



New South Wales

Ports and Maritime Administration Amendment (Access Rules) Regulation 2008

under the

Ports and Maritime Administration Act 1995

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Ports and Maritime Administration Act 1995*.

JOSEPH TRIPODI, M.P.,
Minister for Ports and Waterways

Explanatory note

The object of this Regulation is to provide for the Minister for Ports and Waterways to:

- (a) set mandatory access standards for facilitating access by coal producers to the Kooragang and Carrington Coal Terminals at Newcastle, and
- (b) approve access rules proposed by the operator of the coal terminals (which are to be complied with by the operator until 30 June 2009).

This Regulation is made under the *Ports and Maritime Administration Act 1995*, including section 10B and Schedule 4.

2008 No 606

Clause 1 Ports and Maritime Administration Amendment (Access Rules) Regulation
2008

Ports and Maritime Administration Amendment (Access Rules) Regulation 2008

under the

Ports and Maritime Administration Act 1995

1 Name of Regulation

This Regulation is the *Ports and Maritime Administration Amendment (Access Rules) Regulation 2008*.

2 Amendment of Ports and Maritime Administration Regulation 2007

The *Ports and Maritime Administration Regulation 2007* is amended as set out in Schedule 1.

Schedule 1 Amendment

(Clause 2)

Part 2A

Insert after Part 2:

Part 2A Mandatory access standards for Newcastle coal terminals

18A Definitions

In this Part:

approved access rules means access rules approved by the Minister under this Part.

mandatory access standards means standards set and notified by the Minister under this Part.

Newcastle coal terminals means land-based port facilities at Newcastle operated by Port Waratah Coal Services Limited and known as the Kooragang Coal Terminal and the Carrington Coal Terminal.

the operator of the Newcastle coal terminals means Port Waratah Coal Services Limited.

18B Minister may set mandatory access standards for Newcastle coal terminals

- (1) The Minister may set standards in connection with the operation of the Newcastle coal terminals in relation to access to those terminals during the period from 1 January 2009 to 30 June 2009, for the purpose of ensuring equitable access to those terminals during that period for all coal producers who seek it.
- (2) In setting those standards, the Minister is to have regard to the following:
 - (a) past usage of allocated access by applicants for access,
 - (b) the capacity of the terminals,
 - (c) the capacity of the port-related supply chain that connects to the terminals,
 - (d) the number and capacity of vessels available to use the terminals to load coal.
- (3) The Minister must notify the operator in writing of any standard set by the Minister under this clause.

2008 No 606

Ports and Maritime Administration Amendment (Access Rules) Regulation
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Schedule 1 Amendment

18C Access rules

- (1) The operator must provide the Minister with proposed rules (*access rules*) that will regulate the allocation of access by the operator to the Newcastle coal terminals, for the purpose of ensuring compliance by the operator with the mandatory access standards.
- (2) The Minister may direct the operator to review proposed access rules having regard to any matters directed by the Minister.
- (3) The Minister may approve proposed access rules either without modification or with such modifications as the Minister considers appropriate for ensuring compliance by the operator with the mandatory access standards.
- (4) The operator must ensure that the approved access rules are complied with by the operator during the period from 1 January 2009 to 30 June 2009.
Maximum penalty: 500 penalty units.

18D Records and information

- (1) The operator must keep such records and provide such information (including reports) to the Minister in connection with the operation of the approved access rules as the Minister may direct by notice in writing to the operator to facilitate the monitoring of compliance by the operator with the mandatory access standards.
Maximum penalty: 250 penalty units.
- (2) The Minister may publish information provided to the Minister under this clause in such manner as the Minister thinks fit.

BY AUTHORITY
