

Level 36, Grosvenor Place
225 George Street
Sydney NSW 2000
Australia

Blake Dawson

T 61 2 9258 6000
F 61 2 9258 6999
DX 355 Sydney

Locked Bag No 6
Grosvenor Place
Sydney NSW 2000
Australia

www.blakedawson.com

Dr Richard Chadwick
General Manager, Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

31 August 2009

Attention: David Hatfield / Jaime Martin

Our reference
PJA JEE 02 2000 2440

Dear Dr Chadwick

Partner
Peter Armitage
T 61 2 9258 6119
M 0418 973 700
peter.armitage@blakedawson.com

Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group Pty Ltd and Newcastle Port Corporation – applications for authorisation A91147 – A91149 & A91168 and A91169 – execution of Capacity Framework Documents

Contact
Jane Ellis
T 61 2 9258 6307
jane.ellis@blakedawson.com

We refer to the interim authorisations granted by the ACCC on 22 July 2009 and 29 July 2009 to Port Waratah Coal Services Limited ("PWCS"), Newcastle Coal Infrastructure Group Pty Ltd ("NCIG") and Newcastle Port Corporation ("NPC") (together, the "Applicants"). The interim authorisations were granted subject to a condition that 'the Applicants execute their respective Capacity Framework Documents by 31 August 2009.'

NCIG, along with the other Applicants, has devoted a great deal of time and extensive resources to progressing the NCIG Capacity Framework Documents and, to the extent relevant, the PWCS Capacity Framework Documents.

The NCIG Capacity Framework Documents are in a very advanced form but negotiations concerning a very small number of outstanding significant matters have continued throughout the past months. The most recent negotiations took place yesterday.

Despite the desire of all NCIG shareholders to finalise all Capacity Framework Documents by 31 August 2009, it is now clear that execution of those documents by NCIG will not be possible today.

It is expected that execution of the final versions of the documents will be possible very shortly and we will inform the Commission as soon as we can be certain about the timing.

If you require any further information, please contact me.

Yours sincerely


Peter Armitage

Partner

T 61 2 9258 6119

peter.armitage@blakedawson.com

cc.

Ms Liza Carver
Partner
Gilbert & Tobin
2 Park Street
Sydney NSW 2000

Mr Dave Poddar
Partner
Mallesons Stephen Jaques
Level 61, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000