



Mr Brian Parmenter
Chairperson
Queensland Competition Authority
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Brisbane Corporate Office/Department

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Dear Mr Parmenter,

**Dalrymple Bay Coal Terminal - Revised Draft of Access Undertaking
Submission by Anglo Coal Australia**

We refer to the revised draft of the access undertaking ("Access Undertaking") for the Dalrymple Bay Coal Terminal ("DBCT"). We also refer to the submission made in response to the Access Undertaking by the DBCT User Group. As noted in that submission, some individual Users wish to make their own submission in respect of a small number of provisions. Anglo Coal Australia is making this submission on that basis, as users of DBCT and members of the DBCT User Group. This submission is not made on behalf of the DBCT User Group. Anglo Coal Australia broadly consents to the Access Undertaking, subject to the submissions made by the DBCT User Group and the 2 issues outlined below.

Establishment and management of the Queue at the Commencement Date

Clause 5.4 of the Access Undertaking provides a protocol for DBCT Management to follow if it has before it more than one Access Application and there is or will be insufficient Available Capacity to accommodate all of the Access Applications that are before DBCT Management. We note that the protocol proposed will work once the Access Undertaking has commenced and all current requests for additional capacity are met. However, the protocol outlined does not establish a workable process for requests for additional capacity that may be in existence at the commencement of the Access Undertaking. We understand there are currently significantly more requests for additional capacity than plans for expansion before DBCT Management. We also understand that DBCT Management has already commenced the queue for that expanded capacity, despite the Access Undertaking not having commenced. In this regard DBCT Management has written to potential users seeking their confirmation to a binding Terms Sheet which would

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in effect allocate all of the expansion capacity. The result of this process is that there would not be a need for the queue provisions to apply as all of the nominal port capacity would be under contract.

DBCT Management has attempted to address this early establishment of a queue in clause 5.4(h) by setting a deemed date for the Access Seeker's notice at 12 noon on the twentieth Business Day after the Commencement Date. However as outlined above, this mechanism becomes irrelevant in the allocation of the additional capacity available from the current expansion work, as all of the additional capacity will be allocated should all potential users offered additional tonnage accept the Terms Sheet as currently proposed by DBCT Management.

Furthermore, this approach does not address how numerous notices deemed to be received at the same time will be placed in the queue.

We suggest, as a solution that would satisfy all parties, the following amendments be made to the Access Undertaking:

- (a) within 5 Business Days after the Commencement Date, DBCT Management notifies all Access Seekers that will be deemed to have given notice at 12 noon on the twentieth Business Day after the Commencement Date, that their notice will be deemed accordingly provided the Access Seeker confirms prior to that time that its notice remains valid;
- (b) all Access Seekers (being those that have confirmed its notice remains valid and any other Access Seekers giving notice on or before the day 20 Business Days after the Commencement Date) be classified as "Initial Access Seekers";
- (c) a pro-rata allocation of capacity available as at or after 20 Business Days after the Commencement Date and each additional tranche of capacity that becomes available be made to the Initial Access Seekers, until those requests for access are satisfied;
- (d) the terms of clause 5.4 in respect of executing Access Agreements and provision of security apply to this process;
- (e) if an Initial Access Seeker cannot use the pro-rated capacity allocated to it (because the allocated capacity does not permit economic development of the relevant mine), that capacity be re-distributed among the remaining Initial Access Seekers. Any Initial Access Seeker that relinquishes capacity in this manner is included in any future pro-ratings of capacity until its request for capacity is satisfied; and
- (f) the proposed Queue forms behind the Initial Access Seekers.

We believe this approach allows a fair, transparent and competitive approach to the current lack of capacity at DBCT and the potential of multiple Access Seekers being allocated the same position in the Queue (which is the current logical outcome of clause 5.4(h)(1)).

Annual Revenue Requirement

Anglo notes that the QCA in issuing its final decision allowed for a single bullet payment as the basis for calculating the annual revenue requirement. As outlined in the DBCT Users submission this matter has been the subject of negotiations between the Users and DBCT Management. In the interest of reaching a conclusion it was agreed by some Users to split the revenue difference 50:50 between the Users and DBCT Management.

Anglo does not support this approach and believes that while both Users and DBCT Management acknowledge and accept the calculation anomaly, it is appropriate that the QCA take this opportunity to correct this oversight and allow the full effect of the adjustment to be reflected in favour of the Users.

Yours faithfully
Anglo Coal Australia

A handwritten signature in black ink, appearing to read 'M.K. Allen', is written over a light grey rectangular background.

M.K. Allen
Infrastructure & Business Manager