
DBCTM'S 2015 DAU: QCA STAFF QUESTIONS FOR STAKEHOLDERS

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Background

On 12 October 2015, Dalrymple Bay Coal Terminal Management (DBCTM) submitted a draft access undertaking (the 2015 DAU) to the QCA for approval.

On 22 April 2016, the QCA released its draft decision on the 2015 DAU. The draft decision was to refuse to approve the DAU, and to set out the amendments considered necessary for the DAU to be approved.

Submissions on the draft decision were due by 8 July 2016. Five submissions were received—from Aurizon Network, Aurizon Operations, DBCTM, the DBCT User Group and Glencore.

Further consultation

QCA staff consider there are a small number of new proposals and/or information presented by stakeholders in their submissions on the draft decision that warrant further consultation with stakeholders.

QCA staff have developed the below list of issues/questions to assist stakeholders in considering matters associated with the identified new proposals and/or information.

Further submissions on these matters are sought by Friday 26 August 2016.

Issues/questions for comment

- (1) *Differential pricing*—DBCTM's submission on the draft decision proposed a series of amendments to the approach to potential differential pricing of future expansions that was set out in the QCA's draft decision.

We seek comments from stakeholders on the appropriateness of DBCTM's proposals to:

- (a) Include additional criteria in clause 11.13(c), for the QCA to consider when assessing an expansion pricing application.
 - (b) Base assessment of the 'incremental up/average down' approach on the impact on total access charges, rather than the Terminal Infrastructure Charge (TIC).
 - (c) Include a new schedule to the 2015 DAU which contains the specific negotiation clauses for implementation during the regulatory period, if the QCA determines that an expansion component is to be differentially priced.
- (2) *Treatment of inflation*—DBCTM's submission on the draft decision proposed two changes to the treatment of inflation: (i) to adopt the expected inflation rate to calculate inflation on the opening Regulatory Asset Base (RAB) value each year, instead of outturn inflation; and (ii) to change the method used to calculate expected inflation from the 'RBA approach' to an 'indexed bond approach.'

We seek comments from stakeholders on the appropriateness of DBCTM's proposed changes to the treatment of inflation.

- (3) *Non-expansion capital expenditure (NECAP)*—the DBCT User Group's submission on the draft decision proposed that, should the QCA be minded to maintain its position on accepting DBCTM's proposal on the approval process for NECAP, then the QCA should require amendment to the DAU to take into account any underinvestment in prudent NECAP when assessing DBCTM's revenue requirements.

We seek comments from stakeholders on the appropriateness of formalising this matter in this way.

- (4) *Competition between ports*—DBCTM's submission on the draft decision suggests that DBCT's 'low-cost' status is relevant only where there is spare capacity in the existing Terminal. DBCTM considers this low-cost status is not relevant for establishing whether DBCTM can compete with Adani's Abbot Point Coal Terminal for securing volumes for expansion infrastructure.

We seek comments from stakeholders on whether they consider that the competitive drivers relating to expansion tonnage are likely to differ from those relating to existing tonnage.

- (5) *Independence of the Operator*—the mark-up of the 2015 DAU, that was included in DBCTM's submission on the draft decision, deleted drafting regarding the identity of the Operator and included alternative drafting for the regulatory approval process DBCTM would comply with in the event it decided to exercise its rights under the Operation and Maintenance Contract (OMC) during the regulatory period.

DBCTM's submission did not provide reasoning for the nature and scope of its proposed amendments to the scope and administration of the 2015 DAU, beyond referencing that the change in Brookfield's Asciano transaction entitles them to modify the ring-fencing amendments proposed in the draft decision.

We seek comments from stakeholders on the appropriateness of DBCTM's proposal to:

- (a) Delete proposed drafting in the draft decision regarding the:
- (i) role and identity of the Operator
 - (ii) regulatory procedures and approval processes DBCTM must comply with prior to changing the Operator
 - (iii) minimum terms to be included in the OMC and Terminal Regulations applying to a new Operator.
- (b) Include new regulatory procedures to be followed by DBCTM within 28 days of DBCTM changing the identity of the Operator.
- (6) *Terminal Master Plan*—DBCTM's submission on the draft decision attached the 2016 Master Plan, as approved by DBCT Holdings. DBCTM intends that this replace the 2009 Master Plan, which was incorporated as Schedule F in the 2015 DAU as a 'placeholder'.

We seek comments from stakeholders on the appropriateness of DBCTM's proposal to replace the 2009 Master Plan with the 2016 Master Plan.

SUBMISSIONS

Closing date for submissions: 26 August 2016

Public involvement is an important element of the decision-making processes of the Queensland Competition Authority (QCA). Therefore, submissions are invited from interested parties concerning its assessment of Dalrymple Bay Coal Terminal Management's (DBCTM's) 2015 draft access undertaking (DAU). The QCA will take account of all submissions received.

Submissions, comments or inquiries regarding this paper should be directed to:

Queensland Competition Authority
GPO Box 2257
Brisbane Q 4001
Tel (07) 3222 0532
Fax (07) 3222 0599
www.qca.org.au/submissions

Confidentiality

In the interests of transparency and to promote informed discussion, the QCA would prefer submissions to be made publicly available wherever this is reasonable. However, if a person making a submission does not want that submission to be public, that person should claim confidentiality in respect of the document (or any part of the document). Claims for confidentiality should be clearly noted on the front page of the submission and the relevant sections of the submission should be marked as confidential, so that the remainder of the document can be made publicly available. It would also be appreciated if two copies of each version of these submissions (i.e. the complete version and another excising confidential information) could be provided. Where it is unclear why a submission has been marked 'confidential', the status of the submission will be discussed with the person making the submission.

While the QCA will endeavour to identify and protect material claimed as confidential as well as exempt information and information disclosure of which would be contrary to the public interest (within the meaning of the *Right to Information Act 2009* (RTI)), it cannot guarantee that submissions will not be made publicly available. As stated in section 187 of the *Queensland Competition Authority Act 1997* (the QCA Act), the QCA must take all reasonable steps to ensure the information is not disclosed without the person's consent, provided the QCA believes that disclosure of the information would be likely to damage the person's commercial activities and that the disclosure of the information would not be in the public interest. Notwithstanding this, there is a possibility that the QCA may be required to reveal confidential information as a result of a RTI request.

Public access to submissions

Subject to any confidentiality constraints, submissions will be available for public inspection at the Brisbane office, or on the website at www.qca.org.au. If you experience any difficulty gaining access to documents, please contact us on (07) 3222 0555.