Attorney-General to consult with the Bar Association before an appointment is made and for the new appointment to receive unqualified praise from the legal profession. On the occasion of the appointment of Kingham P, an unedifying public furore heralded the appointment with the Labor Government receiving strong criticism from Bar Association of Queensland president Christopher Hughes, KC, "*over the way it handled the appointment*" and "*the failure [of Attorney General Ms Yvette D'Ath] to properly consult the Bar Association for such an important jurisdiction*". Mr Hughes said: "*I thought we'd reached a stage where the government of the day was prepared to consult with, in particular, the Bar Association, and also the Queensland Law Society.*" In an extraordinary response, the Attorney-General responded that

appointments to the Land Court did not require consultation - despite the protocol for judicial appointments expressly stating that it does. (Refer Exhibit **Exh. C-SMI – 003**).

- 25.8 In a departure from protocol at the ceremony to welcome Judge Kingham, Mr Hughes KC made comments which, whilst couched in customary civil and neutral terms, were readily interpreted by members of the legal profession as a criticism of political appointments of activist judges with strong views regarding matters likely to come before the court in which they served. Those comments included: “*Your Honour held an interest and an association with the politics of the Australian Labor Party for some years. As I have said on a number of occasions, including occasions such as this, interest in, or affiliation with, a political party should be neither a qualifier nor a disqualifier for an appointment to judicial office. My members enjoy a wide range of political interests which is appropriate — the law and politics have never been far apart.*” (Refer Exhibit **Exh. C-SMI – 003**)

*The Environmental Defenders Office Presentation*

- 25.9 On 18 September 2018, Kingham P presented a seminar at a conference entitled “Environmental Defenders Office Climate Law Update” at the Banco Court of the QEII Courts Complex in Brisbane, Queensland.
- 25.10 Relevantly, the seminar was organised and attended by solicitors at the Environmental Defenders Office who subsequently acted in the Land Court proceedings.
- 25.11 The seminar paper presented by Kingham P was entitled “Scope 3 Emissions, Climate Change and Coal Markets at the Environmental Defenders Office Climate Law Update” (“**Presentation**”). (Refer Exhibit **Exh. C-SMI – 005**)
- 25.12 The subject matter of the Presentation was described on page 1 of the Presentation of the paper by Kingham P as follows:

“I have been asked to talk about climate change cases in the Land Court. I will focus on mining cases and will do three things:

1. identify when the Court can or might be able to take GHG emissions into account in a mining case;
2. discuss some key factual findings in such cases; and
3. pose some questions about expert evidence in that context.

- 25.13 The Presentation reviewed and discussed (pages 4 and following) previous court decisions and the Land Court’s treatment of evidence concerning “Scope 3 Emissions”.

- 25.14 In the Presentation, Kingham P stated (in summary) at pages 3-6 that:

- (a) while previous decisions have largely disregarded Scope 3 Emissions, whether or not they are relevant depends on the particular evidence;
- (b) the evidence in previous cases might differ from the evidence in future cases; and
- (c) the Land Court is open to revisiting how Scope 3 Emissions might be addressed.

