



**Australian
Competition &
Consumer
Commission**

Our Ref: A91110-A91112
Contact Officer: David Hatfield
Contact Phone: (02) 6243 1266

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

9 April 2009

Mr Dave Poddar
Partner
Mallesons Stephen Jaques
Level 60, Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000

Via email: dave.poddar@mallesons.com

Dear Mr Poddar

**Applications for authorisation A91110-A91112 lodged by Port Waratah Coal Services
and Newcastle Coal Infrastructure Group (the Applicants) —
Implementation Memorandum**

I refer to Mr Graeme Samuel's letter of 6 April 2009 in relation to interim authorisation of the PWCS Tonnage Allocation Stage 1 (the 'Stage 1 Allocation system').

This letter advised that interim authorisation of the Stage 1 Allocation system will remain in place on the basis that the ACCC:

- receives a copy of the signed Implementation Memorandum by 8 April 2009 and
- it is satisfied as to its contents.

The ACCC has now received a signed Implementation Memorandum from NCIG. The revised Implementation Memorandum appears to set out a sufficiently detailed framework and processes as to how the long term solution will be implemented on a timely basis.

Accordingly, the interim authorisation of the Stage 1 Allocation system will remain in place until the date the ACCC's determination comes into effect, unless otherwise revoked.

Next steps

The ACCC notes there is still a significant volume of work to be done to ensure that a 'whole of coal chain' long term solution can be implemented on a timely basis, but is encouraged by the commitment of the parties to finalising the remaining arrangements to give effect to the long term solution by the end of June 2009. The industry will need to work cooperatively to meet this deadline and resolve any remaining issues.

To date, the ACCC has been disappointed that internal governance issues have caused ongoing delays in finalising the Implementation Memorandum. Going forward, the ACCC expects that such issues will be factored into planning processes so that future deadlines are able to be met.

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) or Jaime Martin on (03) 9290 1477 (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