

**Declaration Request for NQXT
DBIM submission to the QCA
22 August 2025**

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1 Executive summary

- 1 This submission is made in response to the QCA's invitation for stakeholder submissions by 26 August 2025 on matters relating to the request from QCoal Pty Ltd and Byerwen Coal Pty Ltd (**QCoal Users**) that the QCA recommend declaration of a service provided by North Queensland Export Terminal (**NQXT**) pursuant to Part 5 of the *Queensland Competition Authority Act 1997* (**QCA Act**).
- 2 Dalrymple Bay Infrastructure Management Pty Ltd (**DBIM**) is uniquely placed to provide views on the factual circumstances surrounding declaration, as the handling of coal at Dalrymple Bay Coal Terminal (**DBT**) is a declared service under Part 12, Division 1 Section 250(1) of the QCA Act.
- 3 This submission focuses on criterion (b) and (d) of the Access Criteria under section 76 of the QCA Act.

Criterion (b)

- 4 The QCA must recommend that a service not be declared if it is not satisfied about criterion (b) in section 76(2)(b) of the QCA Act. Criterion (b) requires:
 - that the facility for the service could meet the total foreseeable demand in the market—
 - (i) over the period for which the service would be declared; and
 - (ii) at the least cost compared to any 2 or more facilities (which could include the facility for the service)
- 5 Criterion (b) is concerned with identifying natural monopoly facilities. DBT and NQXT are two of five coal export terminals which service mines connected to a highly integrated below-rail network. Mines geographically located in the Goonyella rail system use DBT and NQXT, evidencing the existence of a competitive market for coal handling services.
- 6 In this submission, DBIM provides clear market evidence of miners utilising DBT that also utilise coal handling services at NQXT and vice versa, demonstrating that each terminal is a close substitute for the other. The prevailing circumstances, including the timing of available capacity and the relevant cost, may impact which terminal a miner contracts with at a particular point in time. However, the evidence establishes that there is clear substitutability and competition between the coal handling services provided at DBT and NQXT.

Criterion (d)

