



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2008/1889
Contact Officer: David Hatfield
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26 February 2009

Via email

Dear Sir / Madam

**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).

Attached is a summary of the authorisation process including how to make a submission to the ACCC.

The Applicants are seeking authorisation for the PWCS Tonnage Allocation Stage 1 until 30 June 2009.

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**.

Alternatively, you are invited to make a written submission in response to the ACCC's draft determination. Submissions should be lodged by **20 March 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).

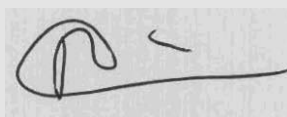
Timetable

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

26 February 2009	Draft Determination issued.
March 2009	Public consultation on draft determination including any conference if called.
13 March 2009	Third monthly progress report from Applicants to be provided to the ACCC in accordance with conditional interim authorisation.
April/May 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 do not hesitate to contact Mr David Hatfield on (02) 6243 1266 (david.hatfield@acc.gov.au) or Ms Jaime Martin on (03) 9290 1477 (jaime.martin@acc.gov.au).

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch

