

MALLESONS STEPHEN JAQUES

Mr David Hatfield
Australian Competition &
Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

30 June 2009

Dear Mr Hatfield

Applications for authorisation - Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group Pty Limited and Newcastle Port Corporation

We refer to the applications for authorisation lodged by Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group Pty Limited and Newcastle Port Corporation on 29 June 2009.

The purpose of this letter is to clarify the timing associated with the request for interim authorisation.

Given that the applications for authorisation were submitted on 29 June 2009, it will understandably not be possible for the Commission to grant interim authorisation by 30 June 2009 (the date on which the existing authorisation expires). However, having regard to the matters set out in the Applicants' supporting submission, we would request that the Commission considers providing:

- interim authorisation in respect of the conduct set out in Part A of Attachment 1 of the supporting submission as soon as reasonably practicable (with a retrospective ability to implement that conduct effective from 1 July 2009); and
- interim authorisation in respect of the conduct set out in Part B of Attachment 1 as soon as reasonably practicable (even if this occurs after any interim authorisation is granted in respect of the conduct set out in Part A).

This staged approach to the request for interim authorisation reflects both the commercial imperative for PWCS to implement the conduct referred to in Part A (the 2009 Base Tonnage Offer) before the conduct referred to in Part B, and the relative simplicity of the conduct referred to in Part A, when compared to the more complex arrangements set out in Part B of Attachment 1.

If the Commission has any questions in relation to these timing issues, we would be pleased to assist.

Yours sincerely



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