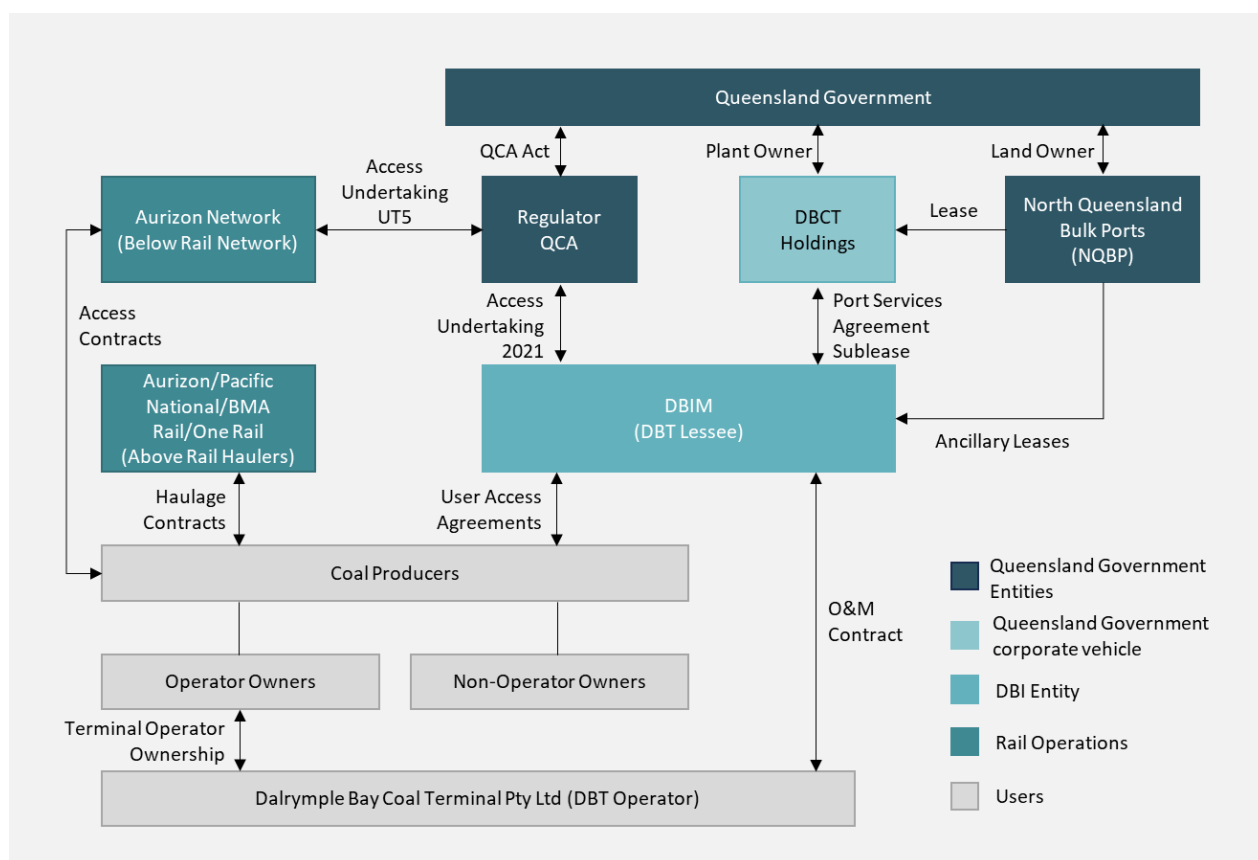
- 7 The QCA must recommend that a service not be declared if it is not satisfied of criterion (d) in section 76(2)(d) of the QCA Act. Criterion (d) requires:
 - that access (or increased access) to the service, on reasonable terms and conditions as a result of declaration of the service would promote the public interest.
- 8 In this submission, DBIM briefly contrasts the difference in forms of regulation based on DBIM's experience and concludes that less regulation is beneficial for all stakeholders. DBIM considers that no public benefits would be likely to arise as a result of declaring a service provided by an infrastructure provider to large sophisticated industrial users in the context of mutual dependence between the provider and the users.

2 Background

Dalrymple Bay Terminal (DBT)

- 9 DBT is a multi-user coal export facility located 38 kilometres south of Mackay at the Port of Hay Point. DBT is declared under Part 5 of the QCA Act and operates pursuant to the DBCT 2021 Access Undertaking.¹
- 10 DBT is owned by the Queensland Government through its wholly-owned entity DBCT Holdings Pty Ltd. DBT is leased to Dalrymple Bay Investor Services Pty Ltd (as trustee for the DBT Trust) (**DBT Trustee**) which sub-leases it to DBIM.² These entities are wholly owned by Dalrymple Bay Infrastructure Limited (**DBI**) which is listed on the ASX.
- 11 DBIM's key stakeholder relationships are shown below.

Figure 1: Key infrastructure relationships



- 12 The day-to-day operation and maintenance of DBT is subcontracted to Dalrymple Bay Coal Terminal Pty Ltd (**DBCT P/L**) as the independent terminal operator³ (**Operator**) appointed under the Operation and Maintenance Contract (**OMC**). The Operator is owned by a majority of DBT users (by contracted tonnage).

¹ The DBCT 2021 Access Undertaking was approved by the QCA on 1 July 2021 and applies to 1 July 2031.

² DBIM is as wholly owned subsidiary of DBI. This submission refers to the DBT Trustees and DBIM being the lessees of the terminal collectively as "DBIM", and to DBIM's ownership as "DBI".

³ Note that DBIM is the terminal operator of the declared service of the handling of coal at DBT for the purposes of the QCA Act which is distinguished from references in the 2021 Access Undertaking to the Operator as appointed under the OMC for the day-to-day operation of the terminal.

