



Mr Scott Gregson  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
470 Northbourne Avenue  
DICKSON ACT 2602

9 March 2007

Attention: Mr David Hatfield / Ms Jaime Martin

Dear Sir

**Application for revocation of authorisations (A30230-A30238) and substitution of authorisations (A91033-A91035) lodged by Port Waratah Coal Services Limited**

**1 Introduction and summary**

- 1.1 We refer to the Commission's letter to interested parties, including Xstrata Coal Australia Pty Ltd ("Xstrata"), regarding applications for revocation of authorisations (A30236, A30237 and A30238) and substitution of authorisations (A91033, A91034 and A91035) submitted to the Commission by Port Waratah Coal Services Limited ("PWCS").
- 1.2 The purpose of this letter is to express Xstrata's strong support for the applications submitted by PWCS with respect to the reinstatement and amendment of the medium term capacity balancing system ("CBS"), which is intended to reduce the current substantial vessel queues off the Port of Newcastle that has arisen since September 2006.
- 1.3 Xstrata believes that urgent steps are required to ensure that the vessel queue off the Port of Newcastle is reduced and managed so as to alleviate the substantial demurrage fees that are presently being incurred by Hunter Valley Coal Producers.
- 1.4 If PWCS under the reinstated CBS is able to operate the Port efficiently and manage an effective working queue of vessels, this will address Xstrata's concerns as to the substantial demurrage fees presently incurred by Hunter Valley coal exporters in relation to delays in loading coal.

Xstrata Coal Pty Limited ABN 18 082 271 930

PO Box R1543 Royal Exchange Sydney NSW 1225 Australia  
Level 38 Gateway 1 Macquarie Place Sydney NSW 2000 Australia

Tel +61 2 9253 6732 Fax +61 2 9241 6898 [www.xstrata.com](http://www.xstrata.com)

## **2 The reasons for Xstrata's support of the CBS**

### ***Interim authorisation application***

- 2.1 Xstrata supports the urgency of granting an interim authorisation for PWCS's application because it recognises the substantial costs that are currently being incurred in relation to demurrage costs. Xstrata agrees with the estimated demurrage costs given by PECS in its submission supporting the authorisation.
- 2.2 If the Commission does grant interim authorisation by the start of the Quarter 2 2007 as requested by PWCS, Xstrata, and it is assumed other producers, will organise vessel scheduling to accord with the CBS. In addition, Xstrata supports the transitional arrangement for actual usage of Quarter 1 2007 loading allocations to be taken into account when applying queue reduction mechanisms in Quarter 2 2007.
- 2.3 If the Commission were not to ultimately grant final authorisation, Xstrata would be able to change its vessel scheduling accordingly. However, Xstrata believes that if the Commission did not grant authorisation, the continued high demand for coal would mean that producers would immediately send large numbers of vessels to the Port, which would create or increase substantial vessel queues.

### ***The CBS is the best way forward to a long term solution***

- 2.4 On the basis of the current situation at the Port, Xstrata believes that market forces alone have not managed to reduce the vessel queue, or address the issues with coal chain capacity. Xstrata believes that demand for coal will remain high in 2007, and that ship arrival rates will continue beyond capacity. If not managed by a reinstated CBS, the vessel queue will continue at high levels.
- 2.5 The amended CBS, as noted in PWCS's application, has broad based industry support. The changes to the system have been designed based on industry consultation, and Xstrata believes that the move to a monthly allocation system for "Large Producers" and the increased flexibility to producers permits trading based on producer requirements for loading allocation in an equitable and transparent manner.
- 2.6 In the circumstances, the amended CBS is the best way forward available and, given the capacity constraints of the Port, the same volume of coal will continue to be shipped through the Port and there will not be a reduction of exports if the CBS is reinstated.

### ***Benefits of the CBS***

- 2.7 Xstrata believes that the CBS will provide the following benefits:
  - (a) reduction in the vessel queue and the inefficient use of resources (ships lying idle);
  - (b) reduction in demurrage fees and cost savings (eg stockpiling costs) paid by exporters;
  - (c) use of savings for reinvestment in coal production, the coal chain and the Hunter Valley in particular;

- (d) increased certainty in long range forecasting for coal producers as they will know their annual costs with a greater degree of certainty - this will enable longer term investment decisions;
  - (e) enhanced reputation of the Port and Hunter Valley coal industry - increased confidence in the industry's competitiveness;
  - (f) greater accuracy of prediction of time of loading ships and date of arrival at port of destination; and
  - (g) the most efficient, transparent, fair and equitable system at this time available to manage the capacity constraints in the Hunter Valley coal chain.
- 2.8 Xstrata believes that the amended CBS has substantial public benefits and that on any view, the benefits outweigh the detriments.

### **3 Long Term CBS**

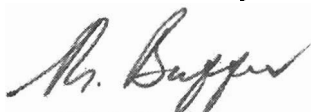
- 3.1 Xstrata is supportive of industry working together to find ways of dealing with demand and capacity imbalances for 2008 and beyond. However, we note that despite the best endeavours of PWCS and the producers to develop systems for the export coal chain supply, the impetus to address these issues often arises in response to a crisis as has recently occurred that substantially impacts costs. Xstrata submits that from such a practical perspective, it is important to see the reinstatement of the CBS as offering an efficient and equitable option for 2007 and potentially beyond until a long term solution is determined by the industry working group so that the current problems do not recur.

### **4 Conclusion**

- 4.1 Xstrata fully supports PWCS's application for authorisation of the CBS. As PWCS has indicated, the CBS will deliver significant public benefits and will lead to an efficient long term solution.
- 4.2 Xstrata also strongly supports the PWCS interim authorisation application and the authorisation application generally.

If the Commission has any further questions, Xstrata would be pleased to assist.

Yours sincerely



**Mick Buffier**  
Chief Operating Officer  
Xstrata Coal NSW