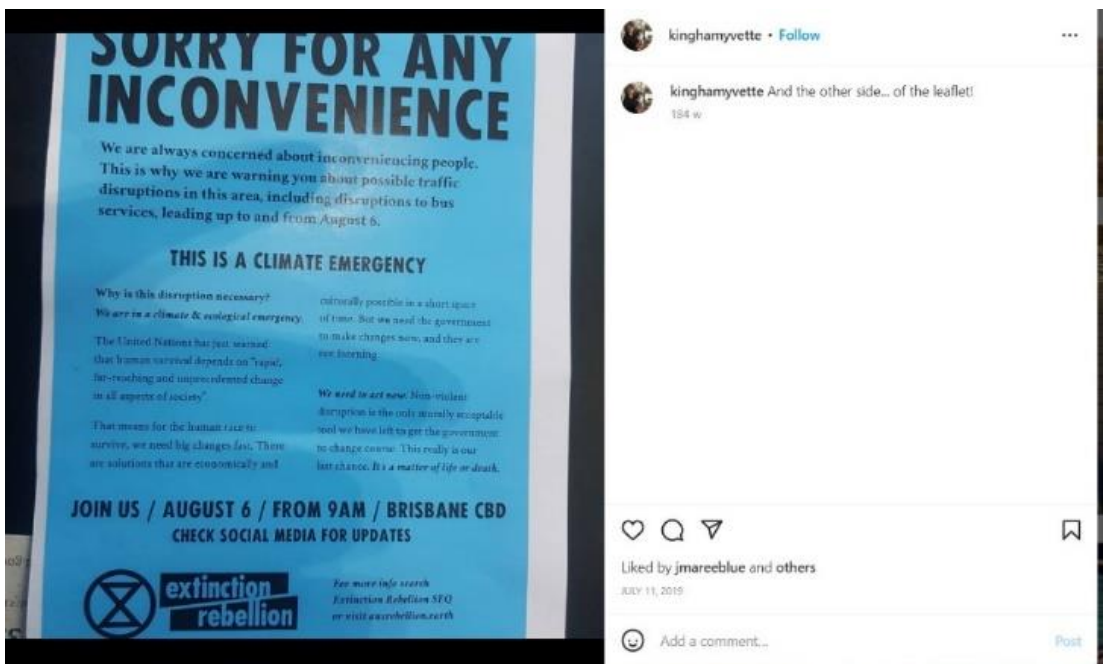
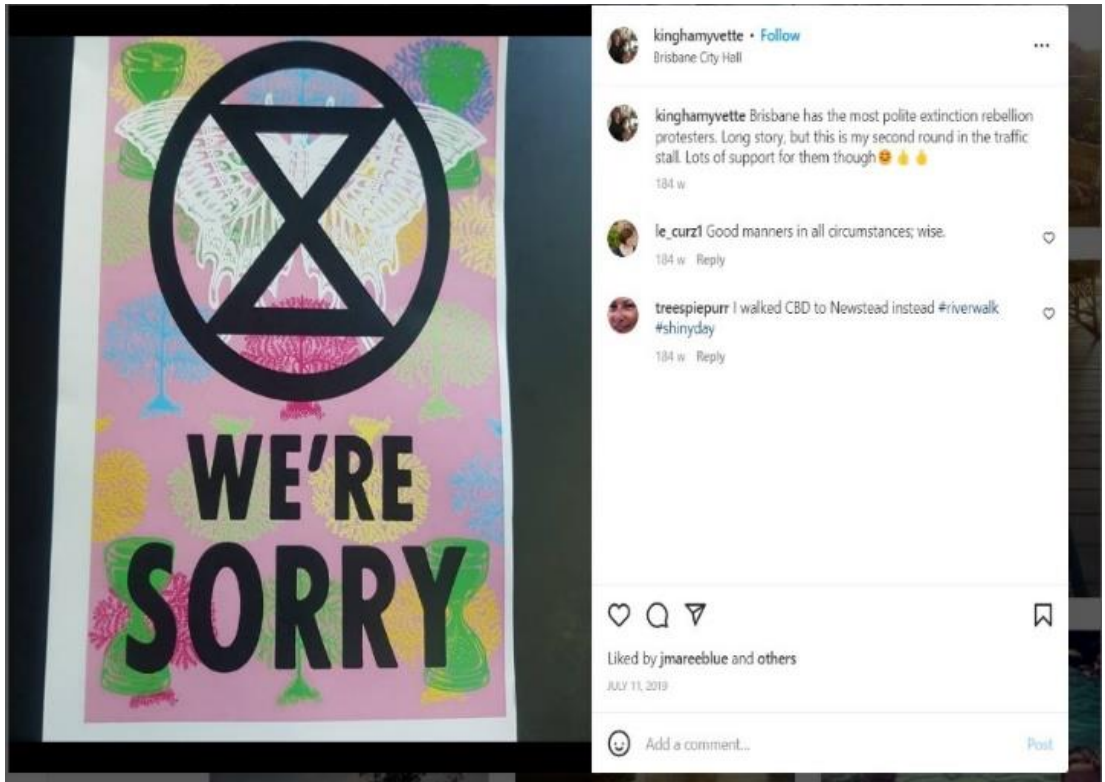
25.15 The Presentation identified (see pages 8 and following) what Kingham P considered to be certain deficiencies with economic evidence that had previously been adduced in cases that considered Scope 3 Emissions.

25.16 At the time the Presentation was given:

- (a) the Mining Lease Application had been made on 30 May 2011 (refer paragraph 11.1 above);
- (b) the environmental Authority Application had been made on 30 May 2011 (refer paragraph 11.1 above);
- (c) the Project was the only major greenfield thermal coal mining project in prospect in Queensland and it was well-known that the Land Court proceedings would soon commence.

25.17 Kingham P has also expressed support for *Extinction Rebellion*, an anti-coal lobby group:

- (a) Given Kingham P's long history of environmental activism, it was (and still is) widely believed in legal circles that Kingham P had been appointed by the anti-coal faction of the Queensland Labor Party as President of the Land Court to assist the Queensland Labor Party Government achieve its anti-coal policy objectives.
- (b) On 11 July 2019, in a post on the Instagram account "kinghamyvette", belonging to Kingham P, Kingham P stated: "**kinghamyvette** Brisbane has the most polite extinction rebellion protesters. Long story, but this is my second round in the traffic stall. Lots of support for them though [smiley face emoji, thumbs up emoji, thumbs up emoji]"
- (c) The following are screen shots of the Instagram account of President Kingham of the Queensland Land Court:



(d) The website of “Extinction Rebellion” at <https://rebellion.global/about-us/> contains the following statements:

- (i) *“Extinction Rebellion is a decentralised, international and politically non-partisan movement using non-violent direct action and civil disobedience to persuade governments to act justly on the Climate and Ecological Emergency”.*
- (ii) *“We are in the midst of a climate and ecological breakdown. We are facing an uncertain future - our world is in crisis and life itself is under threat. Now*



