

BHP

**Submission to the Queensland Competition
Authority on the Declaration Review of the
Dalrymple Bay Coal Terminal**

PUBLIC VERSION – REDACTED

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PUBLIC VERSION

CONFIDENTIALITY: *Highly confidential, competitively sensitive information has been redacted.*

1. Introduction

1.1 BHP's Minerals Australia business includes the BHP interests in each of:

- (a) the BHP Mitsubishi Alliance (**BMA**), in which BHP holds a 50% interest; and
- (b) the BHP Billiton Mitsui Coal Pty Limited joint venture (**BMC**), in which BHP has an 80% interest.

1.2 BMA and BMC have metallurgical coal operations in Queensland. The coal mines operated by BMA and BMC, and their most recent annual production data, are set out in Table 1.

Table 1: BMA and BMC current metallurgical coal operations in Queensland and production (mtpa) for FY18 (estimate – FY18 MarYTD, annualised)

BMA Qld Coal operations		BMC Qld Coal operations	
Mine	Production	Mine	Production
Caval Ridge		South Walker Creek	
Peak Downs		Poitrel	
Goonyella/Riverside			
Broadmeadow			
Saraji			
Daunia			
Blackwater			

1.3 In addition to the mines set out in Table 1, BMA's Queensland operations include the following:

- (a) ownership and operation of the Hay Point Coal Terminal (**HPCT**), which is immediately adjacent to the DBCT at the Port of Hay Point; and
- (b) BMA Rail, which is an above-rail coal transportation operation on the Goonyella electrified, narrow gauge system, with several electric consists. BMA Rail provides services to BMA mine operations, representing about one quarter of the above rail services used by BMA. BMA Rail cannot operate on the non-electrified Newlands rail system.

Figure 1: Map of the Central Queensland Coal Network



Source: Aurizon Network Website

- 1.4 The vast majority of the coal produced at each of the BMA mines set out in Table 1, other than the Blackwater mine, is transported from the mine on the Goonyella railway system, to the HPCT at the Port of Hay Point. Coal produced at the Blackwater mine is all railed to the RG Tanna terminal at Gladstone (**RGCT**) on the eponymous Blackwater rail system.

2. Hay Point Coal Terminal

- 2.1 The HPCT is owned and operated by BMA. Its nameplate export capacity was increased to 55mtpa in late 2015, with the completion of a new third berth and other developments.¹
- 2.2 The HPCT is not declared.² BMA commenced operations at HPCT to provide coal terminal services for the coal produced at the BMA mines set out in the left hand column of Table 1, other than Blackwater. HPCT does not provide contracted coal terminal services capacity to any party other than BMA. BMC (ex the South Walker Creek and Poitrel mines) has shipped coal through the HPCT for some years, where it is efficient to do so, pursuant to an arrangement between BMA and BMC. BMC does not have committed capacity at HPCT available to it.
- 2.3 Since its construction in 1971, the HPCT has been used by BMA effectively as a dedicated, largely single-user coal loading facility. It is efficient for BMA to continue to use the HPCT in this way. To do so, enables BMA to:
- (a) maximise capacity utilisation at the HPCT, so as to achieve low per-unit operating costs at the HPCT, for the benefit of the BMA business;
 - (b) coordinate its mining operations, above rail operations (including those operated by BMA Rail) on the Goonyella system, and the coal handling services at HPCT efficiently, so as to eliminate or reduce interface inefficiencies between those functions;
 - (c) maximise operational simplicity and flexibility at HPCT (by avoiding multi-user interface requirements, and by coordinating mine production, rail and loading terminal operations where required: for example, being able to "surge" production and coal loading capacity in response to outages or other events); and
 - (d) maximise flexibility and responsiveness in identifying and implementing capital improvements and capacity expansions at the HPCT.
- 2.4 Further, even as expanded in 2015, the current capacity of the HPCT is insufficient to load and export all of the coal produced by the BMA and BMC mines set out in Table 1 (other than Blackwater).
- 2.5 In this context, BMA anticipates that it will continue to utilise all of the capacity of the HPCT for its own operations, and those of BMC where it is efficient to do so. In the interests of preserving the efficiencies set out in paragraph 2.3, BMA does not anticipate offering services at the HPCT to third parties.
- 2.6 By taking this approach to maximising the efficiency of its operations, BMA does not "foreclose access in dependent markets ... [and/or] foreclose, hinder or frustrate access [to coal terminal services] in order to favour upstream operations", as per the contention in the DBCTM submission to the QCA of 30 May 2018 at paragraph 453. There is no such "foreclosure" where:
- (a) there are "sufficient viable supply alternatives"³ for coal loading services available to all other operators on the Goonyella system through the multi-user DBCT;⁴

¹ See *New BMA Hay Point Coal Terminal boosts Queensland's Coal Exports*, BHP, 16 December 2015.

² It is not declared under either the *Queensland Competition Authority Act (QCA Act)* or the *Commonwealth Competition and Consumer Act 2010*.

³ See ACCC Merger Guidelines, paragraph 5.30, in relation to issues which point away from vertical foreclosure.

⁴ As noted on the DBCTM website, the DBCT has always been a multi-user facility since its inception in 1983.

"DBCT was established in 1983 by the Queensland Government as a common user coal export facility, meaning that the

- (b) HPCT has effectively been a BMA dedicated, largely single-user facility since its establishment in 1971; and
- (c) HPCT is efficiently fully utilised.

3. Use of DBCT by BMA and BMC

- 3.1 The BMA and BMC operations on the Goonyella system also procure coal terminal services at the adjacent DBCT.
- 3.2 Table 2 sets out the volume of coal exports through the DBCT by BMA's and BMC's mines on the Goonyella system, since 2010.

Table 2: Volumes of coal (000's tonnes) exported through the DBCT by BMA and BMC mines on the Goonyella system – FY18 estimate from FY18 MarYTD data

FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
[REDACTED]								

- 3.3 The DBCT is, and will continue to be, an alternative source of coal loading services for BMA and BMC, in relation to coal produced at the BMA and BMC mines on the Goonyella system, in the context of capacity constraints at HPCT. This is particularly the case as:
 - (a) the DBCT is immediately adjacent to the HPCT and both terminals are similarly connected to the Goonyella rail system;
 - (b) the above rail operating parameters remain the same for delivery to each of HPCT and DBCT, and the rail operators are able to use the same rolling stock fleets for delivery to each terminal;⁵ and
 - (c) the metallurgical coal produced at BMA and BMC mines can be readily handled and loaded at the DBCT operations.
- 3.4 The volumes of coal exported through the DBCT by BMA and BMC are low, compared to the volumes exported through the HPCT. This is a product of:
 - (a) the incentives for BMA to maximise utilisation of the HPCT (as to which see paragraph 2.3 above); and
 - (b) the take or pay commitments required by DBCT in relation to provision of coal terminal services at DBCT.
- 3.5 BMA's and BMC's current contracted commitments with the DBCT are as follows:
 - BMA: nil.

terminal receives, processes and ships coal for a multitude of coal miners. This type of coal terminal infrastructure allows different miners to share the cost of export infrastructure without having to build their own individual coal terminals to process their coal. This model suits situations where an array of different mine producers are co-located over a relatively small area, producing different quantities and types of coal."

⁵ Particularly, on the Goonyella system (by which both the DBCT and HPCT are serviced) 10,500 tonne payloads for electrified trains are standard. This is to be compared with:

- the Newlands system, which is not electrified (only diesel operations) and which is constrained to 7,000 tonnes payloads; and
- the Blackwater system being constrained to 8,500 tonnes payloads.

- BMC: [REDACTED]

4. Substitutability of services provided by coal export terminals

4.1 Subsection 71(2) of the QCA Act provides that the "market", here being the market in which coal terminal services are provided by the DBCT, will include:

- "(a) the goods or services [namely the coal terminal services provided by the DBCT]; and
- (b) other goods or services that are able to be substituted for, or are otherwise competitive with, the goods or services mentioned in paragraph (a)."

4.2 Similarly, and consistently with subsection 71(2), the "hypothetical monopolist test" (**HMT**) commonly used in market definition and referred to in the submissions of others, "starts with one of the products and geographic areas supplied"⁶ by the business which is the focus of the analysis, and proceeds from that point to identify the next closest available substitute good or service/geographic area.

