



**Australian
Competition &
Consumer
Commission**

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Our Ref: C2009/1251-02
Contact Officer: Jaime Martin
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2 September 2009

Via email

Dear Sir / Madam

**Applications for authorisation [A91147-A91149 and A91168-A91169] lodged by PWCS,
NCIG and NPC - interim authorisation revoked**

I refer to the Australian Competition and Consumer Commission's (the ACCC) interim authorisation decisions of 22 and 29 July 2009 in relation to the above mentioned applications for authorisation.

In particular, the ACCC granted interim authorisation to the Capacity Framework Arrangements (except for section 11 of Part B) on condition that the Applicants execute their respective Capacity Framework Documents by 31 August 2009.

On 31 August 2009 the Applicants advised the ACCC that one party failed to execute the relevant Capacity Framework Documents.

Accordingly, on 1 September the ACCC revoked interim authorisation of the Capacity Framework Arrangements.

Next steps

The applications for authorisation are still before the ACCC for its consideration. I note that it is open for the Applicants to continue to seek to negotiate any outstanding issues and to request interim authorisation again in the event that all of the Capacity Framework Documents are executed in the future.

Further, I note that the Applicants foreshadowed the possibility of varying the current arrangements if all of the parties failed to execute the Capacity Framework Documents by the deadline. This could involve some of the parties lodging a new application for authorisation with the ACCC.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please contact me on (02) 6243 1266 (david.hatfield@acc.gov.au) or Jaime Martin on (03) 9290 1477 (jaimemartin@acc.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Hatfield', written in a cursive style.

David Hatfield
A/g General Manager
Adjudication Branch

**Port Waratah Coal Services Limited, Newcastle Coal Infrastructure Group and
Newcastle Port Corporation – applications for authorisation A91147-A91149 and
A91168 – A91169**

Interested parties – interim authorisation revoked

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. The Treasury (Energy, Transport and Communications Unit)
26. Australian Government Department of Resources, Energy and Tourism (Minerals Branch)
27. Australian Government Department of Infrastructure, Transport, Regional Development and Local Government (Infrastructure Investment)
28. Infrastructure Australia
29. National Transport Commission
30. NSW Department of Planning (Major Project Assessments Division)
31. NSW Department of Primary Industry (Mineral Resources Division)
32. NSW Maritime
33. Australian Transport Safety Bureau
34. Maritime Union of Australia
35. United Mine Workers Federation
36. The Hon Nick Greiner AC
37. Rail Corporation NSW
38. NSW Ministry of Transport
39. China Shenhua Energy Company Limited