*is not the time to ignore the issues; now is the time to act as if the truth is real. The science is clear. We are in the midst of a mass extinction of our own making and our governments are not doing enough to protect their citizens, our resources, our biodiversity, our planet, and our future”.*

- 25.18 In Queensland, Extinction Rebellion conducts its civil disobedience protests under banners such as “stop coal” and “stop gas”. Civil disobedience protests by members of Extinction Rebellion in Queensland have included protestors stopping a coal train, a protestor suspending herself from a tripod on Victoria Bridge to disrupt traffic, protestors gluing themselves to roadways and bridges to disrupt traffic and protestors disrupting proceedings of the Queensland Parliament by unfurling banners and chanting “stop coal” and “stop gas”. (Refer Exhibit **Exh. C-SMI – 006**)
- 25.19 Extinction Rebellion maintains a twitter account at <https://twitter.com/XRebellionAus>. There are many thousands of posts under the name “Extinction Rebellion Australia @XRebellionAus. The following are representative: dates and exhibit
- (a) *“New coal, oil and gas projects are not compatible with a safe climate. It’s pretty simple. This has to stop immediately!! This is not what we voted for. #ClimateEmergency #TelltheTruth #ActNow #BeyondPolitics”;*
  - (b) *“Opening and expanding new coal and gas mines while moving towards renewables makes no sense,” said @xr\_brisbane. “The deluded notion that the buyers of Australian fossil fuels are responsible and we are not, is ludicrous.” #JustStopIt #NoCoalNoGas #ClimateEmergency”.*

***The Improper Private Communications between Kingham P and the Environmental Defender’s Office***

- 25.20 On or about 1 May 2018 the Land Court released Practice Direction 4 “*Procedure for Mining Objection Hearings*” (“**Practice Direction**”). (Refer Exhibit **Exh. C-SMI – 010**)
- 25.21 The Practice Direction provides for practice and procedure regarding the hearing of Mining Objection Hearings. The Land Court Proceedings were a Mining Objections Hearing.
- 25.22 On 14 September 2018 the Environmental Defenders Office sent by email to the Associate of Kingham P, a letter dated 14 September 2018 addressed to Kingham P which attached a 17-page submission setting out its ‘concerns’ regarding the Practice Direction and making 26 recommendations for changes to the Practice Direction (“**Practice Direction Submission**”). (Refer Exhibit **Exh. C-SMI – 010**)
- 25.23 In or about August or September 2020 (on a date not presently known to Waratah Coal) but during the pendency of the Land Court Proceedings, Kingham P gave a presentation to the Land Court “Resource Users Group” regarding proposed amendments to the Land Court Rules 2000.
- 25.24 On 17 September 2000 Kingham P (by her Associate) sent by group email to members of the Resources Users Group, including Revel Pointon “Managing Lawyer” Environmental Defenders Office, a copy of the PowerPoint used for the Presentation. (Refer Exhibit **Exh. C-SMI – 010**).

25.25 As set out above in paragraph 11, the Land Court Proceedings were commenced in April 2020 and were pending at all times when the following events occurred.

25.26 By email dated 17 September 2020, Revel Pointon of the Environmental Defenders Office sought a private meeting with Kingham P to talk directly to her about the Environmental Defenders Office's concerns regarding the proposed amendments to the Practice Direction. (Refer Exhibit **Exh. C-SMI – 010**). This approach by Environmental Defenders Office during the pendency of the Land Court Proceedings without the consent or knowledge of Waratah Coal was improper and a breach of Waratah Coal's right to due process and the minimum standard of treatment.

25.27 By email dated 18 September 2020 to Revel Pointon of Environmental Defenders Office, Kingham P (by her Associate):

*President Kingham is content to speak to you about your concerns, provided they are not in relation to a specific case. Her Honour is happy for you to come in in person, or I can set up a call or videoconference. Her Honour is relatively free for the next few weeks – please let me know a suitable time and I will arrange a meeting.*

(Refer Exhibit **Exh. C-SMI – 010** page 1)

25.28 By email dated 7 October 2020 to Kingham P and her Associate, Revel Pointon of Environmental Defenders Office stated: (refer Exhibit **Exh. C-SMI – 010** page 1)

*Dear President Kingham and Alice*

*Apologies for our delay in getting back to you. We are very keen to discuss the proposed amendments with you but our barristers and litigators have been consumed in multiple cases being heard.*

*Would it be too late if we met with you after 19 October to discuss these amendments? Sean Ryan, who has considerable experience in the Land Court, will be back from parental leave and would appreciate the chance to discuss the proposed amendments upon his return.*

*In the meantime I offer our previous submissions around the practice directions, which provide commentary on various elements of relevance to the matters under review.*

25.29 The "previous submissions" (referred to in the email dated 7 October 2020) was a copy of the of the letter dated 14 September 2018 from the Environmental Defenders Office to the Associate of Kingham P and Kingham P attaching the Practice Direction Submission. (Refer Statement SMI at [39].

25.30 Waratah Coal and its lawyers were not consulted regarding, or provided a copy of, the communications between Kingham P and the Environmental Defenders Office (including the Practice Direction Submission) referred to above ("**the Private Communications**") This conduct was improper and a breach of Waratah Coal's right to due process and the minimum standard of treatment.

