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18 November 2005

*COMMERCIAL IN CONFIDENCE*

Dear Mr Dunn

APPLICATION FOR EXEMPTION FROM THE REQUIREMENT  
TO REGISTER AS A NETWORK SERVICE PROVIDER

The Capricorn Coal Developments Joint Venture (“Capcoal Joint Venture”) which owns the proposed Capcoal Network Service assets hereby applies to the Australian Energy Regulator (“AER”) for exemption from the requirement to register as network service providers. The Capcoal Joint Venture comprises:

- |       |  |                      |
|-------|--|----------------------|
| (i)   | Anglo Coal (German Creek) Pty Ltd      | (ABN 99 081 022 415) |
| (ii)  | Jena Pty Ltd                           | (ACN 008 571 079)    |
| (iii) | Mitsui German Creek Investment Pty Ltd | (ABN 79 100 736 990) |

Anglo Coal (Capcoal Management) Pty Ltd (“Capcoal”) is applying to the National Electricity Market Management Company (“NEMMCO”) to register as a network service provider for the proposed Capcoal Network Service. In accordance with clause 2.9.3 of the National Electricity Rules (NER), Capcoal will be registering as the intermediary for the Capcoal Joint Venture.

1. Background

Anglo Coal (Capcoal Management) Pty Ltd (“Capcoal”) is the operator of a 66kV network supporting the operations of its mine, located north-north-east of Emerald in central Queensland. This private network is connected to the Ergon Energy Corporation Ltd

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Ref

A member of the Anglo American plc group

("EECL") distribution network at the Lilyvale substation. The network is operated under Special Approval 11/98 granted by the Queensland Department of Energy ("DoE").

An independent party, Energy Developments Ltd ("EDL"), is seeking to establish a 32 MW power station on the German Creek mining lease. The power station would be connected to the Capcoal network and fuelled by coal seam methane from the Anglo Coal coal mines. The project presents an opportunity to reduce emissions of greenhouse gases by using waste coal mine gas to generate electricity.

## 2. Registration of Capcoal as a Network Service Provider

Capcoal is applying to NEMMCO to register the following assets as a distribution service:

- (i) the 66 kV radial overhead electricity line, approximately 19 km in length, originating at EECL's Lilyvale Substation and extending to Anglo Coal's Lease Boundary Substation; and
- (ii) parts of the Anglo Coal Lease Boundary Switchyard including the busbar, connections and electrical apparatus connected to the 66kV overhead electricity line from Lilyvale.

In the course of making application to NEMMCO, Capcoal has:

- (i) applied for, and received, an exemption from the National Electricity Code Administrator ("NECA") from the operation of Chapter 5 of the National Electricity Code and the requirement to provide an access undertaking to the ACCC;
- (ii) applied for, and awaits, a Special Approval variation from the Queensland DoE in relation to the operation of the line connecting to EECL;
- (iii) established a Connection Agreement with EECL; and
- (iv) commenced discussions with the Queensland Competition Authority in relation to the economic regulation of the network service.

## 3. Exemption from Registration as a Network Service Provider

We confirm that:

- (i) Capcoal Joint Venture owns the proposed Capcoal Network Service assets; and

- (ii) Capcoal is the intermediary who will act in our behalf by registering with NEMMCO as a Network Service Provider.

In applying for exemption, as described in clause 2.5.1(d)(2) of the National Electricity Code ("Code"), Capcoal made reference to the '*Guidelines for exemption from the requirement to register as a network service provider*' ("Guidelines") dated July 1998, as published on the NECA website.

In making the application for exemption from registration as network service providers, the Capcoal Joint Venture requests the AER make reference to Capcoal's application for exemption, as we are relying on the same facts and information. The following addresses principles 6.5 to 6.8 of the Guidelines and, together with the information in Capcoal's application for exemption, is the basis upon which full exemption is sought for the Capcoal Joint Venture.

- (a) *Principle 6.5 – the proposed charging regime(s) governing the NSP's network should balance the needs of the network provider and the end user.*

The Capcoal network service has established contractual arrangements to support access by the proposed 32 MW power station to the national electricity market. The parties intend to apply nominal charges for the use of the network.

- (b) *Principle 6.6 – an appropriate mechanism must exist for the setting of energy charges if users of the network cannot access retailers. Jurisdictional licence conditions or regulations govern the on-selling of energy.*

The German Creek coal mine is currently a contestable electricity customer and, as a contestable customer, the German Creek coal mine is able to choose its electricity retailer.

- (c) *Principle 6.7 – end users should have appropriate recourse in the event of disputes, for example to the dispute resolution arrangements contained in chapter 8 of the Code.*

The provision of network services to the proposed 32 MW power station is supported by commercial contractual arrangements which include access to dispute resolution processes.

- (d) Principle 6.8 – the applicant should have obtained, or have applied for exemption from relevant jurisdictional requirements (eg under licencing or other regulations).

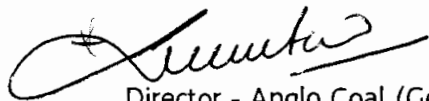
The Capcoal Joint Venture is compliant with relevant jurisdictional requirements and will continue to seek to satisfy any outstanding statutory obligations, as they arise and/or are identified.

4. Contact for additional information

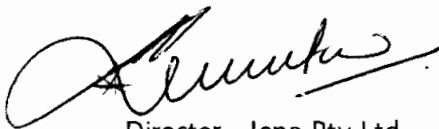
We trust the above is sufficient to allow the AER to extend the exemption already granted to Capcoal to include the exemption of the Capcoal Joint Venture from the requirement to register as network service providers.

If you require any additional information or clarification, please contact Mr John O'Brien (HMA Consulting) on 0418 888 652 who is acting on our behalf in relation to this application.

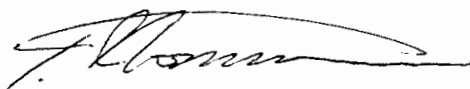
Yours faithfully



Director - Anglo Coal (German Creek) Pty Ltd



Director - Jena Pty Ltd



Director - Mitsui German Creek Investment Pty Ltd