



New South Wales

Joseph Tripodi

Minister for Ports and Waterways
Minister for Regulatory Reform
Minister for Small Business

Mr Graeme Samuel
Chairman
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Our Ref: G07/01664

3 DEC 2007

By Facsimile: (02) 6243 1199

Dear Sir

CAPACITY ALLOCATION FOR 2008 IN THE HUNTER VALLEY COAL CHAIN

The Commission has received an application from the Port Waratah Coal Services, Pacific National and QR Limited for a new system (called the Vessel Queue Management System (VQMS)) for 2008 for the allocation of the capacity in the Hunter Valley Coal Chain.

The NSW Government is concerned that the proposed VQMS has been presented to the industry in such a way that all producers have not had the same opportunity to establish the necessary commercial arrangements with rail providers that are central to the VQMS. The VQMS appears to be arbitrary in its effect as it will severely affect some producers and have only minor impact on others.

In addition the proposed VQMS will result in a breach of the lease that PWCS has with the NSW Government which requires it to provide open access to its loading facilities to all shippers of coal.

Newcastle Port Corporation is today lodging its own application seeking, in effect a continuation of the existing Capacity Balancing System for 2008 or until the Commission has completed its substantive review of the VQMS.

The NSW Government supports the Newcastle Port Corporation application as it will provide the Commission with the opportunity to thoroughly review the VQMS application and for the industry to continue to work on a long term solution to the allocation of capacity.

Yours sincerely

A handwritten signature in black ink that reads "Joe Tripodi".

Joe Tripodi
Minister for Ports and Waterways