



**Australian
Competition &
Consumer
Commission**

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Our Ref: A91072-A91074 & A91075-A91077
Contact Officer: Shane Chisholm
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29 February 2008

Dear Sir/Madam

**Newcastle Port Corporation applications for authorisation A91072-A91074
Donaldson Coal Pty Limited applications for authorisation A91075-A91077
- draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the applications for authorisation lodged by the Newcastle Port Corporation (NPC) on 4 December 2007 and the applications for authorisation lodged by Donaldson Coal Pty Limited on 7 December 2007.

NPC and Donaldson are seeking authorisation of a 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. NPC and Donaldson have indicated that the Proposed System is, in all material respects, consistent with the Medium Term Capacity Balancing System (CBS) which expired on 31 December 2007.

Draft determination

A copy of the ACCC's draft determination is attached, including a summary of its reasons. For the reasons set out in its draft determination, the ACCC proposes to grant authorisation until 31 December 2008. The ACCC's assessment is set out in Chapter 6 of the draft determination.

Next steps

Once the ACCC issues a draft determination, the applicants or any interested party who may be dissatisfied with the draft determination may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference provides the opportunity for interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **14 March 2008**.

Alternatively, you are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **17 March 2008**.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to these applications.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are available at www.accc.gov.au).

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 Shane Chisholm on (02) 6243 1252.

Yours sincerely



David Hatfield
Acting General Manager
Adjudication Branch

Newcastle Port Corporation – applications for authorisation A91072-A91074

Donaldson Coal Pty Limited – applications for authorisation A91075 – A91077

Draft Determination – 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. Gloucester Coal Limited
8. Idemitsu Australia Resources Pty Limited
9. Integra Coal Operations Pty Ltd
10. Muswellbrook Coal Company Limited
11. Resource Pacific Limited
12. Peabody Pacific Pty Limited
13. White Mining Limited
14. Whitehaven Coal Mining Pty Ltd
15. Xstrata Coal Operations Pty Ltd
16. Newcastle Coal Infrastructure Group
17. Australian Rail Track Corporation
18. Hunter Valley Coal Chain Logistics Team
19. Department of Industry, Tourism and Resources
20. NSW Department of Planning
21. NSW Department of Primary Industry (Resources Division)
22. Maritime Union of Australia
23. United Mine Workers Federation
24. NSW Minerals Council
25. Maitland City Council
26. Werris Creek Coal Sales Pty Ltd
27. SCT Logistics
28. Port Waratah Coal Services Limited
29. Pacific National (NSW) Pty Limited
30. QR Limited
31. *The Treasury*
32. Genesee & Wyoming Australia Pty Ltd
33. Peabody Coal Trade Australia
34. Cargill Ocean Transportation (Singapore)
35. Ashton Coal Mines Limited