

Mr Scott Gregson
General Manager - Adjudication
Australian Competition & Consumer
Commission

21 December 2007
Matter 81318416
By email

scott.gregson@accc.gov.au

Dear Scott

**Port Waratah - applications for authorisation
Donaldson Coal Pty Ltd A91075-A91077
Newcastle Port Corporation A91072-A91074**

We refer to our letter of 18 December 2007 on behalf of Centennial Coal Company Limited (**Centennial**) in relation to the application by Donaldson Coal Pty Ltd (**Donaldson**) for interim authorisation for a capacity balancing system at Port Waratah.

We also refer to correspondence on behalf of Centennial on 12 December, 6 December and 30 November 2007 in relation to the application by the service providers at Port Waratah for authorisation of a proposed vessel queue management system (**VQMS**).

1 Centennial's position

Centennial supports the continuation of a capacity balancing system in similar, or substantially similar, terms to the current capacity balancing system (**CBS**) to allow further time for the industry to achieve consensus, while managing capacity constraints at the port.

Centennial notes, and supports, the efforts of various parties, including the New South Wales Government to seek to achieve industry consensus on a capacity balancing system to operate from 1 January 2008 to manage the capacity constraints at the port.

2 Applications by each of Donaldson and NPC

Centennial supports the outcome sought to be achieved by Donaldson, and by Newcastle Port Corporation in submitting their applications and considers that the public benefits of continuing of the CBS, or a system substantially similar to it, outweigh any potential detriments.

Centennial acknowledges that the applications by Donaldson and NPC each relate to systems which are similar in nature, although there are minor differences between the proposals. Insofar as the differences between the systems proposed by each applicant are concerned, Centennial does not have objections to either version, and considers that both proposals are preferable to the alternatives (namely the introduction of the VQMS or no capacity balancing system at all).

For the purposes of this letter the systems proposed by each of Donaldson and NPC will be referred to collectively as the **System**.

3 Comments

Centennial notes that there are two potential alternative scenarios to the implementation of the System for calendar year 2008, namely the complete absence of any capacity balancing system, or the proposed VQMS. (We note that although the ACCC has not

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granted interim authorisation to the VQMS, the substantive authorisation application remains in place for consideration by the ACCC.)

3.1 Counterfactual of no capacity balancing system in place

When the System is compared with a counterfactual of no capacity balancing system, Centennial notes that:

- If the System is not implemented, the queue of vessels currently at the port is likely to increase, with resultant high demurrage costs.
- The System proposed by each of Donaldson and NPC will result in demurrage savings in 2008.
- The System will not, in Centennial's view, remove the pressure to invest in expanding the capacity of the Hunter valley coal chain and will therefore be unlikely to constrain export growth.

The public benefits of the System outweigh any potential detriments, when compared with the counterfactual of an absence of any capacity balancing system. In this regard, Centennial refers to the analysis of the ACCC in the 2007 authorisation of the current CBS.

3.2 Counterfactual of the VQMS proposed by PWCS

When compared with a counterfactual of the VQMS, Centennial considers that the benefits of the System outweigh the detriments of the VQMS. Specifically:

- Unlike the VQMS, the System does not operate disproportionately against smaller producers, given the flexibility mechanisms and quarterly allocations.
- Unlike the VQMS, the System does not arbitrarily exclude certain coal producers.
- The System does not involve the rail providers and does not risk the significant anticompetitive effects in supply of rail services that the VQMS contemplates.
- In Centennial's view, the System respects the common user principle in operation at the port.

On balance, Centennial submits that the public benefit generated by an authorisation of the System as proposed by either Donaldson or NPC would outweigh any public detriment, whether the counterfactual is the complete absence of a capacity balancing system, or the proposed VQMS.

4 Duration of authorisation

Centennial supports the implementation of the System from 1 January 2008 for 12 months, or until a new system agreed by the industry, can be put in place, whichever is earlier. Centennial has confirmed its support for a 6 month interim authorisation of the CBS to PWCS and to the ACCC.

In any case, Centennial's position is that any capacity balancing system to be in place at the port should have general industry support, and if a new, substantially different system is to be put in place (such as the VQMS or a modified version thereof), full and proper consultation should occur prior to the new system being authorised by the ACCC.

Yours sincerely



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