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Ref: EXE:63497:KG

25th August 2011

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

Dear Mr Hall

Goonyella System Rules

This is a submission on behalf of Dalrymple Bay Coal Terminal Pty Ltd **(DBCT P/L)** in respect of QR National Network Services **(QR)** 2010 Access Undertaking draft System Rules for the Goonyella coal system.

In summary, DBCT P/L does not agree with the assumptions QR have made through their interpretation of the Terminal Regulations for Dalrymple Bay Coal Terminal (**DBCT**) in the "Goonyella System Rules Explanatory Notes". The System Rules, as proposed by QR, might theoretically promote efficiency of railings on the basis of even railings. However, even railings do not align with the actualities of inconsistent coal production and a vessel order-of-arrival berthing mode. The QR submission is based on an assumption that vessel berthing (and presumably coal production as well) can and will be aligned to railings. The Terminal Regulations do not provide DBCT P/L with the discretionary power to alter the current vessel order of berthing at DBCT, except in limited circumstances where there is a specific constraint within the system that impacts on the ability for the required coal to be available at DBCT for loading onto a vessel or on the vessel being ready to load.

Goonyella System Rules Explanatory Notes

Compatibility between Even Railings and Cargo Assembly

Fundamentally, the operating characteristics of the Dalrymple Bay Coal Chain do not align with the operating principles proposed by QR in the System Rules. The DBCT mode of operation is cargo assembly (or demand pull methodology). Cargo assembly is the basis for train ordering and vessel loading due to the inherent characteristics of the supply chain. A cargo assembly mode of operation directly matches railed coal with shipping demand.

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QR's assertion that cargo assembly and even railings are compatible (QR believes that even railing "*is not materially incompatible with the concept of cargo assembly*") is, in theory, not incorrect in a context where the order of vessel loading can be adjusted to coincide with the order of arrival of trains operating on an even railings timetable. However, where the vessel loading sequence is based on vessel order of arrival and there is also unevenness in coal production, the underpinning assumption by QR, on which the proposed rules are based, is flawed.

Access holders of DBCT under the DBCT Standard Access Agreement: (clause 3.6(c)) agree "*The User must observe the Terminal Regulations, as they exist from time to time, as a condition of access to and the right to have its Coal Handled at the Terminal*".

DBCT Terminal Regulations in clause 2.2 require that the "*Terminal will operate on a Cargo Assembly basis*".

However, the Terminal Regulations do not allow the DBCT Operator to order the delivery of coal to meet the flexibility required to support even railings. Even if QR Network has contracted track access on an even railing mode, our understanding is that above rail providers have contracted on the basis of both even railings and cargo assembly agreements. DBCT access has been contracted (by virtue of Terminal Regulations) on an order of vessel arrival basis. Our view is that the draft System Rules in their current form will only exacerbate the existing disparity between operating modes further eroding efficiency and throughput in an already constrained supply chain.

Vessel Berth Sequencing

QR National Network Services predicates its proposed System Rules on the notion that vessel berthing sequencing is discretionary. To base the even railings nature of these rules on the premise that *"the extent that vessels are berthed in a manner reasonably consistent with the Port entitlement of using Dalrymple Bay Coal Terminal (DBCT) at an even rate then the scheduling flexibility in the Network Management Principles and pathing capability can support a cargo assembly mode of operation"* is flawed, because:

1. vessel arrivals are agreed between each User and its customer, with DBCT having no part in that agreement. Thus DBCT P/L has no influence or control over vessel arrivals; and
2. Vessels are required to be loaded in turn of arrival (subject to limited exemptions set out in Terminal Regulation 2.3, an extract of which is attached).

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Although sub-clause 2.3 f (iv) is one of the qualifications to loading in order of vessel arrival, it is significantly narrow in its operation. There cannot be a material adverse affect to another vessel as a result of amending the order of arrival priority to assist coal chain efficiency – "*any measure expected to optimise operation and efficiency of the DBCT Coal Chain (but not so as to materially adversely affect a Vessel otherwise entitled to priority under all other terms of these Regulations)*". In practice DBCT P/L is rarely authorised under this exception to amend the "default" vessel berthing sequence under the Terminal Regulations.

DBCT P/L does not agree with QR's assertion that "*the port has the ability to accommodate an even railings mode of operation through the use of its Terminal Regulations*".

