



Australian
Competition &
Consumer
Commission

Our Ref: C2009/1251
Contact Officer: Jaime Martin
Contact Phone: (03) 9290 1477

GPO Box 3131
Canberra ACT 2601

22 July 2009

23 Marcus Clarke Street
Canberra ACT 2601

Via email

tel: (02) 6243 1111
fax: (02) 6243 1199

www.accc.gov.au

Dear Sir / Madam

**Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group and
Newcastle Port Corporation applications for authorisation (A91147 – A91149)
— interim authorisation decision**

I write to advise you that the Australian Competition and Consumer Commission (the ACCC) has decided to grant conditional interim authorisation in respect of the above mentioned applications for authorisation lodged with the ACCC on 29 June 2009.

Interim authorisation has been granted to the proposed Capacity Framework Arrangements, except for section 11 of Part B of the arrangements.

Interim authorisation is subject to a condition that the Applicants execute their respective Capacity Framework Documents by 31 August 2009. The ACCC will revoke the interim authorisation should any of the Applicants fail to execute the Capacity Framework Documents by 31 August 2009.

Please find attached a document outlining the reasons for this decision.

Interim authorisation commences immediately and protects the arrangements from legal action under the relevant provisions of the *Trade Practices Act 1974* while the ACCC considers and evaluates the merits of the application.

Interim authorisation will remain in place until the date the ACCC's final determination comes into effect or unless revoked. The ACCC's decision in relation to interim authorisation should not be taken to be indicative of whether or not final authorisation will be granted.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Mr David Hatfield on (02) 6243 1266 (david.hatfield@accc.gov.au) or Ms Jaime Martin on (03) 9290 1477 (jaimemartin@accc.gov.au).

Yours sincerely

Dr Richard Chadwick
General Manager
Adjudication Branch

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

Interested parties – interim authorisation decision

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. NSW Department of Planning (Major Project Assessments Division)
32. NSW Department of Primary Industry (Mineral Resources Division)
33. NSW Maritime
34. Australian Transport Safety Bureau
35. Maritime Union of Australia
36. United Mine Workers Federation
37. The Hon Nick Greiner AC
38. Rail Corporation NSW
39. NSW Ministry of Transport
40. China Shenhua Energy Company Limited