



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2008/1889  
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26 February 2009

Mr Dave Poddar  
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*Via email: [dave.poddar@mallesons.com](mailto:dave.poddar@mallesons.com)*

Dear Mr Poddar

**Port Waratah Coal Services Limited and Newcastle Coal Infrastructure Group  
applications for authorisation A91110-A91112 – draft determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination proposing to grant conditional authorisation in respect of the amended application lodged by Port Waratah Coal Services Limited and the Newcastle Coal Infrastructure Group (the Applicants).

**Draft determination**

A copy of the ACCC's draft determination is attached, including a summary of its reasons. For the reasons set out in its draft determination, the ACCC proposes to grant authorisation until 30 June 2009 on condition that the parties finalise an Implementation Memorandum which sets out an agreed framework and details how the long term solution will be implemented on a timely basis, and provide a copy of it to the ACCC by 31 March 2009. It must be sufficiently detailed that on the basis of the Implementation Memorandum, parties are able to enter long term contracts to give effect to the long term solution and in so doing underpin efficient investment.

**Next steps**

Once the ACCC issues a draft determination, the Applicants or any interested party may 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 **13 March 2009**.