

IN THE WESTERN AUSTRALIAN ENERGY REVIEW BOARD

No. 3 of 2008

BETWEEN:

INDEPENDENT MARKET OPERATOR

Applicant

and

ALINTA SALES PTY LTD  
ACN 089 531 984

Respondent

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**MEMORANDUM OF CONSENT ORDERS**

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The parties consent to orders that:

1. For the purpose of this order, 'Confidential Information' means the extracts of the operating agreement between the Respondent and Alcoa of Australia Ltd dated 8 September 2006 provided to the Board and the information contained in those extracts.
2. The Applicant must:
  - (1) Keep the Confidential Information confidential at all times and must not use the Confidential Information for any purpose other than the conduct of this proceeding.
  - (2) Subject to paragraph 4 below, will not disclose the Documents, the Information or any part of them directly or indirectly to any person, including the parties to this proceeding, their employees and agents, unless:

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Filed by Deacons on behalf of the respondent  
Deacons  
Lawyers  
Level 39, BankWest Tower  
108 St Georges Terrace  
PERTH WA 6000

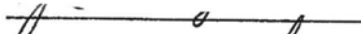
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Shaun Temby

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- (a) the Applicant has obtained the prior written consent of Deacons; or
  - (b) the disclosure is expressly authorised by the Board (after hearing from the parties).
- 3. The Applicant will:
  - (1) establish and maintain effective security measures to safeguard the Confidential Information from unauthorised access or use;
  - (2) not copy the Confidential Information without the Respondents prior written approval; and
  - (3) immediately notify the Respondent of any suspected or actual unauthorised use, copying or disclosure of the Confidential Information of which it becomes aware.
- 4. The Applicant may only disclose the Documents and the Information to a person listed in the Schedule to these Orders or any other person who has been approved in writing by the Respondent. Any such person will be subject to the same obligations of confidentiality imposed on the Applicant by these Orders.
- 5. At the conclusion of this proceeding, the Applicant will ensure that:
  - (1) the Confidential Information and all copies of any of it is returned to the Respondent; and
  - (2) all documents made by the Applicant or given to the Applicant recording the Information are destroyed.
- 6. Within 7 days of the making of this Order, the Respondent will file and serve the Confidential Information together with any further written submissions dealing solely with issues arising out of the Confidential Information and the effect that it has on the issues before the Board.
- 7. Within 7 days of being served with the Confidential Information and any submissions from the Respondent, then the Applicant will file and serve Submissions responding to those filed by the Respondent.

8. In any further hearing in the proceeding, no reference to the Confidential Information shall be made in any open hearing.
9. The Confidential Information, including any document that refers to the Confidential Information (whether filed by the parties or produced by the Board), shall be held by the Board on a confidential basis and under seal.

Dated: 23 October 2009

  
Solicitors for the Applicant

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Solicitors for the Respondent

**Schedule**

**Caroline Brown – Lavan Legal**

**Louise Tydde – Lavan Legal**

**Kimberley Chamberlain – Lavan Legal**

**Sarah Shneier – Lavan Legal**