

**FOR PUBLIC  
REGISTER**

Port Waratah Coal Services  
Limited  
and  
Newcastle Coal Infrastructure  
Group Pty Limited

Supplementary submission in support of  
the applications for authorisation  
A91110 - A91112

Dated 10 February 2009

# Port Waratah Coal Services Limited and Newcastle Coal Infrastructure Group Pty Limited

## Supplementary submission in support of the applications for authorisation A91110 - A91112

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### 1 Introduction

Port Waratah Coal Services Limited (“PWCS”) and Newcastle Coal Infrastructure Group Pty Limited (“NCIG”) (together, the “Applicants”) appreciate the opportunity to make a further submission to the ACCC in relation to the applications for authorisation A91110 - A91112, following the ACCC’s decision to grant interim authorisation for the PWCS Tonnage Allocation Stage 1<sup>1</sup>.

The purpose of this submission is to provide further comments on the submission received by the ACCC from Asciano Limited (“Asciano”), having regard to the conditions attaching to the interim authorisation granted by the ACCC and having regard to the terminal access framework announced by Mr Joe Tripodi MP on 12 December 2008.

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### 2 Further Comments on issues raised in the submission by Asciano

In the Applicants’ view, the key concerns raised by Asciano in its submission -- namely, that authorisation would reduce the incentive for producers to finalise a long term solution (thereby resulting in increased public detriments) and that the authorisation application does not contain full details of a proposed long term solution -- are substantially addressed by both the timeframe and reporting conditions which attach to the interim authorisation granted by the ACCC and the substantial level of progress towards developing and implementing a long term solution, as demonstrated by the terminal access framework announced by the NSW Government on 12 December 2008 and as evidenced in the PWCS/NCIG Report to the ACCC dated 16 January 2009.

PWCS and NCIG provided their first progress report to the ACCC on 16 January 2009 and will continue to report to the ACCC monthly on progress, providing details of the development and implementation of the long term solution. It is also inherent in the proposed process that the ACCC will review the details of the proposed long term terminal access protocols.

The Applicants note that Asciano, and other service providers in the coal chain, will be involved in any discussions concerning contractual alignment. However, the Applicants also note that rail contracts are a matter between Asciano and its customers.

The long term solution being progressed now should go towards addressing the issues that Asciano has raised and the framework established in the 16 January 2009 report is likely to provide the appropriate forum for those issues to be addressed.

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<sup>1</sup> Centennial does not support this submission

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### **3 Conclusion**

PWCS and NCIG believe that Asciano has raised issues that should be able to be considered in the context of the long term solution being advanced by the Applicants, Producers and the NSW Government as part of the constructive progress that has been made over the last few months as set out in the 16 January 2009 Report. The work plan proposed provides opportunity for consultation on all aspects of the long term solution.

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