

MALLESONS STEPHEN JAQUES

For Public Register

Dr Richard Chadwick
General Manager, Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clarke Street
Canberra ACT 2601

31 August 2009

Copy to

Ms Liza Carver
Partner
Gilbert & Tobin
2 Park Street
Sydney NSW 2000

Mr Peter Armitage
Partner
Blake Dawson
225 George Street
Sydney NSW 2000

Attention: David Hatfield / Jaime Martin

Dear Dr Chadwick

Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group Pty Ltd and Newcastle Port Corporation - applications for authorisation A91147-A91149 & A 91168 and A91169 - execution of Capacity Framework Documents

We refer to the interim authorisations granted by the ACCC on 22 July 2009 and 29 July 2009 to Port Waratah Coal Services Limited (“PWCS”), Newcastle Coal Infrastructure Group Pty Ltd (“NCIG”) and Newcastle Port Corporation (“NPC”) (together, the “Applicants”), which were granted subject to a condition that the Applicants execute their respective Capacity Framework Documents by 31 August 2009.

We confirm that on 31 August 2009, PWCS and NPC executed the PWCS Capacity Framework Documents as required by the Commission’s condition.

The status of the NCIG Capacity Framework Documents is set out in the letter to the Commission from Blake Dawson of today’s date.

Attachment 1 to this letter provides details of the PWCS Capacity Framework Documents, and other documents, executed by PWCS and NPC today.

PWCS will provide signed copies of the PWCS Capacity Framework Documents to the Commission on a confidential basis as soon as practicable.

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Australian Competition & Consumer Commission

31 August 2009

If you require any further information, please contact either Wayne Leach on (02) 9296 2327 or me.

Yours sincerely



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ATTACHMENT 1: PWCS CAPACITY FRAMEWORK DOCUMENTS

	Document	Parties	Execution date
1	Capacity Framework Agreement	PWCS, NCIG and NPC	31 August 2009
2	Deed of Variation for the Kooragang Lease No. 8334878K	PWCS and NPC	31 August 2009
3	Deed of Variation for the Kooragang Sub-Lease No. 7080854M	PWCS and NPC	31 August 2009
4	Deed of Variation for the Carrington Lease No. AC652598R	PWCS and NPC	31 August 2009
5	Kooragang Island Terminal 4 Agreement for Lease	PWCS, State Property Authority and NPC	31 August 2009

On 31 August 2009, PWCS and the relevant counterparties also executed various financiers' and lessor consents in relation to the variation of the PWCS Leases. PWCS also initialled the final form of its Long Term Ship or Pay Contracts to be offered to customers.