



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2007/610-02
Contact Officer: Jaime Martin
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3 May 2007

Douglas Ritchie
Managing Director
Coal and Allied
GPO Box 391
Brisbane QLD 4001

By email to: michelle.tilley@rtca.riotinto.com.au

Dear Mr Ritchie

Re: Port Waratah Coal Services application for reauthorisation of the modified Medium Term Capacity Balancing System

I refer to recent public statements made by Coal and Allied which link cutbacks in production, and consequent retrenchments made at its Hunter Valley coal mines, to the reintroduction of the modified Medium Term Capacity Balancing System (CBS) at the Port of Newcastle for 2007.

In a press release issued on 2 May 2007, Coal and Allied stated that production cutbacks:

...follows advice the company's port and rail allocations will be reduced for the remainder of the year.

...the cutbacks are unavoidable given the reduction in allocation levels.

We need to reduce our total production this year by approximately 20 per cent to adapt to these revised allocation levels.



As you are aware, the Australian Competition and Consumer Commission (ACCC) granted interim authorisation to PWCS on 14 March 2007 to allow it to reinstate the modified Medium Term CBS. Following this, the ACCC issued its draft determination on 4 April 2007 proposing to grant authorisation to the modified CBS until 31 December 2007.

Coal and Allied provided a submission to the ACCC on 9 March 2007 supporting the reintroduction of the modified CBS until the end of 2007.

The ACCC is currently considering this issue prior to issuing its final determination for this matter. Any suggestion that the reintroduction of the modified Medium Term CBS has caused a 20 per cent reduction in production at mines (and any consequent loss of employment) is inconsistent with submissions received to date and would be an issue the ACCC will consider in assessing the Medium Term CBS.

The ACCC seeks your clarification as to whether Coal and Allied considers the reintroduction of the CBS until the end of 2007 has an impact on coal production and/or exports from the Hunter Valley.

If you consider the CBS has the effect of lowering coal production in the Hunter Valley, please identify how coal producers would be able to export additional production through the Port of Newcastle if the modified CBS was not in place.

It would be appreciated if the ACCC could receive your comments on these issues by **cob, 11 May 2007**.

A copy of this letter has been placed on the ACCC's public register.

If you have any questions about the issues raised in this letter please contact Ms Jaime Martin on (03) 9290 1477 (jaimc.martin@accc.gov.au) or David Hatfield on (02) 6243 1 168 (david.hatfield@accc.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Scott Gregson', written over a light grey rectangular background.

Scott Gregson
General Manager
Adjudication