



**Australian
Competition &
Consumer
Commission**

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Our Ref: A91147-A91148 & A91168-A91169
Contact Officer: Jaime Martin
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28 October 2009

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

*Via email: dave.poddar@mallesons.com; lcarver@gtlaw.com.au;
peter.armitage@blakedawson.com*

Dear Mr Poddar

**Applications for authorisation [A91147–A91149 and A91168–A91169] lodged by Port
Waratah Coal Services, Newcastle Coal Infrastructure Group and Newcastle Port
Corporation — draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the above mentioned applications for authorisation lodged with the ACCC on 29 June 2009.

Draft determination

A copy of the ACCC's draft determination is attached. The draft determination will also be available from the ACCC's website www.accc.gov.au/AuthorisationsRegister.

For the reasons set out in Chapter 5 of the draft determination, the ACCC proposes to grant authorisation to the Capacity Framework Arrangements until 30 June 2020.

Next steps

Written submissions

The Applicants are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **Friday, 13 November 2009**.

The ACCC will also arrange for you to receive copies of all public submissions received from interested parties following the draft determination.

Opportunity to request a conference

Further, once the ACCC issues a draft determination, the Applicants or any interested party may also 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 **Wednesday, 11 November 2009**.

In the event a conference is requested, it is likely to be held in Sydney during the week commencing 16 November 2009.

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 attached).

Timetable

The ACCC will continue to progress its assessment of these applications in a timely manner. An updated indicative timetable is set out below for your information.

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|-----------------------|--|
| 28 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 or Jaime Martin on (03) 9290 1477.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch