



22 April 2005

Attn: Ms Jaime Norton

Mr Scott Gregson  
Acting General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
470 Northbourne Ave  
Dickson ACT 2602

Dear Mr Gregson

**Dalrymple Bay Coal Terminal authorisation applications**  
Your ref: AA30239-A30241

***Introduction***

Thank you for your letter of 11 April 2005 inviting Xstrata Coal Pty Ltd to comment on the applications for authorisation of a Queue Management System ("QMS") at the Dalrymple Bay Coal Terminal ("Terminal") lodged by Dalrymple Bay Coal Terminal Pty Ltd ("DBCTPL").

***Xstrata Coal strongly supports the interim and final authorisation applications by DBCTPL***

There are substantial deadweight demurrage costs being incurred by Australian coal producers seeking to export from the Terminal because of Goonyella coal chain capacity constraints. The QMS is an economically efficient way to maximise throughput during the period where capacity constraints mean the coal chain cannot meet demand.

***Xstrata Coal's Bowen Basin operations***

Xstrata is one of Australia's leading exporters of thermal coal. In Queensland, Xstrata Coal has interests in both coking and thermal coal operations located in the Bowen Basin. Xstrata's Bowen Basin operations encompass two well-established projects, Oaky Creek and the Newlands, Collinsville, Abbot Point (NCA) Project.

The Oaky Creek project consists of two underground longwall operations and one open cut operation, all of which exclusively produce high quality coking coal. These mining operations have the capacity to produce in excess of 10 million tonnes of coking coal each year. The NCA Project is an efficient coal mining processing and exporting partnership embracing two coal mine complexes – Newlands and Collinsville – together with Abbot Point, a deep water export port.

Xstrata Coal Queensland Pty Ltd (ABN 69 098 156 702)

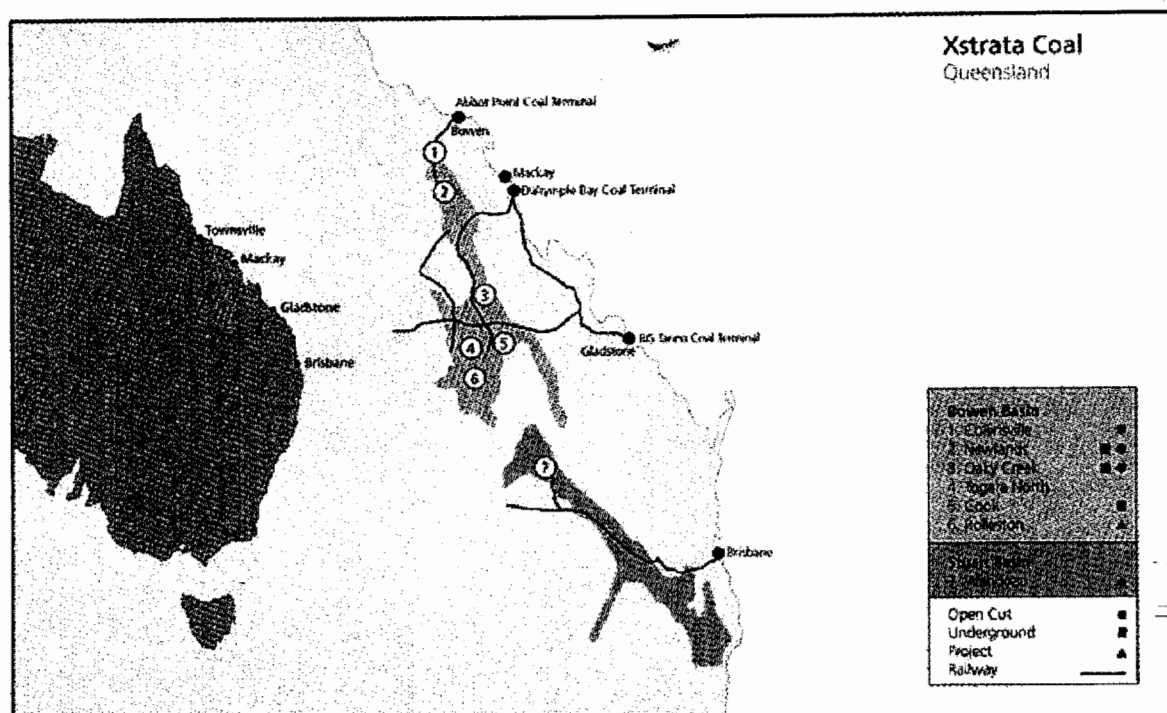
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The map below illustrates Xstrata's operations in the Bowen Basin.

