



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: A91147 – A91149  
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3 July 2009

Mr Dave Poddar  
Partner  
Mallesons Stephen Jaques  
Level 61, Governor Phillip Tower  
1 Farrer Place  
Sydney NSW 2000

*Via email: [dave.poddar@mallesons.com](mailto:dave.poddar@mallesons.com)*

Dear Mr Poddar

**Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group and  
Newcastle Port Corporation applications for authorisation A91147 – A91149  
— request for information**

Thank you for meeting with us today to discuss preliminary issues arising from the above mentioned applications for authorisation of the proposed Capacity Framework Arrangements.

I would appreciate receiving a written response to the following matters:

1. Please provide a complete timetable of the work to be completed by the relevant parties in order to implement the long term solution by 1 January 2010. In doing so, please clarify which aspects of this work cannot be progressed without interim authorisation and why.
2. What are the specific public benefits that are likely to arise from the implementation of the 2009 Base Tonnage Offer for the remainder of 2009?
3. Page 2 of the supporting submission states that 'PWCS, NCIG and ARTC will work through the details of their proposed contracting arrangements to ensure they are aligned.'

Please explain the process and timing for this to occur between the parties.

4. In support of public benefit claims in relation to managing the size of the vessel queue offshore, please explain how the PWCS Base Tonnage for 2009 (under Part A of the proposed Capacity Framework Arrangements) will assist in managing the vessel queue to around 20 - 25 vessels.

5. Please provide the average size of the vessel queue for each month of the first half of 2009. Please include an explanation of the factors that contributed to the size of the queue.
6. Section 2(b) of Part A of the proposed Capacity Framework Arrangements states that PWCS will refuse to supply coal handling services if a producer has inadequate track or train delivery entitlements. Please explain whether it is practically possible, or if PWCS intends, to engage in this conduct during the remainder of 2009.
7. Section 1(b) of Part A of the proposed Capacity Framework Arrangements states that before a producer can accept any offer of a 2009 PWCS Base Tonnage, it must, among other things, advise PWCS of a constant tonnage for each individual Load Point. Can you please confirm whether Load Point nominations will be binding on producers for the remainder of 2009 and if not, when this will occur.
8. In its media release of 30 June 2009, *PWCS welcomes signing of long term export agreement*, PWCS states that the common user clause in its lease will be suspended. Can you please confirm when this is intended to occur?
9. Regarding the proposed Capacity Transfer System (CTS) to be developed under the Capacity Framework Agreement, page 16 of the supporting submission to the application states that the CTS will not be the exclusive means of transferring capacity.

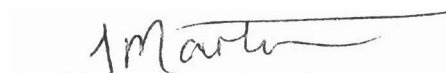
Please explain what other means producers will have to transfer capacity?

To facilitate the ACCC's consideration of the urgent request for interim authorisation of the proposed Capacity Framework Arrangements, we would appreciate your response to these issues as soon as possible.

The ACCC may seek additional information in relation to the applications for authorisation as this matter progresses.

I intend to place this letter 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@accg.gov.au).

Yours sincerely

  
Dr Richard Chadwick  
General Manager  
Adjudication Branch