DBCT P/L seeks further discussion, and evidentiary analysis from QR in respect of the assertion that *"the strict use of the order of arrival rule as the basis for scheduling of the DBCT Coal Chain may have the following adverse affects:*

- *Impact on maintenance planning and delivery by reducing QR Network's ability to plan closures on specific line sections;*
- *Result in the inefficient utilisation of the rail network; and*
- *Require inefficient investment (and therefore cost transfer) elsewhere in the supply chain".*

DBCT P/L aligns all maintenance activities within the Terminal after discussion with the QR maintenance planning team ensuring rail maintenance activities have the priority required within the supply chain. It is through this collaborative planning process that utilisation of the rail network is maintained as the highest priority to ensure optimal supply chain velocity. DBCT P/L considers that no inference can be drawn that turn of arrival berthing has to date had, or will in the future have, any impact on rail maintenance planning.

DBCT P/L agrees with QR that capital investment being transferred throughout the system is inefficient. However, capital should be invested where the operating principles and practices warrant the investment to support supply chain efficiency and increased throughput. Where the commercial framework does support the alignment of operating principles and the efficient utilisation of the supply chain assets from a holistic perspective, investment in infrastructure should be considered prior to introducing further constraints into the system.

Previous Initiatives of DBCT P/L

DBCT P/L is a multi-user facility where the coal producers are in competition with each other.

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In November 2009, an initiative was trialled to alter vessel order of berthing to balance the draw down across the supply chain to support a reduction in the vessel queue. Producers felt that they were being materially disadvantaged by changes to the order of berthing, and subsequently decided not to continue with this initiative.

Similar concerns also impacted on the implementation of the Alternative Operating Regime **(AOR)** initiative in 2010. This was an initiative intended by the Service Providers to increase supply chain alignment through the recognition of extant commercial arrangements, and once again altering vessel order of berthing, to achieve a balanced utilisation of mine load points, rolling stock and track assets failed to gain producer support.

To date, all consultative processes to amend the Terminal Regulations to obtain producer support to increase Operator discretion around flexible berthing have failed to gain approval by the coal producers. Hence DBCT P/L considers that the basis of QR's approach – that Terminal Regulations can be used to change vessel loading order, in order to align that order with even railings, is not possible at this time, and this should be recognised.

As well, at the other end of the coal chain, all the evidence is that coal production has some volatility, and that also mitigates against even railing.

The "exceptions" to loading in order of Arrival in clause 2.3 of the DBCT Terminal Regulations do recognise and respond to limitations in other parts of the coal chain and what is possible. The QR System Rules need to likewise recognise constraints on either side of railings, and to maximise the efficiencies which **can** be achieved in this environment.

QR Network System Rules, Goonyella Coal Chain, (30/06/2011)

The following observations and recommendations relate to the operational aspects of the draft Goonyella System Rules as outlined in the document.

Page 11 2.2 Maintenance and Construction Planning

"QR Network coordinates the alignment of maintenance and construction activities....."

Currently, this coordination is effected by the Integrated Logistics Company with representatives from all service providers present to ensure effective alignment and coordination of activities.

Page 14 3 Weekly Planning Process

"...a train plan is to be produced by QR Network in consultation with all Access Holders in line with their Access Agreement."

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Clause 3 (b) of Schedule G of the QR Network Access Undertaking requires, for the Central Queensland Coal Region, that train orders must be submitted to QR Network, unless otherwise advised, in a manner and timeframe specified in the System Rules.

Recommendation: In the case of the Dalrymple Bay Coal Chain **(DBCC),** the Terminal Operator, who coordinates rail on behalf of all Terminal users, will directly submit weekly train orders to QR Network, and this will be used as the basis of ordering trains, as circumstances allow.

Page 15 3.2.3 Train Orders

"It is the responsibility of the Access Holder to coordinate train orders with their customers."

Recommendation: This clause be amended to read, "*It is the responsibility of the Access Holder to coordinate train orders with their customers' rail agent (for example the DBCT Terminal Operator).*"

Page 17 3.2.5 Schedule Additional Requested Contracted Orders

"In accordance with the Contested Train Path Decision Making Process outlined in Schedule G of the Contested Train Path Decisions Making Process outlined in Schedule G of the Access Undertaking QR Network will schedule additional requested contracted orders, where additional paths remain available."

Recommendation: This should read, *In accordance with the Contested Train Path Decision Making Process outlined in Schedule G of the Access Undertaking, QR Network will schedule additional requested contracted orders, where additional paths remain available.*

Page 23 7.2.3 Cancellation Accountability

Recommendation: That the DBCT Terminal Operator should be included in this process to ensure the interests of the coal producers and DBCT are represented.

Page 24 8 System Rules Implementation and Endorsement

"QR Network will seek endorsement of the Goonyella System Rules from each Access Holder."

