



**Australian
Competition &
Consumer
Commission**

Our Ref: C2009/1251-02
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Mr Dave Poddar
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*Via email: dave.poddar@mallesons.com; lcarver@gtlaw.com.au;
peter.armitage@blakedawson.com*

Dear Mr Poddar

**Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group and
Newcastle Port Corporation applications for authorisation (A91168 – A91169)
— interim authorisation decision**

The Australian Competition and Consumer Commission (the ACCC) has decided to grant conditional interim authorisation in relation to the above mentioned applications for authorisation lodged with the ACCC under sections 88(1A) the *Trade Practices Act 1974* on 24 July 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 will remain in place until the date the ACCC's final determination comes into effect or unless revoked.

Next steps

The ACCC will now consider these applications for authorisation A91168 – A91169 and applications A91147-A91149 jointly.

The ACCC is still expecting to receive submissions from interested parties over the next few days. The ACCC will arrange for you to receive a copy of all public submissions.

The ACCC will consider all submissions received prior to issuing a draft determination. This draft determination will take account of any submissions from the Applicants and interested parties previously provided to the ACCC in respect of the original applications A91147 – A91149.

As noted in the attached decision, the ACCC may review its decision on interim authorisation at any time. 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 by the ACCC.

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