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4 December 2006

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2 Page(s)

Attention: Scott Gregson / Sharon Clancy

Associate

Ben Warren

APPLICATION FOR AUTHORISATION A91009 AND A91010 LODGED BY TARONG ENERGY CORPORATION LIMITED, NEW HOPE CORPORATION LIMITED AND NEW ACLAND COAL PTY LTD

Consultant

John D Taylor

We refer to the pre-determination conference held at the Brisbane office at the ACCC on Monday 27 November 2006 in relation to the draft determination issued by the ACCC on 2 November 2006 proposing to grant applications for authorisation A91009 and A91010.

At the conclusion of the conference the Chair, Commissioner Willett, invited participants to lodge further submissions, should they so choose, by Monday 4 December 2006.

The purpose of this letter is to make further submissions on behalf of our client, International Gold Mining Limited.

As expressed during the course of the conference by our client's representative, Mr Phillips, our client is extremely concerned there is a risk Tarong Energy may in some way utilise the authorisation it seeks from the ACCC in a manner detrimental to our client in the current Federal Court proceedings involving our client and Tarong Energy.

A significant aspect of the Federal Court proceedings relates to Tarong Energy's conduct concerning its coal procurement strategy and the entering into of the coal supply agreement, the subject of the authorisation application, is clearly an integral part of Tarong Energy's coal procurement strategy.

Further, in the Federal Court proceedings, it will be necessary for the Court to carefully scrutinise Tarong Energy's conduct in the market for the supply of coal in the Tarong basin and whether Tarong's conduct, which our client alleges resulted in our client's prospectus being withdrawn, was engaged in for the purpose of, inter alia, deterring our client from engaging in competitive conduct in that market.



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Hayley Pobar on (07) 3307 4515

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The General Manager
Adjudication Branch
Australian Competition & Consumer Commission

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Therefore, it is our client's view that it is premature for the ACCC to grant the applications for authorisation in circumstances where the subject matter of the applications is so closely linked to the subject matter of the Federal Court proceedings.

However, if the ACCC is minded to grant the applications for authorisation, our client puts the ACCC on notice that it requires the ACCC to seek and obtain from Tarong Energy an undertaking to the effect that Tarong Energy will not in any way whatsoever utilise the authorisations it seeks from the ACCC in respect of the coal supply agreement in the Federal Court proceedings. If Tarong Energy is not prepared to give such an undertaking, we reserve our client's right to bring this matter before the Court.

Our client therefore requires that prior to making a final determination in respect of the applications for authorisation, the ACCC inform us of its position, and the position of Tarong Energy in relation to our request for the undertakings referred above to be given.

In further support of our client's contention that it is premature for the ACCC to grant the applications for authorisation is the fact that to the best of our client's knowledge, the Queensland State Government is yet to approve the relevant funding which would be needed to pay for the cost of the proposed transport corridor between the New Ackline Mine and the Tarong power stations.

We note that at the conclusion of the conference Commission Willett indicated that a copy of the minutes of the conference, which were to be prepared by an ACCC staff member, would be made available to participants. We note we have not as yet been provided with a copy of those minutes and accordingly we reserve the right to make further submission upon the receipt of those minutes, if our client feels it is appropriate to do so. Those further submissions, if they were to be made, would be made within two business days of the receipt by us of the minutes.

Finally, we have been instructed to request that the ACCC revisit our client's previous request to consider taking an active part in the Federal Court proceedings, particularly in light of the further information our client has provided to the ACCC, through our correspondence, over the last six weeks or so.

Yours faithfully
SHAND TAYLOR LAWYERS



John Saunders
Partner