25.31 The Practice Direction Submission:

- (a) concerned matters which were directly relevant to matters and issues then pending in the Land Court Proceedings;

- (b) were matters of substance in connection with the Land Court Proceedings.
- 25.32 The Private Communications breached basic principles of natural justice and the right of Zeph’s Waratah Coal to the minimum standard of treatment under Article 6 of Chapter 8 of SAFTA and resulted in Waratah Coal losing the opportunity to develop and commercialise the Project.
- 25.33 Waratah Coal was not aware of any of the above matters until after the Land Court Proceedings were concluded and judgment was delivered on 25 November 2022 (refer paragraph 5 statement of S Iskander and **Exh. C-SMI – 001 (“Reasons”)**):
- (a) Waratah Coal first became aware of the Presentation in December 2022.
  - (b) Waratah Coal first became aware of the Instagram Post in January 2023.
  - (c) Waratah Coal first became aware of the Private Communications in April 2023 when they were produced pursuant to subpoena issued to the Environmental Defenders Office in 2023. ( Refer statement of SMI at [26] and paragraph [44] below.)

**SECTION E: BREACH AND FACTUAL AND LEGAL BASIS FOR EACH CLAIM**

- 26. Zeph repeats and relies upon the relevant Background Facts set out above in Section D.
- 27. The measures taken by the Commonwealth and the Commonwealth’s State of Queensland breach the following articles of Chapter 8 of SAFTA:
  - (a) Article 4 – National Treatment (no less favourable treatment than its own investors);
  - (b) Article 5 – Most favoured-Nation Treatment (no less favourable treatment than investors of a non-Party);
  - (c) Article 6 – Minimum Standard of Treatment (fair and equitable treatment and full protection and security); and
  - (d) Article 13 – Expropriation and Nationalisation; including Annex 8-A paragraph 3(a) indirect expropriation (due to economic adverse effect on the economic value of the investment).

**National Treatment**

- 28. The measures taken by the Commonwealth and the Commonwealth’s State of Queensland breach Article 4 of Chapter 8 of SAFTA.
- 29. Article 4 of Chapter 8 of SAFTA relevantly provides that “*Each Party shall accord to investors of the other Party treatment no less favourable than it accords, in like circumstances, to its own investors with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.*”
- 30. The Queensland Government has accorded treatment to Zeph which is (substantially) “*less favourable than it has accorded, in like circumstances to its own investors with*

*respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.”*

31. The Queensland Government has approved mining leases and environmental authorities for comparable coal mining projects in Queensland in which Australian entities have invested. Details of such projects are included in the table in paragraph 22.13 above and are also referred to in *CoalPlan 2030* (see paragraph 22.8 above), the “*May 2014 Queensland’s mining and petroleum industry overview*” (see paragraph 22.9 above) and include coal projects such as New Acland, Penbroke and Caval Ridge.
32. The effect of Article 4 is that Zeph is entitled to the same treatment as such Australian investors. It has not received that treatment, for which there is no reasonable justification. Accordingly, Article 4 has been breached.

#### **Most favoured-Nation Treatment**

33. The measures taken by the Commonwealth and Queensland breach Article 5 of Chapter 8 of SAFTA.
34. Article 5 of Chapter 8 of SAFTA relevantly provides that “*Each Party shall accord to investors of the other Party treatment no less favourable than it accords, in like circumstances, to investors of any non-Party with respect to the establishment, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.*”
35. The Commonwealth’s Queensland Government has accorded treatment to Zeph which is (substantially) less favourable than it has accorded, in like circumstances, to the investors of non-Parties with respect to the establishment, acquisition, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.”
36. The Commonwealth’s Queensland Government has approved mining leases and environmental authorities for coal mining projects in Queensland (which are in all material respects identical to the Project) in which non-Parties have invested. Details of such projects are included in the table in paragraph 22.13 above and are also referred to in *CoalPlan 2030* (see paragraph 22.8 above), the “*May 2014 Queensland’s mining and petroleum industry overview*” (see paragraph 22.9 above) and include coal projects such as Adani and Hancock GVK.
37. The effect of Article 5 is that Zeph is entitled to the same treatment as these other non-Australian investors. It has not received that treatment, for which there is no reasonable justification. Accordingly, Article 5 has been breached.

#### **Minimum Standard of Treatment (fair and equitable treatment)**

38. The measures taken by the Commonwealth and the State of Queensland breach Article 6 of Chapter 8 of SAFTA.
39. Article 6 of SAFTA relevantly provides “*Each Party shall accord to covered investments treatment in accordance with the customary international law minimum standard of treatment of aliens, including fair and equitable treatment and full protection and security.*”
40. Accordingly, under Article 6 of SAFTA, Zeph was entitled to:

- (a) due process; and
  - (b) to be treated fairly having regard to the reasonable expectations that it held as a consequence of the actions and words of the Commonwealth and the Commonwealth's State of Queensland.<sup>1</sup>
41. The measures taken by the Commonwealth and the Commonwealth's State of Queensland breach Articles 6 of Chapter 8 of SAFTA.

