

RIO TINTO

COAL AUSTRALIA

31 January 2006

Mr John Hall
Chief Executive
Queensland Competition Authority
GPO Box 2257
Brisbane QLD 4001

Dear Mr Hall

**Re: Dalrymple Bay Coal Terminal Access Undertaking – Allocation of
Expansion Capacity**

We refer to the revised draft Access Undertaking (the *Access Undertaking*) submitted to the QCA on 4 January 2006 by BBI (DBCT) Management Pty Limited (*DBCT Management*).

On the whole Rio Tinto Coal Australia Pty Limited (*RTCA*) is supportive of the Access Undertaking. Many users of the Dalrymple Bay Coal Terminal (*DBCT*) have engaged with DBCT Management in commenting on drafts prior to its submission. As a result several iterations have been considered.

Section 5.4 of the Access Undertaking (read with the definition of “Access Application”) deals with the allocation of capacity where there is insufficient capacity to meet demand. RTCA supports and endorses the arrangements set out in that section of the Access Undertaking for allocating capacity at DBCT in such circumstances, and more specifically, the definition of “Access Application”, which includes certain requests made before the Access Undertaking commences, following approval by the Authority.

It is RTCA's view that having the “Queue” already assembled by DBCT Management as a result of requests for expansion of the Terminal until now (i.e. historical requests received by DBCT Management before the DBCT Access Undertaking is approved by the Authority) forming part of the Queue for the purposes of the Access Undertaking (as proposed by DBCT Management in the Access Undertaking) is the only equitable and sensible means of allocating limited expansion capacity.

Historically, DBCT Management's stated intention has been to allocate capacity at DBCT on a "first to commit" basis. This reflects the previous practice of Ports Corporation of Queensland at DBCT (and elsewhere). DBCT Management sent a letter to RTCA in June 2004 and, we understand, all other Users and Access Seekers at the time, unambiguously re-stating this position.

Under the terms of the Port Services Agreement between DBCT Management and DBCT Holdings Pty Ltd, we understand DBCT Management is required to effect an expansion within 12 months of receiving certain requests for additional capacity.

Capacity provided by the DBCT expansion has been allocated by DBCT Management in the order in which such requests were made. The Access Undertaking as submitted by DBCT Management ensures this process continues.

We understand some access seekers may submit that the process of capacity allocation set out in Section 5.4 of the Access Undertaking is unfair. We note that all Access Seekers have had equal opportunity to participate in the process as and when they were ready to commit.

In making the subject requests for capacity prior to the Access Undertaking being approved, users were required to commit themselves unconditionally to the requested increased contract tonnages. Furthermore, RTCA has relied upon the fact that the current access queue would continue, in making significant commercial decisions.

Mine specific information

To consider a different method of allocating expansion capacity now from that which has always been clearly and publicly signalled by DBCT Management would put RTCA's investment commitments and capital expenditures at risk.

An accepted practice of committing to port capacity on an ordered basis has allowed several users to make commercially sensible decisions. Those that have not properly committed to the required elements should not now be entitled to 'jump the queue'. The Access Undertaking at Section 5.4 (and the definition of "Access Application") reinforces the existing practice, and RTCA wholly supports it in its current form.

Yours faithfully

Grant Thorne
Managing Director
Rio Tinto Coal Australia Pty Limited