



## HIGH COURT OF AUSTRALIA

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#### Details of Filing

File Number: S122/2025  
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#### Important Information

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IN THE HIGH COURT OF AUSTRALIA  
SYDNEY REGISTRY

No. S122 of 2025

BETWEEN:

**MAYFIELD DEVELOPMENT CORPORATION PTY LTD ACN 154 495 048**

Appellant

and

**NSW PORT OPERATIONS HOLD CO PTY LTD ACN 163 262 351**

First Respondent

**PORT BOTANY OPERATIONS PTY LTD ACN 161 204 342**

Second Respondent

**PORT KEMBLA OPERATIONS PTY LTD ACN 161 246 582**

Third Respondent

**STATE OF NEW SOUTH WALES, DEPARTMENT OF ATTORNEY GENERAL  
AND JUSTICE (CORRECTIVE SERVICES NSW)**

Fourth Respondent

**APPELLANT'S CHRONOLOGY**

**Part I:** This chronology is in a form suitable for publication on the internet.

**Part II:**

Date	Event	Reference
1 October 1974	Commencement of the <i>Trade Practices Act 1974</i> (Cth), which later became the <i>Competition and Consumer Act 2010</i> (Cth).	

<b>Date</b>	<b>Event</b>	<b>Reference</b>
17 August 1995	Commencement of s 15 of the <i>Competition Policy Reform Act 1995</i> (Cth) which amends s 51 of the <i>Trade Practices Act 1974</i> (Cth).	
September 2011	The New South Wales government announces it will privatise Port Botany.	<b>SOF [32]: ABFM 24</b>
27 July 2012	New South Wales government announces it will proceed with the long-term lease of both Port Botany and Port Kembla.	<b>SOF [59] ABFM 42</b>
26 November 2012	Commencement of the <i>Ports Assets (Authorised Transactions) Act 2012</i> (NSW).	
15 March 2013	The compensation provisions were proposed to bidders for Port Botany and Port Kembla in draft Port Commitment Deeds.	<b>SOF [110], [112] ABFM 61</b>
31 May 2013	The Port Commitment Deeds between the Fourth Respondent (the <b>State</b> of New South Wales) and the First to Third Respondents ( <b>NSW Ports</b> ) are executed.	<b>J [2] CAB 11</b>
18 June 2013	The New South Wales Government announced its intention to grant a long-term lease of the Port of Newcastle.	<b>SOF [131] ABFM 70</b>
24 December 2013	Mayfield, the State and others enter into a Deed of Settlement and Release.	<b>J [9] CAB 13</b>
30 May 2014	Port of Newcastle privatised. The Newcastle Port Commitment Deed entered into between the State and Port of Newcastle Operations Pty Ltd, Port of Newcastle Investments (Property) Pty Ltd and Port of Newcastle Investments Pty Ltd.	<b>J [14] CAB 15</b>
10 December 2018	The ACCC commences the ACCC Proceeding.	<b>J [144] CAB 56</b>
31 May 2019	Mayfield commences this proceeding in the Federal Court against NSW Ports (the <b>Mayfield Proceeding</b> ).	<b>CAB 132</b>
15 July 2019	NSW Ports applies for orders staying the Mayfield Proceeding until the determination of the ACCC Proceeding.	<b>J [18] CAB 16</b>