Due Process – Land Court

42. The treatment of Zeph's investment by the Commonwealth does not accord with the customary international law standard of treatment as the Land Court failed to adhere to due process and provide a decision that accorded with the rule of law, due process, untainted by actual or apparent bias.
43. By her conduct in connection with the EDO Presentation, the Instagram Post and the Private Communications, Kingham P did not afford Zeph's Waratah Coal due process and the minimum standard of treatment.
44. The EDO Presentation was an advice on the way in which the Environmental Defenders Office should conduct proceedings to oppose the MLA and EAA which were soon to be made by Waratah Coal; demonstrated support for opponents to the applications and then when deciding the matter, Kingham P adhered to the partial opinions she had expressed and followed the advice she had given to the Environmental Defenders Office, as explained below:
- (a) Kingham P expressed herself in the Presentation in partial language which was contrary to the interests of applicants for mining leases and for environmental approvals;
  - (b) Kingham P used an iceberg metaphor in her Presentation which conveyed support for opponents to mining leases and environmental approvals because:
    - the use of icebergs as the metaphor was ill-chosen, inapt and strained;
    - icebergs are a symbol for climate change action.
  - (c) the Presentation was made at a time when:
    - the MLA had been made;
    - the EAA had been made;
    - the Project was the only major greenfield thermal coal mining project in prospect in Queensland;
  - (d) it was reasonable to conclude that Kingham P was referring in the Presentation to the Project and its potential assessment in the future by Kingham P or the Land Court;
  - (e) Kingham P made the decisions in circumstances where the objections raised by the objectors in the Land Court materially followed closely Kingham P's guidance in the Presentation and procured a result necessarily foreshadowed by the

Presentation, namely the recommendation to refuse a mining lease and environmental approval on climate change grounds;

- (f) Kingham P held a partial view that the MLA and the EAA were doomed to fail as contrary to the guidance in the Presentation or conversely that the objections were likely to succeed as being consistent with the Presentation;
- (g) the Reasons in the Land Court Decision (refer **Exh. C-SMI – 001**) conveyed partiality in that:
  - Kingham P adhered to the views she expressed in the Presentation **Exh. C-SMI – 005**) and accepted, preferred or gave determinative weight to evidence of a character identified in the Presentation;
  - Kingham P rejected the “substitution defence”, as suggested or concluded in the Presentation (Presentation, page 9; Reasons, [793], [1014]);
  - Kingham P adhered to her view regarding the factors concerning whether substitution will occur, as suggested or concluded in the Presentation (Presentation, page 9; Reasons, [796]);
  - Kingham P maintained her view regarding the grounds for taking into account “Scope 3 Emissions” (Presentation, pages 3 and 4; Reasons, [666]-[717], [1180]);
  - Kingham P adhered to her view regarding previous judgments of the Land Court concerning Scope 3 Emissions (Presentation, pages 3 to 6; Reasons, [670], [785] to [786]);
  - Kingham P gave determinative weight to evidence regarding demand for coal and its use for power generation (Presentation, page 9; Reasons, [1001] to [1003], [1026], [1027]);
  - Kingham P relied on the Paris Agreement and adhered to her view that the Paris Agreement would result in different global policy settings in an economic analysis (Presentation, page 12; Reasons, [672], [676] to [685], [875] to [878]);
  - Kingham P adhered to her view regarding the factors affecting the demand for coal (Presentation, page 11; Reasons, [864], [903]);
  - Kingham P gave determinative weight to global policy settings in addressing economic analysis of the viability of coal (Presentation, page 9-10; Reasons, [873])

45. In connection with the Instagram Post (refer paragraph 25.17):

- (a) the Instagram Post, viewed objectively, demonstrates that Kingham P was promoting the same causes as the objectors in the Land Court Proceedings and publicly supporting organisations seeking to achieve the same outcomes as the objectors, namely disrupting and preventing industry perceived by them to adversely affect climate change;

- (b) the Instagram Post, viewed objectively, demonstrates that Kingham P made the Decisions in view of the circumstance of her and the objectors' common support of the same causes;
  - (c) the Instagram Post, viewed objectively demonstrates that Kingham P sympathised or sided with the objectors, being parties supporting and furthering a cause for which she has expressed support;
  - (d) consistently with the view expressed in the Instagram Post, Kingham P was unjustifiably critical in the Reasons of Waratah Coal as a target opponent of the cause supported in the Instagram Post, as follows:
    - Kingham P used intemperate language in particular at paragraphs Reasons [782], [783], [956] and [1127];
    - Kingham P's conclusions were argumentative at paragraphs Reasons [181], [222], [471], [949], [978], [1024], [1117] to [1118], [1154], [1368] and [1639];
  - (e) Kingham P was not even-handed in her determination of the parties' contentions, expressly noting that she "rejected" Waratah's contentions, without using the same appellation for the objectors, at Reasons [32], [485], [504], [1381], [1393], [1339] and [1790] and noting she 'dismissed' or 'overruled' Waratah's objections, but not those of other parties, at paragraphs [162], [387], [559], [1170] and [1256] and being dismissive in her summary of Waratah Coal's contentions at paragraph [954] but not those of the other parties;
  - (f) subsequent to Waratah Coal making an application for Kingham P to recuse herself from further determining outstanding issues in the Land Court Proceedings, Kingham P changed the privacy setting for the "kinghamyvette" Instagram account to Private;
46. In connection with the Private Communications:
- (a) the Private Communications were a clear transgression of ordinary judicial practice, in particular by consulting with respect to the Practice Direction in private which was a departure from the ordinary practice of such consultations occurring in public;
  - (b) the Private Communications, viewed objectively, demonstrated that Kingham P impartiality might have been compromised by something said in the course of the Private Communications, or by some aspect of the relationship exemplified by the Private Communications;
  - (c) the Private Communications give the appearance of a departure from independence and impartiality and undermined the judicial system;
47. Assessed collectively, the Presentation, Instagram Post and Private Communications, breach the requirements for due process and the minimum standard of treatment.

