



# *Government Gazette*

of the State of

New South Wales

**Number 603–Electricity and Water**

**Friday, 23 December 2022**

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New South Wales

# Coal Market Price Emergency (Directions for Power Stations) Notice 2022

under the

Energy and Utilities Administration Act 1987

The Minister for Energy makes the following notice under the *Energy and Utilities Administration Act 1987*, Schedule 3, clause 6.

MATT KEAN, MP  
Minister for Energy

Dated 23 December 2022 at 4:23pm

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## Coal Market Price Emergency (Directions for Power Stations) Notice 2022

under the

Energy and Utilities Administration Act 1987

### Part 1 Preliminary

#### 1 Name of notice

This notice is the *Coal Market Price Emergency (Directions for Power Stations) Notice 2022*.

#### 2 Commencement

This notice commences on the day on which it is made.

#### 3 Definitions

In this notice—

**coal fired power station** means a coal fired power station that is a Registered participant under the *National Electricity (NSW) Law* in the NSW region of the national electricity market.

**NSW region** means the region identified as the New South Wales region in the Regions Publication, published by the Australian Energy Market Operator Limited, ACN 072 010 327, under the *National Electricity Rules*, clause 2A.1.3.

**the Act** means the *Energy and Utilities Administration Act 1987*.

**thermal coal** means coal suitable for use in a coal fired power station.

**Note—** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this notice.

#### 4 Coal market price emergency

This notice is made on the basis the Premier, by written order dated 22 December 2022, declared a coal market price emergency.

#### 5 Application of notice

This notice applies to the following persons—

- (a) AGL Macquarie Pty Ltd, ACN 167 859 494,
- (b) EnergyAustralia NSW Pty Ltd, ACN 163 935 635,
- (c) Origin Energy Eraring Pty Ltd, ACN 164 994 012,
- (d) Sunset Power International Pty Ltd, ACN 162 696 335, trading as Delta Electricity.

## Part 2 Directions

### 6 Introduction

This Part sets out the directions of the Minister to persons to which this notice applies.

### 7 Direction about maintaining stockpile of coal

- (1) The Minister directs that a person to which this notice applies must plan to maintain a stockpile of coal that is more than the expected demand by the coal fired power station for coal for the next 30 days.
- (2) For subsection (1), the Minister directs that a person to which this notice applies must offer to enter into agreements with coal suppliers for the supply of thermal coal.

### 8 Direction about prohibition on reselling or offering to resell coal

- (1) The Minister directs that a person to which this notice applies must not sell, or offer to sell, coal to another person.
- (2) Subclause (1) does not apply in relation to a coal supply agreement entered into before 9 December 2022.

### 9 Direction about reporting

- (1) The Minister directs that a person to which this direction applies must, for each calendar month, prepare a report about the following—
  - (a) new offers by the person to purchase coal, including the proposed price of the thermal coal, the quantity of coal proposed to be purchased and the duration of the proposed agreement to purchase coal,
  - (b) the prices, average specific energy and quantity of coal delivered from individual agreements to supply coal to the coal fired power station,
  - (c) on the last day of the month—the quantity of coal in the coal fired power station's stockpile and the power station's expected demand for coal for the next 30 days,
  - (d) the quantity of actual and contracted coal delivered for each of the agreements to supply coal for the coal fired power station.
- (2) The first monthly report prepared under subsection (1) must relate to the period starting on the date this direction commences and ending on 31 January 2023.
- (3) The Minister directs that a person to which this direction applies must give the report required to be prepared under subsection (1) for a calendar month to the Minister and the regulator not later than the 6th day of the following calendar month.



New South Wales

# Coal Market Price Emergency (Directions for Coal Mines) Notice 2022

under the

Energy and Utilities Administration Act 1987

The Minister for Energy makes the following instrument under the *Energy and Utilities Administration Act 1987*, Schedule 3, clause 6.

MATT KEAN, MP  
Minister for Energy

Dated 23 December 2022 at 4:23pm

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## Coal Market Price Emergency (Directions for Coal Mines) Notice 2022

under the

Energy and Utilities Administration Act 1987

### Part 1 Preliminary

#### 1 Name of notice

This notice is the *Coal Market Price Emergency (Directions for Coal Mines) Notice 2022*.

#### 2 Commencement

This notice commences on the day on which it is made.

#### 3 Definitions

In this notice—

**coal fired power station** means a coal fired power station that is a Registered participant under the *National Electricity (NSW) Law* in the NSW region of the national electricity market.

**coal supplier**—see section 5.

**coal supply agreement** means an agreement to supply thermal coal.

**NSW region** means the region identified as the New South Wales region in the Regions Publication, published by the Australian Energy Market Operator Limited, ACN 072 010 327, under the *National Electricity Rules*, clause 2A.1.3.

**the Act** means the *Energy and Utilities Administration Act 1987*.

**thermal coal** means coal suitable for use in a coal fired power station.

**Note**— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this notice.

#### 4 Coal market price emergency

This notice is made on the basis the Premier has, by written order dated 22 December 2022, declared a coal market price emergency.

#### 5 Application of notice

This notice applies to the persons (**coal suppliers**) listed in Schedule 1, column 1.



## Part 2 Directions

### 6 Introduction

This Part sets out the directions of the Minister to coal suppliers.

### 7 Direction about selling coal for more than maximum price per metric tonne delivered

- (1) The Minister directs that a coal supplier must not sell, or offer to sell, thermal coal for use in a coal fired power station to another person at a delivered price that is more than—
  - (a) for thermal coal that has a specific energy of 5,500kcal/kg—the equivalent of AUD125 per metric tonne, or
  - (b) for thermal coal that has a specific energy other than 5,500kcal/kg—the equivalent of AUD0.02273/kcal/kg.
- (2) Subsection (1) does not apply to the extent the sale or offer to sell is under an agreement, including a binding terms sheet, entered into before 9 December 2022.

### 8 Direction about accepting offers from coal fired power stations

- (1) The Minister directs that a coal supplier must enter into an agreement to supply any thermal coal that is not subject to a coal supply agreement if—
  - (a) the coal supplier receives an offer from a person to purchase coal for use in a coal fired power station for which the coal supplier has supplied coal in the previous 3 years, and
  - (b) the offer is on terms that are substantially the same as the terms on which a coal supplier ordinarily supplies thermal coal and at a price that is—
    - (i) equal to the price referred to in section 7(a) or (b), or
    - (ii) less than the price referred to in section 7(a) or (b) and agreed to by the coal supplier.
- (2) To avoid doubt, subsection (1) does not prevent a coal supplier accepting an offer from a person to purchase coal for use in a coal fired power station for which the coal supplier has not previously supplied coal or for which the coal supplier has not supplied coal in the previous 3 years.

### 9 Direction about reserving proportion of expected future quarterly coal production

- (1) The Minister directs that a coal supplier must, for each quarterly period, make the lesser of the following amounts of coal available for existing or potential coal supply agreements to supply coal fired power stations at least 60 days before the start of the quarterly period—
  - (a) the percentage of coal, set out in Schedule 1, column 2 set out opposite the coal supplier's name, that the coal supplier reasonably expects to produce during the quarterly period,
  - (b) the amount of coal the coal supplier expects to produce during the quarterly period excluding coal required to meet agreements entered into before 9 December 2022,
  - (c) the default amount of coal for the coal supplier.
- (2) In this section—

**default amount**, of coal for a coal supplier, means the number of metric tonnes of coal set out in Schedule 1, column 3 opposite the coal supplier's name.

**quarterly period** means the following—
  - (a) for the first quarterly period—the period—

- (i) starting on 1 April 2023, and
- (ii) ending on 30 June 2023,
- (b) otherwise—the following periods in each year—
  - (i) the period from 1 January to 31 March,
  - (ii) the period from 1 April to 30 June,
  - (iii) the period from 1 July to 30 September,
  - (iv) the period from 1 October to 31 December.

#### 10 Direction about priority to be given to certain coal fired power stations

The Minister directs that a coal supplier must prioritise the delivery of coal to coal fired power stations who meet the following criteria over other coal supply agreements—

- (a) a coal fired power station that has a coal supply agreement with the coal supplier,
- (b) a coal fired power station that has a stockpile of thermal coal that is expected to be less than the expected consumption of thermal coal by the power station for the next 30 days.

#### 11 Direction about reporting

- (1) The Minister directs that a coal supplier must, for each calendar month, prepare a report about the following—
  - (a) the prices, average specific energy and quantity of coal delivered to individual coal fired power stations by the coal supplier,
  - (b) the total quantity of coal produced by the coal supplier and sent for delivery,
  - (c) the quantity and price of coal offered under new coal supply agreements to individual coal fired power stations,
  - (d) the quantity of actual and contracted deliveries of coal for each coal supply agreement held by the coal supplier with coal fired power stations,
  - (e) forecast amounts of coal to be delivered by the coal supplier to coal fired power stations for the next 30 days.
- (2) The Minister directs that the report prepared under subsection (1) must also include information about the amount of coal a coal supplier expects to produce for each quarter until 30 June 2024.
- (3) For the first report prepared under subsection (1), the report must cover the period starting on the date this direction is given and ending on 31 January 2023.
- (4) The Minister directs that a coal supplier must give the report required to be prepared under subsection (1) for a calendar month to the Minister and the regulator not later than the 6th day of the following calendar month.
- (5) In this section—

**quarter** means the following periods in a year—

  - (a) the period from 1 January to 31 March,
  - (b) the period from 1 April to 30 June,
  - (c) the period from 1 July to 30 September,
  - (d) the period from 1 October to 31 December.

## Schedule 1 Reservations of coal production

<b>Coal supplier</b>	<b>Percentage of coal—s 9(1)(a)</b>	<b>Metric tonnes of coal—s 9(1)(c)</b>
Centennial Airly Pty Limited ABN 84 078 693 722	75%	240,000
Centennial Mandalong Pty Limited ABN 74 101 508 892	65%	540,000
Centennial Myuna Pty Limited ABN 95 101 508 981	100%	260,000
Centennial Springvale Pty Limited ABN 64 052 096 812	95%	540,000
Great Southern Energy Pty Ltd ABN 40 621 409 201	100%	300,000
Bulga Coal Management Pty Limited ABN 48 055 534 391	15%	250,000
Ravensworth Operations Pty Limited ABN 12 098 937 761	15%	250,000
Mangoola Coal Operations Pty Limited ABN 54 127 535 755	30%	490,000
Mt Owen Pty Limited ABN 83 003 827 361	10%	140,000
Mach Energy Australia Pty Ltd ABN 34 608 495 441 and J.C.D. Australia Pty Ltd ABN 49 002 017 209	10%	120,000
Bengalla Mining Company Pty Limited ABN 32 053 909 470	15%	280,000
Wilpinjong Coal Pty Ltd ABN 87 104 594 694	50%	1,250,000

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