4.3 In this context, BHP submits that coal terminal services provided by the HPCT are not a readily available substitute for coal terminal services provided by the DBCT. This is because:

- (a) the coal terminal services at HPCT are not "able to be substituted for" the services provided at DBCT – either at all (in the case of any non BHP-affiliated user of the DBCT), or to any significant extent (for any BHP-affiliated user of the DBCT); and
- (b) if there were a small but significant increase in the price (**SSNIP**) of coal terminal services at DBCT, users of the coal terminal services at DBCT would not be able to defeat that SSNIP (so as to make it unprofitable for DBCT's owner), by switching to coal terminal services at the HPCT.

4.4 Particularly:

- (a) no other user of the DBCT will be able to procure coal terminal services at the HPCT, in light of the factors set out in paragraph 2.3 above; and
- (b) to the extent that BMA and BMC are users of the DBCT, even BMA and BMC will not be able to procure and switch to further coal terminal services from HPCT, having utilised the capacity available at HPCT ahead of use of the DBCT, again for the reasons set out in paragraph 2.3 above.

4.5 Further, even if capacity were available at the HPCT, switching costs would further deter BMC moving its volumes to HPCT. BMC would incur take or pay commitments at the DBCT in any event which would deter it from moving all of its volume to HPCT.

4.6 For these reasons, BHP considers that the coal terminal services provided at HPCT are not "able to be substituted for" the services provided at DBCT, in the current context.

4.7 BHP acknowledges that, for BMA and BMC, the services at the DBCT may be "able to be substituted for" services provided at HPCT, were the required analysis concerned with identifying the market in which the coal terminal services **at HPCT** are provided.

⁶ ACCC Merger Guidelines, paragraph 4.19. See also *ACCC v Metcash Trading Limited* [2011] FCAFC 151 at [247].

4.8 However, it is unremarkable, in BHP's view, that this asymmetric outcome arises in this case. There are clearly different answers to the questions:

- What services are "able to be substituted for" the DBCT coal terminal services? and
- What services are "able to be substituted for" the HPCT coal terminal services?

arising on the practical facts in this context, and the latter question is not relevant to the assessment of criterion (b) under the QCA Act.

5. Use of other coal export terminals in Queensland by BMA and BMC

5.1 The submissions prepared by DBCTM refer to volumes of coal being railed from BMA and BMC mines to:

- the Abbot Point Coal Terminal (**APCT**) at Abbot Point, near Bowen, on the Newlands rail system; and
- the RG Tanna Coal Terminal (**RGCT**) at the Port of Gladstone, on the Blackwater rail system.

5.2 BHP confirms that neither BMA nor BMC has exported coal through the Wiggins Island Coal Terminal at Gladstone.

5.3 Tables 3 and 4 set out the volumes of coal exported from the BMA and BMC mines referred to in Table 1 (other than Blackwater), through the APCT or the RGCT, respectively, in the period from 2010 to 2018.

Table 3: Volumes of coal (000's tonnes) exported through the APCT by BMA and BMC mines on the Goonyella system – FY18 estimate from FY18 MarYTD data

FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18

Table 4: Volumes of coal (000's tonnes) exported through the RGCT by BMA and BMC mines on the Goonyella system – FY18 estimate from FY18 MarYTD data ⁷

FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18

Abbot Point Coal Terminal

5.4 In the period from FY14 to FY16, BMA had contracted capacity available at APCT, pursuant to an access agreement, for up to [REDACTED]. BMA had procured this contracted capacity entitlement at APCT so as to provide an option to export an increasing volume of BMA coal production during that period, and capacity constraints at the HPCT and DBCT. Since FY16, BMA has had no contracted access agreement entitlement at APCT. It has however, taken up small volumes of capacity at APCT, on occasions, where it has been convenient to do so in response to peaking capacity requirements or short term, temporary capacity constraints due to plant availability and maintenance etc. On none of these occasions has BMA sought to "switch" to APCT – rather, its use of APCT has been additive to the use of HPCT and DBCT.

⁷ These data do not include volumes of coal produced at the Gregory Crinum mine, which ceased operations in FY16.

