



17 February 2011



**RECEIVED**

David Hatfield  
Acting General Manager  
Adjudication Branch  
Australian Competition & Consumer Commission  
GPO Box 3131  
Canberra ACT 2601

**By fax: 02 6243 1199**

Dear Mr Hatfield

**Port Waratah Coal Services Limited (PWCS), Newcastle Coal Infrastructure Group (NCIG)  
and Newcastle Port Corporation (NPC) authorisation A91147 – A91149 & A91168 & A91169  
– request for review by Aston Resources**

We refer to your letter dated 10 February 2011 requesting submissions in relation to the above matter.

Peabody Energy Australia Pty Ltd, through its subsidiaries, is a user of the port facilities operated by PWCS and NCIG and is a shareholder in NCIG.

Although the Capacity Framework Arrangements (**CFA**) have only been in place for a relatively short period of time, we consider that they have operated as intended to date and we have undertaken significant investment and financial commitments on the basis that they would continue to operate as intended.

The CFA were the result of extensive negotiation between all of the relevant stakeholders and provide the certainty that coal producers need to make the long term commitments essential for development of this infrastructure and mines.

We do not support amending the CFA or revising the authorisation granted by the ACCC.

Yours sincerely

**Julian Thornton**  
Managing Director