



**Australian  
Competition &  
Consumer  
Commission**

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Our Ref: C2009/1251-02  
Contact Officer: Jaime Martin  
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15 September 2009

Dear Sir / Madam

**Port Waratah Coal Services Limited (PWCS), Newcastle Coal Infrastructure Group (NCIG) and Newcastle Port Corporation (NPC) applications for authorisation [A91147 – A91149 and A91168-A91169] — amendments to the proposed conduct**

On 14 September 2009 the Australian Competition and Consumer Commission received a request to amend the above mentioned applications for authorisation from PWCS, NCIG and NPC (the 'Applicants').

In particular, the Applicants seek to vary the Capacity Framework Arrangements provided at Attachment 1 to the original supporting submission to the applications, dated 29 June 2009.

A copy of the Applicants' covering letter of 14 September 2009 and the amended Capacity Framework Arrangements (in 'mark up') is attached. A copy of the amended application is also available on the ACCC's website [www.accc.gov.au/AuthorisationsRegister](http://www.accc.gov.au/AuthorisationsRegister).

The Applicants submit that the proposed amendments to the Capacity Framework Arrangements largely involve clarifications and practical changes necessary to give effect to the long term solution for capacity expansions for the export of coal from the Port of Newcastle. Further, the Applicants submit that many of the changes involve a variation to the mechanics of the relevant arrangements, or are intended to address certain practical issues identified by the Applicants since the original authorisation applications were lodged at the end of June 2009.

The ACCC invites you to make a submission in relation to the amended Capacity Framework Arrangements.

If you would like to provide a submission in relation to the amended conduct please do so by close of business **Monday, 21 September 2009**.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

The ACCC will proceed to consider the applications for authorisation based on submissions already received and any further submissions in relation to the amended Capacity Framework Arrangements.

### Revised timetable

The ACCC's initial consultation letter of 1 July 2009 indicated that it would be issuing a draft determination for this matter in September 2009. Given the delays in signing the Capacity Framework Documents and the amendments to the application, the ACCC is now likely to issue a draft determination in October.

A revised indicative timetable of the ACCC's assessment of this matter is set out below for your information.

14 September 2009	Amendments to the applications for authorisation lodged with the ACCC.
21 September 2009	Closing date for interested party submissions in relation to the amended applications for authorisation.
25 September 2009	Applicants to respond to submissions received from interested parties.
October 2009	Draft determination.
October/November 2009	Public consultation on draft determination, including holding a conference if requested.
December 2009	Final determination.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact David Hatfield on (02) 6243 1266 ([david.hatfield@acc.gov.au](mailto:david.hatfield@acc.gov.au)) or Jaime Martin on (03) 9290 1477 ([jaimemartin@acc.gov.au](mailto:jaimemartin@acc.gov.au)).

Yours sincerely



Dr Richard Chadwick  
General Manager  
Adjudication Branch

**Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group and  
Newcastle Port Corporation – applications for authorisation A91147-A91149 and  
A91168 – A91169**

**Interested parties – amended applications for authorisation**

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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. Donaldson Coal Pty Ltd
8. Gloucester Coal Limited
9. Idemitsu Australia Resources Pty Limited
10. Integra Coal Operations Pty Ltd
11. Peabody Pacific Pty Limited
12. White Mining Limited
13. Whitehaven Coal Ltd
14. Xstrata Coal Australia Pty Ltd
15. Werris Creek Coal Sales Pty Ltd
16. Peabody Coal Trade Australia
17. Ashton Coal Mines Limited
18. NSW Minerals Council
19. Australian Rail Track Corporation
20. Hunter Valley Coal Chain Logistics Team
21. SCT Logistics
22. Asciano Limited
23. QR National Coal
24. Genesee & Wyoming Australia Pty Ltd (on behalf of Fenwick Elliot Grace)
25. The Treasury (Energy, Transport and Communications Unit)
26. Australian Government Department of Resources, Energy and Tourism (Minerals Branch)
27. Australian Government Department of Infrastructure, Transport, Regional Development and Local Government (Infrastructure Investment)
28. Mr Ian McNamara, Policy Advisor for The Office of the Hon. Joe Tripodi MP, Minister for Ports and Waterways
29. Infrastructure Australia
30. National Transport Commission
31. NSW Department of Planning (Major Project Assessments Division)
32. NSW Department of Primary Industry (Mineral Resources Division)
33. NSW Maritime
34. Australian Transport Safety Bureau
35. Maritime Union of Australia
36. United Mine Workers Federation
37. The Hon Nick Greiner AC
38. Rail Corporation NSW
39. NSW Ministry of Transport
40. China Shenhua Energy Company Limited