3 Criterion (b)

- 13 In this section DBIM provides evidence that the interconnectedness of coal terminals in Queensland provides a choice of coal handling services to miners. This choice is not simply theoretical but is currently exercised by mines that actively use a combination of coal terminals to handle their coal and have done so over an extended period.
- 14 Since its completion, the Goonyella to Abbot Point rail extension (**GAPE**) has enabled Bowen Basin mines in the Goonyella system to connect to NQXT, in addition to the existing connection to RGTCT through the Blackwater rail system. This has enabled miners to plan their export terminal usage on a network wide basis across the Central Queensland Coal Network (**CQCN**). For example, BHP takes a whole of CQCN view in optimising the BHP Group's mine portfolio.⁴ The GAPE was constructed for the purpose of allowing mines in the Goonyella system to access NQXT in order to:⁵
- (a) alleviate capacity pressures on the Goonyella rail and port infrastructure;
 - (b) and utilise the expansion of [NQXT].
- 15 There is clear market evidence of multi-terminal usage by customers in the Goonyella System who have elected to utilise NQXT despite their greater proximity to the Port of Hay Point:
- 15.1 Stanmore Resources states that its Poitrel mine, acquired from BMC in 2022 and with a capacity of over 4.0 Mtpa, currently ships through NQXT.⁶
 - 15.2 Whitehaven Coal has publicly stated that its Winchester South project has direct access to key rail and port infrastructure, providing multiple coal export options.⁷ In the Environmental Impact Assessment, Whitehaven Coal stated that the existing railway network provides access to the Bowen and Mackay coal ports and although its preference is to export product coal from DBT due to economic considerations, it expects that coal may be shipped out of other ports during the life of the project.⁸
 - 15.3 The Middlemount Coal Mine (owned in joint venture by Yancoal and Peabody), the Jellinbah Group's Lake Vermont mine, the BHP Mitsubishi Alliance's (**BMA**) Peak Downs, Goonyella Riverside and Caval Ridge mines are all located proximate to the Port of Hay Point but have chosen to transport coal from their mines to NQXT for export historically, with Middlemount and Lake Vermont mines currently continuing to ship through NQXT.⁹ The Middlemount mine currently ships through both DBT and NQXT.
- 16 NQXT has an incentive to retain Goonyella system mines as customers and is clearly in competition with DBT, especially in circumstances where DBT is contracted to capacity and NQXT has existing available capacity. In previous circumstances where DBT was fully contracted to capacity and required an expansion to service additional demand, miners chose instead to ship through NQXT. As detailed in DBIM's submission in the DBT declaration review,¹⁰ Middlemount and Lake Vermont had a choice between which terminal expansion would better suit their commercial requirements – either wait for DBT to expand (the timing and approvals for which were uncertain) or utilise the GAPE and ship through NQXT (the timing and approvals for which were certain and aligned with the mines' commissioning plans). Rather than delaying their mine development processes to wait for DBT to expand, the miners chose to use the coal handling services at NQXT.

⁴ For example, [BHP Coal: The path to improve returns](#) 21 June 2016 - at page 20 BHP states 'Capacity at four Queensland ports with matched rail flexibility allows us to optimise the supply chain'

⁵ QCA [Draft decision on GAPE reference tariff July 2013](#) page 2

⁶ Stanmore [Operations - Poitrel](#)

⁷ Whitehaven [Winchester South Project](#)

⁸ Whitehaven [Winchester South EIS – Section 3 Project Alternatives](#) page 3-4

⁹ QCA [RMI Assessment of Coal Volume Forecasts for Aurizon Network's 2017 Draft Access Undertaking](#), May 2017, page 34; North Queensland Bulk Ports, [Port of Abbot Point Operations Manual](#), Revised 2016, page 16; Sydney Morning Herald [Asciano wins BHP haulage contract in Queensland](#) 15 June 2011

¹⁰ QCA [DBCT Management Submission](#) 30-May-18, Section 3 Criterion (b), paragraphs 139-143

