



**Australian
Competition &
Consumer
Commission**

Our Ref: A91275, A91277, A91278
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16 February 2012

Mr Paul McLachlan
Partner
McCullough Robertson Lawyers

Mr Matthew Bull
Senior Associate
Freehills

Mr Luke Woodward
Partner
Gilbert + Tobin

Dear Mr McLachlan, Mr Bull and Mr Woodward

Applications for authorisation A91275, A91277 and A91278 lodged by various coal producers - final determination

The Australian Competition and Consumer Commission (the ACCC) has issued determinations in respect of the following applications for authorisation:

- A91275 – lodged by Carabella Resources Limited, Macarthur Coal Limited, Middlemount Coal Pty Limited, New Hope Corporation Limited, Peabody Energy Australia Pty Limited and Rio Tinto Australia Pty Limited on 7 September 2012.
- A91277 – lodged by Carabella Resources Limited, Macarthur Coal Limited, Middlemount Coal Pty Limited, New Hope Corporation Limited and Peabody Energy Australia Pty Limited on 28 September 2012.
- A91278 lodged by Carabella Resources Limited, Macarthur Coal Limited, Middlemount Coal Pty Limited, New Hope Corporation Limited, Peabody Energy Australia Pty Limited and Rio Tinto Australia Pty Limited on 28 September 2012.

Copies of the ACCC's determinations are attached, including summaries of its reasons. For the reasons set out in its determinations, the ACCC has decided to grant each of the authorisations for 15 years. The ACCC's assessment is set out in Chapter 5 of each of its determinations.

Application for review

Pursuant to section 101 of the *Competition and Consumer Act 2010*, a person dissatisfied with any of these determinations may apply to the Australian Competition Tribunal for its review. An application for review must be made within 21 days of the date of these determinations; that is, on or before 8 March 2012. If no application to review is lodged by this date, the ACCC's determinations will come into force on 9 March 2012.

An application for review of any the ACCC's determinations should be lodged directly with the Australian Competition Tribunal. The Australian Competition Tribunal is a separate body from the ACCC and is located within the Federal Court of Australia.

For further information about the process involved in reviewing decisions in the Australian Competition Tribunal please refer to the tribunal's website located at <http://www.competitiontribunal.gov.au/>.

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 Tanya Hobbs on 02 6243 1029.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch