



COMMERCE COMMISSION

**APPLICATION FOR AUTHORISATION  
UNDER SECTION 58 OF THE  
COMMERCE ACT 1986**

**Order made by the Commerce Commission  
under section 100 of the Commerce Act 1986**

Order made by: Douglas Webb

Date of Order: 12 May 2003

## **Background**

1 Preussag Energie GmbH, Shell Exploration New Zealand Limited/Shell (Petroleum Mining) Company Limited and Todd (Petroleum Mining Company) Limited applied to the Commerce Commission (“Commission”) under s 58(2) of the Commerce Act 1986 (“Act”) for an authorisation to give effect to provisions of an arrangement between them to which ss 27 and/or 30 of the Act might apply (“Application”).

2 The Commission makes this order (“Order”) under s 100 of the Act in relation to the Application.

3 This Order deals with one category of Information in relation to the Application, namely “Confidential Information”.

4 For the purposes of this Order:

“Deed of Undertaking” means the deed of undertaking in the form prescribed in Schedule 1 of this Order;

“Information” means information, documents, and evidence, including email and any other electronic communications, arising out of the Application; and

“Confidential Information” means Information that is confidential or commercially sensitive which is designated by the Party supplying the Information or by the Commission as confidential information.

## **Access to, and use and disclosure of, Information**

5 The Commission orders that:

(a) No person may obtain access to, or publish, or communicate, or give evidence in relation to any Confidential Information except as provided for in this Order;

(b) The Commission may authorise access to Confidential Information to specified persons on the terms of this Order;

(c) The Confidential Information may be disclosed to Commission members and Commission employees involved in the Application, and to any person designated by the Commission on terms the Commission considers appropriate;

(d) Any person who receives the Confidential Information pursuant to this Order:

(i) must use the Confidential Information only in the conduct of the Commission proceedings in relation to the Application;

- (ii) must not use the Confidential Information for any other purpose, including business, governmental, commercial, or other administrative or judicial proceedings; and
- (iii) will return or destroy all copies of the Confidential Information, except Confidential Information belonging to them, on the expiry of the later of:

- (aa) this Order (or any order revoking or varying this Order);
  - or

- (bb) any judicial proceedings resulting from the Application;

- (e) In the event that Matthew Burgess, Senior Associate of Charles River Associates (Asia Pacific) Limited is provided with access to Confidential Information he shall have access solely in order to enable him to provide the necessary technical assistance for input of Commission data into the economic model provided to the Commission by Charles River Associates (Asia Pacific) Limited provided that he has first signed and delivered to the Commission a Deed of Undertaking prior to receiving any Confidential Information;

- (f) Any Information which is not designated as Confidential Information is deemed to be Information which the Commission may disclose to the public (including via its website); and

- (g) For the avoidance of doubt, a Party supplying Information to the Commission in relation to the Application may use and disclose its own Information (including Confidential Information) at its discretion.

6 No person may obtain access to the Confidential Information until they have first signed a Deed of Undertaking on terms set out under this Order.

### **Commission review of designations**

7 The Commission may review of its own motion any designation of Confidential Information specified by any person. Upon review, the Commission may determine that all or part of the Information claimed to be Confidential Information should not be entitled to such treatment. Where the Commission makes such a determination, it will notify the person that designated or supplied the Information of its decision and the reasons therefore. Any Information subject to a review under this clause may not be disclosed to any person (other than at the discretion of the person who supplied the Information to the Commission) until the Commission has made a final decision on designation in accordance with this Order.

### **Other matters**

8 The Commission may, at any time, modify, vary or revoke this Order.

9 For the avoidance of doubt, information not designated as Confidential Information and provided to the Commission during the course of the

determination of the Application and in the Commission's possession may be made available by the Commission to the public (including via the Commission's website) as if the Commission had received a request for disclosure of such information under the Official Information Act 1982 and no grounds for withholding the information exist under that Act.

- 10 This Order has effect until 20 working days following the date on which the Commission issues a determination of the Application.

DATED this 12 day of May 2003



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Douglas Webb  
Commissioner  
Commerce Commission