- 17 The same circumstances exist today where DBT is contracted to its full capacity and therefore will require an expansion to accommodate additional demand, whereas NQXT has existing available capacity. It is therefore possible that the same circumstances may arise for any Bowen Basin miners in the Goonyella System that are seeking terminal capacity and who are unwilling to wait for an expansion of DBT. As was the case previously, miners may be willing to incur higher rail transport charges to export coal because they are most concerned with which terminal can provide the required service at the time that suits the mine's commercial requirements.
- 18 To the extent there is available capacity at DBT, mines proximate to Hay Point will economically be likely to preference DBT over NQXT, which demonstrates that DBT is a close substitute to NQXT for miners currently using NQXT.
- 19 [REDACTED]
- 20 [REDACTED]
- 21 [REDACTED] the coal industry specialists AME report previously cited by DBIM [REDACTED] predicted that Lake Vermont and Middelmount mines can switch between DBCT and NQXT, and that:¹¹
- ...these two mines currently utilise the [NQXT] as their primary port with contracts that expire in 2028 and 2027, respectively. There is the potential for these two mines to send their production that is in excess of their current allocation at the [NQXT] to [DBT] to take advantage of shorter rail distances, as well as blending and marketing opportunities.
- 22 [REDACTED]
- 23 This market evidence demonstrates that DBT is a close substitute to NQXT for miners currently using NQXT, to the extent there is available existing capacity at DBT.
- 24 [REDACTED]
- 25 As DBIM previously submitted,¹³ this ability for miners to shift capacity usage between different terminals provides miners (which are well resourced companies) a significant degree of countervailing power to that of the infrastructure providers. In circumstances where NQXT has existing available capacity, it has every commercial incentive to maximise volumes exported through the terminal and not to reduce them. NQXT

¹¹ QCA DBCT Management Submission 30-May-18, Appendix 12 AME Coal Industry Report, page 14

¹³ QCA DBCT Management Submission 30-May-18, Section 3 Criterion (b), paragraph 377

is therefore incentivised to reach agreement with customers on reasonable terms to access, as it appears to have done with its other sophisticated and well-resourced customers.

- 26 To date, due to the available capacity at NQXT and the lack of available capacity at DBT, it has been miners in the Goonyella System that have substituted DBT capacity for NQXT capacity. When capacity has become available at DBT, miners have substituted NQXT capacity for DBT capacity. This is because the two terminals are substitutable in the services provided and prospective customers will make decisions based on the economic circumstances that apply.
- 27 It therefore stands to reason that to the extent NQXT priced capacity at a cost that outweighed the cost of rail to and shipping from DBT (or NQXT was at capacity), noting the distance to rail from Lake Vermont mine to NQXT (greater than 400km)^{14,15} is longer than the distance to rail from the Byerwen mine to DBT (262km)¹⁶, it is entirely feasible and in fact likely that mines that are proximate to NQXT would instead ship through DBT.
- 28 As detailed above, clear market evidence demonstrates that some mines utilising DBT also utilise coal handling services at NQXT and vice versa, and that DBT is a close substitute for miners proximate to Hay Point which are currently using NQXT, and NQXT is a close substitute to DBT for Goonyella System miners especially in circumstances where DBT is contracted to capacity.

