

# MALLESONS STEPHEN JAQUES

**For the public register**

Mr David Hatfield and Ms  
Jaime Martin  
Australian Competition and  
Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

12 December 2008

Dear Mr Hatfield and Ms Martin

**PWCS and NCIG - Applications for Authorisation A9110 - 9112**

We attach a copy of the media release issued by PWCS earlier today in relation to the new terminal access framework proposed by the New South Wales Government.

PWCS believes the proposed new framework is a clear step forward in the discussions between industry and the New South Wales Government, and towards finalising a long term solution for terminal access in the Hunter Valley.

This development further strengthens PWCS' view that the granting of an interim authorisation, together with the timetable proposed in PWCS' and NCIG's application, provide the environment most likely to result in the development and implementation of a long term solution which will deliver substantial benefits to the New South Wales and Australian economy.

Yours sincerely



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**FRIDAY DECEMBER 12, 2008**

## **MEDIA RELEASE**

### **PWCS WELCOMES NEW HUNTER TERMINAL ACCESS PROPOSAL**

Port Waratah Coal Services (PWCS) today said it was extremely encouraged by a new terminal access framework proposed by the New South Wales Government.

If progressed, the framework could stimulate Hunter Valley coal handling infrastructure expansion, resulting in the potential doubling of coal output from the Port of Newcastle in the medium term.

The framework also addresses how new and expanding miners can access terminal infrastructure in the future.

A blend of recommendations by former New South Wales Premier Nick Greiner and key requirements of the New South Wales Government and the coal industry, the framework includes:

- Giving PWCS the opportunity to lease additional government land and build a fourth coal loading terminal on Kooragang Island;
- An ability for all producers to commit to long-term terminal contracts, creating export certainty and security and a solid foundation for future infrastructure investment along the entire coal chain;
- A trigger whereby new producers and existing producers wanting to expand give between two and four years notice, enabling new infrastructure to be built to cater for them;
- An ability for a pro-rata levy on all coal exports to cover the cost of any terminal expansion shortfalls (for example, when contracts don't align exactly with construction needs);
- A mechanism enabling larger producers to have their contracts compressed up to a maximum of five percent per annum if PWCS expansions are delayed or fall short of targeted capacity. Smaller producers (exporting less than five million tonnes annually) would not be subjected to compression.

**“This is a highly significant and historic plan that looks set to finally iron out a multitude of inefficiencies that have hampered the Hunter Valley Coal Chain for so many years,” PWCS Chair Professor Doyle said.**

**“Whilst some details need to be sorted, the plan appears to strike a balance between giving existing miners the certainty they need to invest in infrastructure and increase output, and giving new entrants the certainty they need to access the port.”**

**Professor Doyle said there was an urgent onus on the New South Wales Government and the coal industry to demonstrate to the Australian Competition and Consumer Commission (ACCC) that the plan can work, with a view to having the ACCC authorise approval for interim access arrangements for the early part of next year.**

**The plan is consistent with a PWCS/NCIG joint application made to the ACCC last month.**

**“PWCS urges the New South Wales Government and the Hunter coal industry to make a very clear case about the merits of this new plan to the competition regulator,” Professor Doyle said.**

**“This would be a stepping stone to the New South Wales Government and the coal industry finalising the new long-term plan for ACCC authorisation.”**

**PWCS General Manager Graham Davidson said the new plan would see PWCS remain an open access terminal.**

**“It’s in everyone’s interests for both loaders to expand as quickly as possible to cater for incumbent and new producers, and it now looks as if the pieces are finally falling into place to make that possible.**

**“This plan would add a massive dose of badly needed commercial reality to the Coal Chain.”**

#### **Further information**

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