



**Australian
Competition &
Consumer
Commission**

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Our Ref: A91072 - A91074
Contact Officer: Sarah Chubb
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4 December 2007

Dear Sir/Madam

Newcastle Port Corporation – applications for authorisation A91072-A91074 – interested party consultation

On 4 December 2007, the Australian Competition and Consumer Commission (the ACCC) received applications for authorisation A91072-A91074 from Newcastle Port Corporation.

Newcastle Port Corporation is seeking authorisation for a proposed system (the Proposed System) to address the imbalance between the demand for coal loading services at the Port of Newcastle and the capacity of the Hunter Valley coal chain in 2008. Newcastle Port Corporation has indicated that the Proposed System is, in all material respects, consistent with the Medium Term Capacity Balancing System (CBS) currently in effect but due to expire on 31 December 2007. Newcastle Port Corporation is seeking authorisation of the Proposed System from 1 January 2008 to 31 December 2008.

A full copy of the applications for authorisation and supporting submission is attached. A copy will also be available on the ACCC's website <www.accc.gov.au>.

The applications for authorisation lodged by Newcastle Port Corporation relate to the same issue as the applications lodged by Port Waratah Coal Services Limited (Port Waratah), Pacific National (NSW) Pty Limited (Pacific National) and QR Limited (QR) on 16 November 2007. In both cases, the applicants are seeking authorisation of arrangements designed to address the imbalance between the demand for coal loading services at the Port of Newcastle and the capacity of the Hunter Valley coal chain for 2008. However, while the system proposed by Newcastle Port Corporation is to effectively maintain the current CBS arrangement, Port Waratah, Pacific National and QR are seeking authorisation for a new Vessel Queue Management System (VQMS).

On 19 November 2007, the ACCC sent a letter to interested parties seeking their views in relation to the VQMS proposed by Port Waratah, Pacific National and QR. The purpose of this letter is to advise you of the applications lodged by Newcastle Port Corporation, and to seek your views in relation to Newcastle Port Corporation's Proposed System.

Interim authorisation

Newcastle Port Corporation has requested interim authorisation of the Proposed System due to the pending expiration of the authorisation of the CBS.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefits and detriments likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefits and detriments to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

The ACCC seeks your comments on the request for interim authorisation by **Tuesday, 11 December 2007** – comments can be provided by email or fax to the contacts shown in the attached publication, *Authorisation process – the basics*.

Request for submissions

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the Proposed System.

If you intend to provide a submission in relation to Newcastle Port Corporation's applications for authorisation, please do so by **Friday, 21 December 2007**. As noted above, submissions in relation to the request for interim authorisation should be provided by **11 December 2007**.

Alternatively, if you would like to provide comments orally, please contact Sarah Chubb on (02) 6243 1088 to organise a suitable time.

Submissions, including a record of oral submissions, will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

Timetable

The ACCC will progress its assessment of the applications in a timely manner. An indicative timetable is set out below for your information.

4 December 2007	Lodgement of applications for authorisation and supporting submission. Interim authorisation also requested.
4 December 2007	Public consultation process begins.
11 December 2007	Closing date for submissions on interim authorisation.
December 2007	ACCC decision regarding interim authorisation.
21 December 2007	Closing date for submissions on the substantive applications for authorisation from interested parties.
January 2008	Applicant responds to issues raised in the public consultation process.
February 2008	ACCC issues draft determination.
February/March 2008	Public consultation on draft determination including any conference if requested.
March/April 2008	ACCC issues final determination.

Please advise if you do not wish to make a submission at this time, but would like to be kept informed about the progress of this matter, including receiving a copy of the ACCC's draft and final determinations. In doing so, please provide the appropriate contact person and email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the applications.

This letter has been placed on the ACCC's public register.

If you wish to discuss any aspect of this matter, please do not hesitate to contact David Hatfield on (02) 6243 1266 (or at david.hatfield@accc.gov.au) or Sarah Chubb on (02) 6243 1088 (or at sarah.chubb@accc.gov.au).

Yours sincerely



Scott Gregson
General Manager
Adjudication Branch

Newcastle Port Corporation – applications for authorisation A91072 – A91074

Initial consultation – interested parties

1. Anglo Coal Australia Pty Ltd
2. Austar Coal Mine Pty Limited
3. BHP Billiton - Energy Coal
4. Bloomfield Collieries Pty Limited
5. Centennial Coal Company Limited
6. Coal & Allied (Rio Tinto Coal Australia Pty Ltd)
7. Donaldson Coal Pty Ltd
8. Gloucester Coal Limited
9. Idemitsu Australia Resources Pty Limited
10. Integra Coal Operations Pty Ltd
11. Muswellbrook Coal Company Limited
12. Resource Pacific Limited
13. Peabody Pacific Pty Limited
14. White Mining Limited
15. Whitehaven Coal Mining Pty Ltd
16. Xstrata Coal Operations Pty Ltd
17. Newcastle Coal Infrastructure Group
18. Australian Rail Track Corporation
19. Hunter Valley Coal Chain Logistics Team
20. Department of Industry, Tourism and Resources
21. NSW Department of Planning
22. NSW Department of Primary Industry (Resources Division)
23. Maritime Union of Australia
24. United Mine Workers Federation
25. NSW Minerals Council
26. Maitland City Council
27. Werris Creek Coal Sales Pty Ltd
28. SCT Logistics
29. Port Waratah Coal Services Limited
30. Pacific National (NSW) Pty Limited
31. QR Limited
32. The Treasury
33. Genesee & Wyoming Australia Pty Ltd
34. Peabody Coal Trade Australia
35. Cargill Ocean Transportation (Singapore) (letter sent to Cargill on 6 December 2007)