



**Australian  
Competition &  
Consumer  
Commission**

GPO Box 3131  
Canberra ACT 2601

23 Marcus Clarke Street  
Canberra ACT 2601

tel: (02) 6243 1111  
fax: (02) 6243 1199

[www.accc.gov.au](http://www.accc.gov.au)

Our Ref: A91147–A91149 & A91168–A91169  
Contact Officer: Jaime Martin  
Contact Phone: (03) 9290 1477

9 December 2009

*Via email*

Dear Sir / Madam

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

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

Port Waratah Coal Services, Newcastle Coal Infrastructure Group and the Newcastle Port Corporation sought authorisation for the proposed Capacity Framework Arrangements at the Port of Newcastle. The proposed Capacity Framework Arrangements form part of the long term solution to the ongoing capacity constraints in the Hunter Valley coal chain.

A copy of the ACCC's determination is attached. For the reasons set out in its determination, the ACCC has decided to grant authorisation until 31 December 2024. The ACCC's assessment is set out in Chapter 5 of its determination.

**Application for review**

Pursuant to section 101 of the *Trade Practices Act 1974*, a person dissatisfied with this determination may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of this determination; that is, on or before 30 December 2009. If no application to review is lodged by this date, the ACCC's determination will come into force on 31 December 2009.

An application for review of the ACCC's determination should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

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

A handwritten signature in black ink, appearing to be 'R. Chadwick', with a long horizontal flourish extending to the right.

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 – final determination**

---

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. Infrastructure Australia
29. National Transport Commission
30. NSW Department of Planning (Major Project Assessments Division)
31. NSW Department of Primary Industry (Mineral Resources Division)
32. NSW Maritime
33. Australian Transport Safety Bureau
34. Maritime Union of Australia
35. United Mine Workers Federation
36. The Hon Nick Greiner AC
37. Rail Corporation NSW
38. NSW Ministry of Transport
39. China Shenhua Energy Company Limited
40. The Institute of Energy Economics Japan
41. ABARE (Resources and Energy)
42. Minerals Council of Australia