

EXECUTIVE OFFICE



**Australian  
Competition &  
Consumer  
Commission**

6 April 2009

Mr Dave Podder  
Partner  
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Dear Mr Poddar *Dave*

Applications for authorisation A91110-A91112 lodged by Port Warratah Coal Services and Newcastle Coal infrastructure Group (the applicants) – interim authorisation.

I refer to my letter of 1 April 2009 in relation to interim authorisation of the PWCS Tonnage Allocation Stage 1 (the ‘Stage 1 Allocation system’).

As you are aware, the ACCC’s interim authorisation of the Stage1 Allocation system is conditional upon the ACCC being satisfied that work to finalise the long term solution continues. Provision of an agreed Implementation Memorandum, which is sufficiently detailed to enable parties to enter long term contracts to give effect to the long term solution was clearly stated by the ACCC to be a key indicator of progress.

As of today, I am advised that all parties apart from one have executed a revised Implementation Memorandum. The ACCC has yet to examine the revised Implementation Memorandum to determine whether its sets out a sufficiently detailed framework and processes as to how the long term solution will be implemented on a timely basis. We anticipate being able to examine the revised Implementation Memorandum in order to be satisfied in this matter over the next 48 hours.

I have also been advised that the outstanding party will sign the Implementation Memorandum by Wednesday evening, 8 April 2009.

Interim authorisation of the Stage 1 Allocation system will remain in place on the basis that the ACCC :

1. receives a copy of the signed Implementation Memorandum by that time, and
2. is satisfied as to its contents, as detailed above.

A copy of this letter has been placed on the ACCC's public register. If you have any questions 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 ([Jaime.martin@acc.gov.au](mailto:Jaime.martin@acc.gov.au)).

Yours sincerely

A handwritten signature in black ink that reads "Graeme Samuel". The signature is written in a cursive style with a long horizontal stroke at the end.

Graeme Samuel  
Chairman