

NSW Minerals Council

Dear Ms Owens

INQUIRY INTO PROGRESS IN RAIL REFORM

With reference to the last paragraph on page 8 of our submission dated 6th October to the above inquiry, I wish to advise that the Federal Court has handed down its judgment that the Hunter Railway Line Service is not a 'government coal carrying service' within the meaning of section 78 of the Competition Policy Reform Act 1995. This means that the 5 year moratorium on the application of part IIIA of the Trade practices Act 1974 to government coal carrying services does not apply to access to the rail infrastructure of Rail Access Corporation.

This judgment has no immediate practical consequences. It means however that

- the NSW Minerals Council can resume its appeal to the Australian Competition Tribunal against the deemed decision of the NSW Premier not to declare the Hunter Railway Line Service.
- The national Competition Council cannot recommend for certification a rail access regime that allows unfair discrimination against coal in rail access charges.

Yours sincerely

Denis Porter

Executive Director