



BY EMAIL

6 April 2009

Dr Richard Chadwick  
General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
23 Marcus Clarke Street  
CANBERRA ACT 2601

**Newcastle Ports – Implementation Memorandum**

Dear Sir

I refer to your letter of 1 April 2009 to Mallesons Stephen Jaques regarding the timetable for the lodging of an Implementation Memorandum (IM) signed by Newcastle Port Corporation, Port Waratah Coal Services Limited and Newcastle Coal Infrastructure Group Pty Limited (NCIG).

Since the date of your letter, NCIG has been involved in intensive further discussions with the New South Wales government on a number of issues in an endeavour to reach final agreement on those matters. Those discussions have now concluded. NCIG is not seeking to re-negotiate the IM.

In order for NCIG to meet certain of its obligations under the IM it is necessary for the NCIG shareholders agreement to be amended. Unfortunately not all shareholders have been able to complete their internal approval processes in time to provide the necessary assurances to NCIG that those amendments will, in due course, be made. Accordingly NCIG itself has not been in a position to approve and authorise the signing of the IM today.

NCIG and all its shareholders remain committed to the proposed long term solution and look forward to being able to sign and lodge the IM in a very short timeframe.

Yours sincerely

A handwritten signature in black ink, appearing to read "A. Galligan".

Tony Galligan  
Chairman

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