Date	Event	Reference
19 August 2019	Justice Jagot makes orders staying the Mayfield Proceeding by consent.	<b>J [18] CAB 16</b>
3 February 2020	Mayfield applies for the stay of the Mayfield Proceeding to be lifted. NSW Ports opposes the lifting of the stay.	<b>J [20] CAB 16; J [23] CAB 17</b>
5 March 2020	Justice Jagot dismisses the application by Mayfield to lift the stay of the Mayfield Proceeding.	<b>J [22] CAB 16</b>
18 May 2020	Mayfield files second application to lift the stay of the Mayfield Proceeding for the limited purpose of filing an amended originating application and amended statement of claim, and seeking discovery against third parties.	<b>J [28] CAB 18</b>
22 May 2020	Justice Jagot grants leave to Mayfield to file and serve an amended originating application and statement of claim, but otherwise dismisses Mayfield's application.	<b>J [28] CAB 18</b>
October 2020 to April 2021	Trial of the ACCC Proceeding before Jagot J.	<b>J [29] CAB 18</b>
29 June 2021	Justice Jagot dismisses the ACCC Proceeding: <i>Australian Competition and Consumer Commission v NSW Ports Operations Hold Co Pty Ltd</i> [2021] FCA 720 ( <b>ACCC v NSW Ports (Trial)</b> ).	<b>J [29] CAB 18</b>
27 July 2021	The ACCC files a notice of appeal against <i>ACCC v NSW Ports (Trial)</i> [2021] FCA 720 (the <b>ACCC Appeal</b> ).	<b>J [30] CAB 19</b>
25 October 2021	Mayfield files an interlocutory application in the ACCC Appeal, seeking leave to intervene on conditions, pursuant to rule 36.32 of the <i>Federal Court Rules 2011</i> (Cth)	<b>J [31] CAB 19</b>
9 December 2021	Mayfield files written submissions in the ACCC Appeal.	<b>J [34]-[35] CAB 20</b>
15 February 2022	Mayfield seeks leave to intervene on the condition that such intervention be limited to the written submissions it filed on 9 December 2021	<b>J [37]-[38] CAB 20-21</b>
16 February 2022	Chief Justice Allsop, Yates and Beach JJ grant leave to Mayfield to intervene in the following terms: "Leave be granted to the interested party to intervene in the appeal pursuant to rule 36.32 of the	<b>J [38]-[39] CAB 21</b>

Date	Event	Reference
	<i>Federal Court Rules 2011</i> (Cth) on condition that such intervention is limited to written submissions filed by the interested party on 9 December 2021.”	
23 February 2023	The ACCC Appeal is dismissed: <i>Australian Competition and Consumer Commission v NSW Ports Operations Hold Co Pty Ltd</i> (2023) 296 FCR 364.	<b>J [40] CAB 22-25</b>
22 June 2023	The stay of the proceeding ordered on 19 August 2019 is lifted. NSW Ports submit to Lee J that the State of New South Wales is a necessary party to the Mayfield Proceeding.	<b>ABFM 4, 8-12</b>
27 June 2023	Mayfield writes to the solicitors for the State asking if the State wished to be joined as a party to the proceedings and stating that if the State “does not wish to be joined, we will communicate this to the Court and NSW Ports and no further steps will be taken to join the State to the Proceeding”.	<b>ABFM 13-14</b>
17 July 2023	The solicitors for the State of New South Wales respond to Mayfield and state “We confirm that, in light of those comments, our client does not object to being joined by your client as a defendant to these proceedings pursuant to the Court order”.	<b>ABFM 15</b>
18 July 2023	The State of New South Wales is joined to the Mayfield Proceeding by operation of orders made on 22 June 2023.	<b>CAB 128; ABFM 4-5</b>
2 February 2024	Justice Lee states three questions for separate determination.	<b>J [1] CAB 11; J [10] CAB 13</b>
4-5 April 2024	Hearing before the primary judge (McElwaine J)	<b>CAB 8</b>
22 May 2024	Justice McElwaine delivers the primary judgment answering the separate questions: <i>Mayfield Development Corporation Pty Ltd v NSW Ports Operations Hold Co Pty Ltd (No 4)</i> [2024] FCA 538.	<b>CAB 9-10</b>
28 June 2024	Mayfield files a Notice of Appeal against the decision of McElwaine J in relation to the derivative Crown immunity separate question.	<b>CAB 72-75</b>
18 July 2024	NSW Ports files a Notice of Contention against the decision of McElwaine J in relation to the estoppel/abuse and deed of release separate questions.	<b>CAB 129</b>

Date	Event	Reference
22 July 2024	The State files a Notice of Contention against the decision of McElwaine J in relation to the estoppel/abuse and deed of release separate questions.	<b>CAB 129</b>
10 March 2025	Hearing before the Full Court (Lee, Colvin and Stewart JJ)	<b>CAB 78</b>
3 April 2025	The Full Court dismisses Mayfield's appeal and the Respondents' Notices of Contention: <i>Mayfield Development Corporation Pty Ltd v NSW Ports Operations Hold Co Pty Ltd</i> (2025) 308 FCR 153 (Lee, Colvin and Stewart JJ).	<b>CAB 79</b>

**Dated: 25 September 2025**



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