Recommendation: That DBCT P/L, as the DBCT Terminal Operator be included in this process, such that endorsement is required from DBCT P/L prior to any such System Rules being approved by the QCA.

Conclusion

Although even railings might prima facie appear to be the most efficient use of the below-rail asset, from a holistic supply chain perspective the shipping demand for DBCT rarely reflects an

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even distribution of port or supply chain contracted capacity to support even railings. DBCT P/L seeks the Authority's review of the draft Goonyella System Rules to ensure no material impact is directed towards DBCT P/L, or the suppliers to the Terminal without further consultation and analysis.

The System Rules pertaining to the Goonyella system should in any event be held over until the update pertaining to the inclusion of the Northern Goonyella system incorporating the Abbot Point Coal Terminal is finalised in October 2011.

For reasons outlined above DBCT P/L does not support the draft System Rules and would urge the QCA not to approve the draft System Rules in their current form.

If you have any further queries pertaining to this submission, please do not hesitate to contact me.

Yours sincerely,

Kim Gebers
Chief Executive & General Manager
Dalrymple Bay Coal Terminal Pty Ltd

Attach.

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Attachment 1: DBCT Terminal Regulations Ed 3 Version 1 (Sep 2009) Extract

2. OPERATION OF TERMINAL

2.1 Continuous operation

The Terminal is intended to operate for 24 hours a day, 7 days a week (except when not operating to full capacity or at all because of repairs, maintenance, adverse weather conditions or other relevant circumstances) to accept:

(a) Train Consignments for unloading and stockpiling; and

(b) Vessels for berthing, loading and sailing.

2.2 Cargo Assembly

The Terminal will operate on a Cargo Assembly basis. Accordingly, the Operator will use reasonable endeavours to allocate Train Consignments to align with the order of Vessel loading entitlements. However, should there be a constraint in the provision of any Terminal Services, the Operator will direct either train unloading or Vessel loading as a priority, to endeavour to minimise the impact of such Terminal constraints, but as far as is practicable and efficient, to maximize Terminal throughput without materially affecting the order of Vessel loading entitlements.

2.3 Order of loading of Vessels

Vessels will be berthed and loaded in the order of their respective ATAs, except to the extent that the Operator amends that order of entitlement to load, having determined in good faith that any of the following considerations should override that order of priority:

(a) the terms of a relevant Access Agreement - for example:

(i) all or part of an Access Holder's Annual Contract Tonnage may be discretionary (i.e. available only subject to spare capacity of the Terminal); or

(ii) a requirement in the Access Agreement for the Access Holder to use reasonable endeavours to achieve shipping of coal through the Terminal at an even rate may mean that Vessels arriving at a rate which exceeds the Annual Contract Tonnage of an Access Holder may lead to a Vessel losing the priority it would otherwise have had for loading, if loading it causes any additional expense or unreasonable interference to a comparatively even rate of shipping by another Access Holder

(b) a requirement of any other Regulation (for example Pre-loading Requirements) has not been or is not expected to be met in respect of a Vessel or Access Holder;

(c) the Vessel consignment plus 10% (or such other discretionary variance as is allowed under the relevant sale contract) of the tonnage nominated by the

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Access Holder must be available at the Terminal and/or on a train scheduled to arrive at the Terminal within 24 hours (or such longer time as the Operator determines) when berthing commences, unless the Access Holder notifies the Operator in writing before berthing commences that the Access Holder accepts the risk of coal not being available and the Vessel being required to vacate the berth when not fully loaded;

(d) the Operator must be satisfied that the Vessel is in all respects ready to commence loading, before it is accepted for berthing;

(e) the Operator may assign a Vessel to load at a particular berth, meaning that its priority will be determined in relation only to other Vessels assigned to load at that berth;

(f) priority of loading is also subject to alteration at the discretion of the Operator having regard to:

(i) tidal constraints;

(ii) loading constraints;

(iii) prevailing weather conditions;

(iv) any measure expected to optimise operation and efficiency of the DBCT Coal Chain (but not so as to materially adversely affect a Vessel otherwise entitled to priority under all other terms of these Regulations);

(v) the exercise of the Operator's discretion on other grounds pursuant to Regulation 10.1.

10.1 Operator's discretion for Terminal efficiency reasons

(a) The Operator may, at its discretion, make minor departures from the strict operation of any Regulation if doing so is reasonably expected to increase the efficiency of the Terminal in the relevant circumstances but not (in the opinion of the Operator) materially adversely affect any Access Holder.

(b) For example a departure causing a short delay (i.e. postponement of priority) in respect of one Access Holder may in some circumstances allow a number of other Access Holders to avoid a significant delay.