

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

**Budget Estimates**

**29 May – 31 May 2012**

**Question: BET 73**

**Topic: ACCC Capacity Framework Arrangements for Port Newcastle**

**Hansard Page: Tuesday 29 May 2012, page 113**

**Senator RHIANNON asked:**

Senator RHIANNON: Did you provide any detail in terms of what needed to be provided in the framework when we get to the point of trigger, even if you are not going to be the regulatory mechanism? What I am trying to understand is, with this amount—in this case, 176.7 million tonnes—what mines does it come to? What contracts? Over what period of time? Did you get down to that level of detail?

Mr Chadwick: No. The test for us to grant that exemption from competition law was really whether the arrangements result in a public benefit that is sufficient to outweigh any anticompetitive detriment. The benefit, in a sense, is clear in terms of the expansion of the port. And our focus was on the potential anticompetitive harm in the arrangements. So that was really our focus there.

Senator RHIANNON: How do you justify a public benefit when we cannot be confident that the trigger has been achieved? If your justification for providing the exemption is on the basis of public benefit, how do we know we have a public benefit here?

Mr Chadwick: We consulted with a range of stakeholders.

Senator RHIANNON: Who were the stakeholders?

Mr Chadwick: This happened a year or two ago, so I do not have the list with me.

Senator RHIANNON: Can you take that on notice?

Mr Chadwick: I can take that on notice. Really the focus was on the strategy to expand the port. That was really the focus of that assessment.

**Answer:**

The ACCC wrote to the following interested parties seeking submissions on the authorisation applications concerning the Hunter Valley Coal Chain (Port Waratah Coal Services Limited & Ors, A91147-A91149 & A91168 & A91169):

- Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES)
- Anglo Coal Australia Pty Ltd
- Asciano Limited
- Ashton Coal Mines Limited

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- Austar Coal Mine Pty Limited
- Australian Government Department of Infrastructure, Transport, Regional Development and Local Government (Infrastructure Investment)
- Australian Government Department of Resources, Energy and Tourism (Minerals Branch)
- Australian Rail Track Corporation
- Australian Transport Safety Bureau
- BHP Billiton - Energy Coal
- Bloomfield Collieries Pty Limited
- Centennial Coal Company Limited
- China Shenhua Energy Company Limited
- Coal & Allied (Rio Tinto Coal Australia Pty Ltd)
- Donaldson Coal Pty Ltd
- Genesee & Wyoming Australia Pty Ltd (on behalf of Fenwick Elliot Grace)
- Gloucester Coal Limited
- Hunter Valley Coal Chain Logistics Team
- Idemitsu Australia Resources Pty Limited
- Infrastructure Australia
- Integra Coal Operations Pty Ltd
- Maritime Union of Australia
- Minerals Council of Australia
- National Transport Commission
- NSW Department of Planning (Major Project Assessments Division)
- NSW Department of Primary Industry (Mineral Resources Division)
- NSW Maritime
- NSW Minerals Council
- NSW Ministry of Transport
- Peabody Coal Trade Australia
- Peabody Pacific Pty Limited
- QR National Coal
- Rail Corporation NSW
- SCT Logistics

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- The Hon Nick Greiner AC
- The Institute of Energy Economics Japan
- The Treasury (Energy, Transport and Communications Unit)
- United Mine Workers Federation
- Werris Creek Coal Sales Pty Ltd
- White Mining Limited
- Whitehaven Coal Ltd
- Xstrata Coal Australia Pty Ltd.

In addition to writing directly to these parties, the ACCC placed a copy of each application for authorisation and a copy of the letter to interested parties inviting submissions on the applications on a public register accessible from its website at

<http://www.accc.gov.au/content/index.phtml/itemId/879882/fromItemId/401858>.