### Reasonable Expectations

48. Zeph's investment was treated in an arbitrary and discriminatory manner that did not accord with Zeph's reasonable expectations based on specific representations made by the State and a pattern of conduct established over many years.
49. In *Tecmed v Mexico*, for example, the tribunal stated that the fair and equitable treatment obligation:

*“requires the Contracting Parties to provide to international investments treatment that does not affect the basic expectations that were taken into account by the foreign investor to make the investment. The foreign investor expects the host State to act in a consistent manner, free from ambiguity and totally transparently in its relations with the foreign investor, so that it may know beforehand any and all rules and regulations that will govern its investments, as well as the goals of the relevant policies and administrative practices or directives, to be able to plan its investment and comply with such regulations”.*<sup>1</sup>
50. The actions of the Queensland Government and the decision of the Land Court have frustrated Zeph's reasonable expectations.
51. The Queensland Government has not been pro-investment; it has not given Zeph's Waratah Coal full, or any adequate, support; it has not administered its laws and regulations in a fair, stable and predictable manner; and Zeph's Waratah Coal has not received the treatment that an applicant for a mining lease would expect to receive in the ordinary course of events. Instead, the Government has treated Zeph's Waratah Coal in an arbitrary and discriminatory fashion.
52. The Land Court Decision and Ministers' Decisions violated all of Zeph's reasonable expectations as an investor in Australia, including the expectation that it would be afforded justice in accordance with the rule of law and be able to enjoy the benefits of the EPCs and the Project (including the benefit of obtaining a mining lease upon complying with the necessary formalities, and proceeding to benefit from the mining and sale of the coal in the relevant areas).
53. Zeph has been denied fair and equitable treatment because:
  - (a) it has not been treated fairly, having regard to the legitimate expectations that it held as a consequence of the actions and words of the Commonwealth and Queensland Governments;
  - (b) Zeph's Waratah Coal was denied due process in the Land Court proceedings;
  - (c) the Land Court Decision and the Ministers' Decisions were arbitrary and capricious, inconsistent with previous relevant jurisprudence and affected by actual bias;
  - (d) the Queensland Government unfairly and unreasonably changed its position in relation to Zeph's investment. In particular and without limitation, the decision of

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<sup>1</sup> *Tecnicas Medioambientales Tecmed SA v United Mexican States*, ICSID Case No. ARB(AF)/00/2, award of 29 May 2003, ¶154



the Land Court to reject the application for an environmental authority and the decision of the relevant Minister to not grant the environmental authority, after having previously advised that the EMP satisfied all of the requirements for the environmental authority, constituted a breach of the representations which had been made by the Commonwealth and Commonwealth's State of Queensland and thereby a breach of Zeph's Waratah Coal's entitlements under article 8 of Chapter 8 of SAFTA to fair and equitable treatment and to the minimum standard of treatment;

- (e) the basic expectations Zeph had in making its investment have all been affected adversely by the unfair conduct of the Commonwealth and Queensland Governments.

### **Expropriation**

- 54. Article 13 of Chapter 8 of SAFTA relevantly provides that a no "*Party shall expropriate or nationalise a covered investment either directly or indirectly through measures equivalent to expropriation or nationalisation*" unless certain specific criteria are satisfied.
- 55. Annex 8-A of SAFTA relevantly provides:
  - 1. *An action or a series of actions by a Party cannot constitute an expropriation unless it interferes with a tangible or intangible property right or property interest in an investment.*
  - 2. *Article 13.1 (Expropriation and Nationalisation) addresses two situations. The first is direct expropriation, where an investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure.*
  - 3. *The second situation addressed by Article 13.1 (Expropriation and Nationalisation) is indirect expropriation, where an action or series of actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.*
    - a. *The determination of whether an action or series of actions by a Party, in a specific fact situation, constitutes an indirect expropriation, requires a case-by-case, fact-based inquiry that considers, among other factors:*
      - i. *the economic impact of the government action, although the fact that an action or series of actions by a Party has an adverse effect on the economic value of an investment, standing alone, does not establish that an indirect expropriation has occurred;*
      - ii. *the extent to which the government action interferes with distinct, reasonable investment-backed expectations; and*
      - iii. *the character of the government action.*
- 56. The Land Court Decision and the Ministers' Decisions have had the effect of expropriating the Project Assets, because it has rendered them valueless.

57. The effect of the Land Court Decision and the Ministers' Decisions is to deprive Zeph and Waratah Coal, in substance, of the whole of the economic benefit of the EPCs (including the opportunity to proceed to a mining lease). In such circumstances, international tribunals consider that an expropriation has occurred.<sup>2</sup> Zeph's Waratah Coal has been deprived, in this instance, of the opportunity to develop a mine of significant scope and value.
58. Australia is bound by SAFTA and the measures that it has taken may be regarded as illegal in international law if they effect or condone a breach of that treaty. As the Tribunal explained in *Saipem v Bangladesh*, "the fact that the [treaty] may not be applicable in domestic courts as a matter of national law is irrelevant" because a breach of the treaty would engage the state's international obligations.<sup>3</sup> In the present case, the Land Court Decision and the Ministers' Decisions triggered breaches of SAFTA.
59. As a result of the breaches of SAFTA set out above Zeph's Waratah Coal has not yet been awarded a mining lease. In *Tethyan Copper Company Pty Limited v Islamic Republic of Pakistan*, ICSID Case No. ARB/12/1, an ICSID tribunal found that treaty breaches occurred when actions by the host state prevented the investor from converting its exploration permit into a mining permit. The same reasoning is applicable to this dispute.
60. For the reasons set out in detail above, the Commonwealth has breached its obligations to Zeph under the SAFTA through its unfair and inequitable conduct that has deprived Zeph of the value of its investment as determined by the net present value of the Project.

**SECTION F: RELIEF SOUGHT AND THE APPROXIMATE AMOUNT OF DAMAGES CLAIMED (SUBJECT TO EXPERT EVIDENCE).**

61. Zeph's damages are to be assessed in accordance with accepted principles of international law, and Zeph is entitled to full compensation for the loss it has suffered as a result of the breaches.<sup>4</sup>
62. Article 13.2(b) of Chapter 8 of SAFTA provides that the compensation payable upon an expropriation shall "be equivalent to the fair market value of the expropriated investment immediately before the expropriation took place". Article 13.3 of Chapter 11 of SAFTA provides that the compensation shall include "interest at a commercially reasonable rate".
63. (Due Process) As a consequence of the measures taken by the Commonwealth and the Commonwealth's State of Queensland (and the associated breaches), Zeph's Waratah Coal lost the opportunity to have a fair hearing in the Land Court which followed precedent and established jurisprudence.
64. But for the failure to afford Zeph's Waratah Coal a fair hearing in the Land Court in accordance with precedent and established jurisprudence:

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<sup>2</sup> See, for example, *Tecnicas Medioambientales Tecmed SA v United Mexican States*, ICSID Case No ARB(AF)/00/3, award of 29 May 2003

<sup>3</sup> *Saipem SpA v The People's Republic of Bangladesh*, ICSID Case No ARB 05/07, Award of 30 June 2009, paragraph 165

<sup>4</sup> *Factory at Chorzow (Merits)* PCIJ Series A No.17, Judgment of 13 September 1928 at 47.

- (a) the outcome of the Land Court proceedings would have been the same as every prior comparable mining objection hearing in the Land Court, that is, a recommendation to approve the mining lease application and environmental approval application, subject to reasonable and relevant conditions; and
  - (b) thereafter the decision-making Ministers would both have followed all past practice and followed the recommendation of the Land Court and approved the mining lease and the environmental approval subject to reasonable and relevant conditions; and
  - (c) thereafter Zeph's Waratah Coal would have developed, sold or commercialised the Project which as at 25 November 2022 had a net present value of AU\$69 billion.
65. (Reasonable *expectations*) But for the failure of the decision-making Ministers to approve the mining lease and environmental authority (in accordance with Zeph's Waratah Coal's reasonable expectations that such approvals would be given):
- (a) the decision-making Ministers would both have approved the mining lease application and the environmental authority application; and
  - (b) thereafter Zeph's Waratah Coal would have developed, sold or commercialised the Project which as at 25 November 2022 had a net present value of AU\$69 billion.
66. As at 25 November 2022, when the breaches of the SAFTA occurred, the net present value of the Project Assets was around AU\$69 billion. Exhibit "**Exh. C-034**" is a true copy of the net present value analysis.
67. Zeph reserves the right to add to or amend its claims for compensation.

