



**Australian
Competition &
Consumer
Commission**

Our Ref: C2008/1889-05
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13 May 2009

Dear Sir / Madam

**Port Waratah Coal Services and Newcastle Coal Infrastructure Group applications for
authorisation A91110-A91112 – final determination**

The Australian Competition and Consumer Commission (the ACCC) has issued a determination in respect of the above applications for authorisation.

Port Waratah Coal Services and Newcastle Coal Infrastructure Group sought authorisation for the 'PWCS Tonnage Allocation Stage 1' system (Stage 1 Allocation system) until 30 June 2009. The Stage 1 Allocation system is designed to provide coal producers with access to terminal capacity and manage the coal vessel queue while long term arrangements for access and capacity expansion of coal terminal infrastructure at the Port of Newcastle are developed and implemented by the industry.

A copy of the ACCC's determination is attached. For the reasons set out in Chapter 6 of its determination, the ACCC has decided to **grant authorisation** to the Stage 1 Allocation system until 30 June 2009, as requested.

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 3 June 2009.

If no application to review is lodged by this date, the ACCC's determination will come into force on 4 June 2009. The interim authorisation of the Stage 1 Allocation system will remain in place until this date.

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.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please contact Jaime Martin on (03) 9290 1477 (jaime.martin@acc.gov.au).

Yours sincerely

Dr Richard Chadwick
General Manager
Adjudication Branch

**Port Waratah Coal Services Limited and Newcastle Coal Infrastructure Group –
applications for authorisation A91110 –A91112**

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. Mr Ian McNamara, Policy Advisor for The Office of the Hon. Joe Tripodi MP, Minister for Ports and Waterways
26. The Treasury (Energy, Transport and Communications Unit)
27. Australian Government Department of Resources, Energy and Tourism (Minerals Branch)
28. Australian Government Department of Infrastructure, Transport, Regional Development and Local Government (Infrastructure Investment)
29. Infrastructure Australia
30. National Transport Commission
31. Newcastle Port Corporation
32. NSW Department of Planning (Major Project Assessments Division)
33. NSW Department of Primary Industry (Mineral Resources Division)
34. NSW Maritime
35. Australian Transport Safety Bureau
36. Maritime Union of Australia
37. United Mine Workers Federation
38. The Hon Nick Greiner AC
39. Rail Corporation NSW
40. NSW Ministry of Transport
41. Dr Joe Winsen
42. China Shenhua Energy Company Limited