- 5.5 From 2011 to present, BMC has had contracted capacity available at APCT, pursuant to an access agreement, for up to ■. The access agreement will expire in ■.
- 5.6 Through the mining boom (~2009 to 2013), there was limited available capacity at the DBCT, and HPCT was fully utilised (at significantly lower nameplate capacity than is the case since 2016).
- 5.7 Further, BHP wished to support the development of the Goonyella to Abbot Point Rail Extension (completed in 2012), so as to improve the flexibility of coal exports from central Queensland with the expansion at APCT, by taking up commitments to use the new line and the APCT. BHP had been a proponent of the construction of a Goonyella to Abbot Point rail line, but ultimately supported the Aurizon (then QR Rail) proposal to construct the Goonyella to Abbot Point "missing link" and associated infrastructure.
- 5.8 It is in this context that each of BMA and BMC took up access agreements with APCT for the volume commitments set out in paragraphs 5.4 and 5.5 above.
- 5.9 These interactions with APCT do not, in BHP's view, point to APCT being a close substitute for the coal terminal services at DBCT. Particularly:
- (a) There are very significant switching costs in acquiring coal terminal services from APCT, rather than DBCT. These include:
 - (i) Other than for ad hoc, opportunistic provision of services, there is a requirement that the mine operator have an access agreement in place with APCT, with take or pay commitments required, in order to secure committed capacity at the APCT.
 - (ii) The mine operator must adapt to fundamentally different rail consist arrangements, lower efficiency levels and higher costs in order to rail coal to the APCT, as compared to the DBCT. These include:
 - (A) a requirement for diesel rather than electric locomotives, as the Newlands system is not electrified;
 - (B) the requirement for smaller rolling stock consists with lower payloads on the Newlands system – with a maximum payload of 7,000 tonnes on the Newlands system as compared to 10,500 tonnes on the Goonyella system – which in turn increases costs; and
 - (C) significantly higher rail costs due to higher rail access charges for the use of the Goonyella Abbot Point rail system, in raiing coal to APCT from the Goonyella system.
 - (b) The use of the APCT by BMA to date has been driven by:
 - (i) use of the APCT by BMA during the period in which HPCT was being upgraded (to December 2015);
 - (ii) a willingness to avoid the cost of take or pay commitments without utilising the committed capacity; and
 - (iii) a reduction in throughput at the APCT since BMA's contracted commitment has fallen away.

RG Tanna Coal Terminal

- 5.10 The BMA and BMC mines on the Goonyella system do not rail any significant volumes to the RGTCT, per the data in Table 4 above. In many cases, significant infrastructure investment would be required to make this practicable.
- 5.11 BMA is however, a major user of coal terminal services at the RGTCT for the coal produced at the Blackwater mine. Prior to its close, BMA also exported coal produced at the Gregory Crinum mine through the RGTCT. The Barney Point Coal terminal at Gladstone was originally constructed to support the development of the Blackwater mine. The Barney Point terminal has now been closed for coal, and the Blackwater coal is now exported from the RGTCT. It is not physically possible to rail the Blackwater coal into the Goonyella system, and hence all of Blackwater's production is exported from RGTCT.
- 5.12 From Table 4 above, it is clear that there has been very little use of the RGTCT by the BMA and BMC mines in Table 1 (other than the Blackwater mine) in recent years. That use has been confined to:
- (a) small volumes of coal from Caval Ridge being railed to RGTCT to be blended with coal from Blackwater, to enhance the value of Blackwater's product, since 2016;⁸ and
 - (b) a small volume of coal was railed to RGTCT post Cyclone Debbie (in March/April 2017), at a time when the Goonyella system was closed for repair work.