## Index to Exhibits

<b>Exhibit ID.</b>	<b>Description</b>	<b>Paragraph number</b>
<b>Exh. C-001</b>	Corporate structure of Zeph with exhibits	1.3
<b>Exh. C-002</b>	MLA 70454 dated 12 May 2011	11.2
<b>Exh. C-003</b>	EAA (EPML 00571313) dated 30 May 2011	11.2
<b>Exh. C-004</b>	Decision letter of the Department of Environment and Science issued to Waratah Coal stating that the EAA was refused dated 3 April 2023	16
<b>Exh. C-005</b>	Decision letter of the Minister for Resources issued to Waratah Coal stating that the MLA was refused, dated 17 May 2023	17
<b>Exh. C-006</b>	EPC 1040 and 1079	18.3
<b>Exh. C-007</b>	“Coordinated project” declaration of the Queensland Coordinator General dated 28 November 2008	18.4(a)
<b>Exh. C-008</b>	Decision of the Commonwealth Minister for Environment dated 20 March 2009	18.4(b)
<b>Exh. C-009</b>	Letter Queensland Coordinator General to Waratah Coal dated 9 August 2013	18.4(e)
<b>Exh. C-010</b>	Coordinator-General report dated 8 August 2013	18.4(f)
<b>Exh. C-011</b>	Controlled Action Approval under EPBCA of the Commonwealth Minister for Environment dated 19 December 2013.	18.4(h)
<b>Exh. C-012</b>	Galilee Basin State Development Area made under the <i>State Development and Public Works Organisation Act 1971</i> made June 2014.	18.4(i)
<b>Exh. C-013</b>	Letter of advice from Department of Environment and Heritage Protection dated 6 November 2015	18.4(j)
<b>Exh. C-014</b>	Draft Environmental Authority issued by DES dated 4 December 2015	18.4(k)
<b>Exh. C-015</b>	Queensland Government <i>CoalPlan 2030 issued in 2010</i>	22.6
<b>Exh. C-016</b>	May 2014 Queensland Government Department of Natural Resources and Mines policy paper	22.9
<b>Exh. C-017</b>	June 2022 Queensland Government “Queensland resource industry development plan”	22.10
<b>Exh. C-018</b>	Photograph of Project site visit depicting Queensland State Premier Anna Bligh and the then Queensland Treasurer Andrew Fraser and Waratah Coal executives.	23.1
<b>Exh. C-019</b>	Letter from Premier Anna Bligh to Waratah Coal dated 6 November 2009	23.2
<b>Exh. C-020</b>	Letter from current Prime Minister of Australia, Hon Anthony Albanese to Waratah Coal granting Major Project Facilitation Status 5 November 2009	23.3
<b>Exh. C-021</b>	Letter from the Commonwealth Government General Manager for Department of Infrastructure, Transport, Regional Development and Local Government to Waratah Coal dated 24 November 2009	23.4
<b>Exh. C-022</b>	Letter from the Queensland Government Deputy Co-ordinator-General, Queensland Government Department of Infrastructure and Economic Development, to Waratah Coal 7 December 2009	23.5
<b>Exh. C-023</b>	Letter from Hon. Stirling Hinchliffe, Minister for Infrastructure	23.6

	and Planning to Waratah Coal dated 10 December 2009.	
<b>Exh. C-024</b>	Letter from the Hon. Stephen Robertson, Minister for Natural Resources, Mines and Energy and Minister for Trade to Waratah Coal dated 24 December 2009	23.7
<b>Exh. C-025</b>	Transcript of the Queensland Premiers speech in Beijing on 22 June 2011	23.8
<b>Exh. C-026</b>	Letter from the Premier of Queensland Campbell Newman to Waratah Coal dated 20 September 2012	23.9
<b>Exh. C-027</b>	Letter to Waratah Coal from the Deputy Premier of Queensland, the Hon Jeff Seeney MP dated 12 December 2012	23.10
<b>Exh. C-028</b>	Letter from current Prime Minister Hon Anthony Albanese, the then Federal Minister for Infrastructure and Transport, renewing the grant of Major Project Facilitation status 15 May 2013	23.11
<b>Exh. C-029</b>	<a href="https://www.bioregionalassessments.gov.au/assessments/12-resource-assessment-galilee-subregion/12313-china-first-coal-project">https://www.bioregionalassessments.gov.au/assessments/12-resource-assessment-galilee-subregion/12313-china-first-coal-project</a>	23.12
<b>Exh. C-030</b>	Letter from the Deputy Premier Minister for State Development, Infrastructure and Planning dated 17 November 2014.	23.15
<b>Exh. C-031</b>	Declaration of the Coordinator General amending the document declaring the Galilee Basis SDA dated November 2014.	23.14
<b>Exh. C-032</b>	Decision in <i>Adani Mining Pty Ltd v Land Services of Coast and Country Inc &amp; ors</i> [2015] QLC 48)	24.2
<b>Exh. C-033</b>	Statement of Sameh Morris Iskander made 13 October 2023 in respect of in respect of the conduct of the Land Court proceedings and the conduct of Kingham P in the Land Court Decision.	25.2
<b>Exh. C-034</b>	Net present value analysis of Galilee Project prepared by Mr Nui Harris, a director of Waratah Coal as at 25 November 2023.	66

**Address and Communications**

Please address all future correspondence and communications to Zeph's Director and representative, Clive Palmer, as follows

**Deliveries** - 17 Floor 240 Queens St, Brisbane, Queensland, Australia.

Call 38322044 during business hours to arrange for acceptance.

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Yours sincerely



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