



8 July, 2009

Mr Jaime Martin  
Adjudication Branch  
Australian Competition and Consumer Commission  
23 Marcus Clarke Street  
Canberra ACT 2601

By Email: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)

Dear Sir or Madam

**Peabody Australia Mining Limited Support for Authorisation Request A91147 - Port Waratah Coal Services, Newcastle Coal Infrastructure Group and Newcastle Port Corporation**

We refer to Request for Authorisation A91147 lodged with the Commission on 29 June, 2009 by Port Waratah Coal Services (PWCS), Newcastle Coal Infrastructure Group (NCIG), and Newcastle Port Corporation. We write to express our strong support for the Request for Authorisation.

Peabody Australia Mining Limited (formerly Excel Coal Limited) is both a shareholder in NCIG and a user of significant capacity at PWCS.

The Commission would be aware that the parties have requested authorisation for a phased solution leading to implementation of the complete Capacity Framework from 31 December, 2009. This "phasing" period is an essential step in delivering a lasting long term solution for the industry. Peabody along with other industry players has been heavily involved in the development of the Framework to date and like others continues to devote significant resources to its finalisation. The Framework will represent a major shift for all industry participants in the management of port and rail capacity through the Port of Newcastle. A sufficient period to finalise and phase in the Capacity Framework is an essential precursor to delivering the very significant public benefits which will result from its introduction.

At the same time, market demand for Thermal Coal shipped through PWCS remains strong. In the absence of a system for managing PWCS capacity during this phased period a significant vessel queue is likely to reform and will bring with it all of the detrimental effects outlined to the Commission in the parties' submission. With the long term Capacity Framework in the final stages of development, Peabody considers that the authorisation of the transitional arrangements which are essential for the effective introduction of the Capacity Framework and which will also assist in managing the vessel queue until 31 December, 2009 will bring with it significant public benefits without any discernable public detriment.

Peabody reiterates its support for the Authorisation in the terms submitted to the Commission including the request for interim authorisation until 31 December, 2009. If the Commission requires any further information please do not hesitate to contact me at the number below.

Yours sincerely

**Julian Thornton**  
Managing Director  
Peabody Australia Mining Limited

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