Saraji East

- 5.13 BMA is currently considering development of a metallurgical coal mine at Saraji East, located very near to the current Saraji project.⁹ The project is still in the regulatory approval stage, with an EIS to be submitted by around June 2019.
- 5.14 The Saraji East Mining Lease Project, Initial Advice Statement, February 2017 (cited in the submissions from DBCTM) stated in relation to the rail arrangements proposed for Saraji East, as follows:¹⁰

2.12.1 Train movements

Product coal will be transported along the existing Goonyella rail system that currently runs along the western boundary of the Saraji Mine ML 70142. The volume of coal to be transported via the network will be within Aurizon's existing approval limits. As such, no additional impacts are expected. A new rail spur, balloon loop and signalling system will be required to connect to the existing rail network. The product coal will be railed over a distance of approximately 250 km to ship loading facilities at the Hay Point Coal Terminal and/or approximately 400 km to the Abbot Point Coal Terminal. The Project may also consider haulage along a new greenfield railway between Goonyella and Abbot Point Coal Terminal.

2.12.2 Port capacity

Product coal from the Project will be exported to international markets via either:

⁸ It should be noted however, that rail traffic from Caval Ridge to RGTCT involves cross-system traffic which gives rise to congestion issues and uncertainty as to railing (and hence shipping) schedules. For this reason, it has been rarely undertaken.

⁹ The coal from the existing Saraji mine is exported through the HPCT and (to a much lesser extent) DBCT.

¹⁰ See pages 20-21, available at: https://www.ehp.qld.gov.au/management/impact-assessment/eis-processes/documents/saraji_east_ias.pdf

- Hay Point Coal Terminal: located approximately 40 km south of Mackay and commenced operations in the 1970s. The Hay Point Coal Terminal is owned and operated by BMA.
- Abbott Point Coal Terminal: located approximately 25 km north of Bowen on the Central Queensland Coast.

The product coal shipped via these ports will be within the approved port and shipping capacity and throughput limits, as such no additional impacts to the surrounding environment are expected as a result.

5.15 BHP provides the following further context to this proposal:

- (a) BMA has a clear preference to export Saraji East production through the HPCT, subject to there being available capacity;
- (b) the foreshadowed greenfield line to Abbot Point is unlikely to be developed in the current context; but
- (c) BMA is nevertheless considering exporting the coal from Saraji East through the APCT in light of:
 - (i) potential capacity constraints in coming years; and
 - (ii) BMA having an interest in developing two potential paths to export, so as to reduce the risk of the project.

BMA Coal Chain

5.16 For several years, BMA has instituted a functional group within the organisation to manage all of BMA's and BMC's transport logistics business operations.

5.17 BMA's submissions to the QCA in relation to the QR Network System Rules – Northern Bowen Basin System Rules include the following description of the BMA Coal Chain (**BMACC**):

"BMACC integrates its coal chain logistics planning to optimally match coal production, raiing and shipping resources with customer demand in the operational planning horizon (0-24 months) and within the identified and emerging constraints of the CQCN.
...

BMACC manages bi-directional coal movements across the CQCN between the different ports, dependent on blending and market requirements, and monitors performance and optimisation capability to identify opportunities and drive improvement in its operation and throughput capability. ... Due to the single-user nature of the BMACC, its direct coordination of all activities from mine to market ensures reliable delivery of product to the required quality whilst maximising throughput."

5.18 From these materials, it is apparent that the remit and operation of the BMACC is not to substitute coal loading capacity at one or more terminals for that at another. Rather, its role – and BMA's commercial interests – focus on the entire supply chain, from mine to shipping schedule, so as to maximise throughput across the available supply chain, to ensure reliability, manage risk and to optimise capability.

5.19 In taking this approach, the DBCT and the APCT, for example, are more complementary in nature – not substitutes. In managing reliability, risk, performance and availability, BMACC is

concerned to have available to it capacity and services at several of the coal terminals at once, for the BMA and BMC operations. By doing so, BMAACC will, for example, be able to:

- (a) maximise the flexibility with which it can respond to any disruption by weather, rail system maintenance or other operational constraints etc;
- (b) respond to the availability and competitiveness of above-rail services; and
- (c) improve reliability of coal exports to international customers from the BMA and BMC operations in Queensland.

6. Conclusions

6.1 In BHP's submission, for the reasons set out above, coal terminal services provided by DBCT are not readily able to be substituted by:

- (a) services from HPCT; or
- (b) services from either of APCT or RGTCT.

6.2 Accordingly, BHP supports the approach taken to market definition by the Dalrymple Bay Coal Terminal Users Group, in its submissions to the QCA of 30 May 2018.