4 Criterion (d)

- 29 Criterion (d) of the access criteria in s.76 of the QCA Act requires that access (or increased access) to the service, on reasonable terms and conditions, as a result of a declaration of the service would promote the public interest.
- 30 In recommending the above amendments to criterion (d), the Productivity Commission stated that:¹⁷
- 30.1 The purpose of criterion (d) "should be to require that the community as a whole is likely to be better off as a result of declaration"
 - 30.2 Criterion (d) "provides the only opportunity for a decision maker to consider the overall consequences of declaration. The purpose of criterion [(d)] should be to require that the community as a whole is better off as a result of declaration"
 - 30.3 Criterion (d) "should be a rigorous test, which only enables declaration of infrastructure services where the decision maker is satisfied that the declaration is likely to generate overall gains to the community"
 - 30.4 Recognising the "costs associated with access regulation, the package of declaration criteria should work together to deny declaration applications that would produce only trivial or ambiguous gains if successful".
- 31 DBIM agrees with the comments of the Australian Government which stated:¹⁸
- "Given that access is an imposition on infrastructure service providers, all tests should be framed from the perspective of protecting their property rights unless there are persuasive reasons not to."
- 32 Section 76(5)(c) of the QCA Act requires that, in assessing whether to recommend declaration of a service, the QCA must have regard to the administrative and compliance costs that would be incurred by the provider of the service if the service were declared. These administrative and compliance costs include the costs of negotiating access, meeting the conditions of declaration and arbitrating access disputes.

¹⁴ Jellinbah Group Lake Vermont Mine, map showing 407km straight line from Lake Vermont to NQXT.

¹⁵ QCA DBCT Management Submission 30-May-18, Section 3 Criterion (b) footnote 116 to paragraph 140 notes "... Lake Vermont mine is ... 491km from AAPT and ... 220km from DBCT.."

¹⁶ QCA Houston Kemp – Expert report: NXQT – access criteria b to d (redacted) 13 June 2025, paragraph 144 and Table 4.1: Distance to NQXT and DBT for northern mines

¹⁷ Productivity Commission National Access Regime – Report No. 66 25 October 2013, pages 175, 176, 181

¹⁸ Department of the Treasury Australian Government Response on the National Access Regime March 2015, page 6.

- 33 DBIM previously supplied evidence of its own experience in respect of regulatory costs experienced by DBIM amounting to approximately \$46.7m over an illustrative 8-year period.¹⁹ DBIM notes that regulatory costs have significantly reduced as a result of the QCA's approval of a lighter-handed negotiate-arbitrate form of regulation under the 2021 AU. Since this reduction in the degree of economic regulation, the regulatory costs passed through to customers over the past 3 years have averaged less than \$0.1m per annum.
- 34 In DBIM's view, this demonstrates that less regulatory intervention has a quantifiable impact on direct costs incurred by all stakeholders. What the figures do not illustrate is the indirect cost that can be imposed by regulation including additional processes that can inhibit innovation and reduce incentives to invest. For example, the 8X expansion project at DBT is subject to materially similar regulatory processes as applied to DBT prior to the 2021 AU. It is currently expected that these processes could add "...almost a year..." lead time to any expansion project.²⁰ These time delays impose direct and indirect regulatory burden and costs.
- 35 As noted earlier in this submission, previously delays in ability to expand resulted in miners choosing to export from alternative facilities. This is particularly relevant in relation to section 76(5)(b)(i) of the QCA Act which requires the QCA to have regard to the potential impact declaration would have on investment in a facility. As previously submitted by DBIM, *all* expansions of DBT were committed to *prior* to the first Access Undertaking coming into effect in 2006. No expansions of DBT have since occurred.²¹
- 36 It is difficult to assess any public benefit that would arise from the regulation of NQXT. Statements that the costs to access seekers may be lower if a terminal is regulated do not accord with DBIM's experience. In fact, less regulation has resulted in lower compliance costs to both access holders and DBIM. There is nothing to indicate that these costs, including the indirect costs of regulation, could not be further lowered without economic regulation. Outside of direct and indirect costs, DBIM's experience is that less regulation has enabled DBIM to develop innovative solutions that have been beneficial for customers of DBT.

¹⁹ QCA DBCT Management Submission 30-May-18, Section 4 Criterion (d), paragraph 485-489 including Figure 16

²⁰ QCA DBCT Management Submission on draft recommendation 11-Mar-19, paragraph 159 and Appendix 6

²¹ QCA DBCT Management Cross Submission 16 July 2018, Section 4 Criterion (d) paragraphs 460-466 including Figure 18