### **Xstrata coal operations in Queensland**



Source: [www.xstrata.com](http://www.xstrata.com)

### **Ports used by Xstrata in Queensland**

In Queensland, Xstrata Coal operates the Abbot Point port, which handles coal from Xstrata Coal's Newlands and Collinsville operations. Most of Xstrata Coal's Oaky Creek export requirements are handled by the Dalrymple Bay Coal Terminal. Small quantities are also shipped through Gladstone.

The Dalrymple Bay Terminal is operated by DBCTPL, a company in which Xstrata Coal holds an ownership interest. The other joint owners of DBCTPL are set out in DBCTPL's submission supporting its application for authorisation.

### **Constrained System Capacity**

The Goonyella coal chain is operating at less than aggregate contracted tonnage. Last year, the coal chain railed 47.9 million tonnes and shipped 47.4 million tonnes. While this period incorporated the effect of some disruption associated with the collapse of a reclaimer in February 2004, the best three month period was an annual rate of some 52 million tonnes. YTD throughput is approximately 50 million tonnes annualised. Taking into account seasonal factors (such as cyclones and rainfall), Xstrata is of the view that the demonstrated, sustainable coal chain capacity is currently approximately 51 million tonnes per year. The replacement of the collapsed reclaimer, together with minor improvement works will, in Xstrata's view, have only incremental impact until the Phase 1 expansion is complete (currently targeted for mid 07).

The direct impact of this constrained capacity on Xstrata's business, based on its latest 2005 forecast, is the loss of planned coking coal sales from Oaky Creek of some 700,000 tonnes, worth A\$110 million at current prices.

### ***The problem of substantial demurrage***

As DBCTPL has pointed out in its submission supporting its applications for authorisation, there is an extensive vessel queue off the coast at the Port of Hay Point. In Xstrata's case, it has managed its long term sales contracts and logistics plans on the basis of its contracted rail and port capacity and the entitlement provided to it under the current Terminal Regulations at DBCT. Xstrata is not privy to the plans of other shippers and hence has no other basis on which to manage its own individual affairs. Because of capacity constraints in the Goonyella Coal Chain, aggregate throughput has been below aggregate vessel arrivals (which have been in line with contracts). The consequence is not only the lost sales as described above, but a substantial and expensive queue.

This is leading to users of the Terminal incurring substantial deadweight demurrage charges for vessels to sit idle and unproductive in the queue waiting to be loaded.

Xstrata's demurrage in the first quarter of 2005 was US\$6.66/tonne shipped, (A11.8 million in total). Xstrata Coal has estimated full year demurrage costs based on our own demurrage costs and we believe that the estimated demurrage costs as set out in the DBCTPL submission are correct.

Xstrata Coal will continue to incur substantial demurrage while the queue persists.

Xstrata also notes there is anecdotal evidence in the marketplace that coal customers are attempting to avoid sending ships to DBCT wherever possible, instead sending ships to PWCS and other uncongested ports. Many coking coal customers have few such short term choices. Nevertheless, this points to the potential long term reputational impact that the extensive and very public queuing has on Australia, DBCT and Oaky Creek.

### ***The QMS - Public Benefits and Detriments***

The QMS will operate to allow the queue of vessels to be reduced and then maintained at a working queue of 10-20 ships. It will involve a pro-rata reduction of current contracted tonnages after an assessment of the system capacity of the Goonyella Coal Chain ("**System Capacity**").

Xstrata Coal is very supportive of this mechanism for reducing deadweight demurrage charges and fully supports DBCTPL's applications for authorisation. The QMS is a fair and equitable way to ensure maximum throughput and exports without the demurrage charges that result from strong demand, constrained capacity and a lack of coordination between the various elements of the coal chain.

The QMS has some similar features to the MTCDS used in Newcastle, but a number of notable differences. However the public benefits from the QMS are even clearer cut. First, there are long term underlying take or pay contracts in place which mean that there is every incentive for each producer to export up to their maximum tonnage based on an assessment of System Capacity so that the debate on use of allocation vs capacity is not relevant. Allocation has already effectively been determined by the individual user's own contracts and any reduction is based upon an independent determination of overall System Capacity. The actual amount of possible exports through the Terminal will not be affected by the QMS.

Second, DBCTPL, the applicant does not own the Terminal. The argument as to incentives to expand the Terminal that were raised in relation to the MTCDS does not apply. The expansion of the Terminal is essentially an issue as between Prime Infrastructure and the Queensland Competition Authority as to rates of return as every user of the Terminal is committed to capacity expansion. Initial indications are that the recent QCA Final Determination will assist in resolving a way forward for expansion. Capacity expansion is not affected by the QMS. The QMS will in fact allow a more efficient operation of the coal chain and transition during the work undertaken throughout the coal chain as part of the overall expansion.

In these circumstances, the public benefits are substantial (with demurrage costs as potentially high as A\$550m in 2005 if the QMS is not implemented) and there being no real public detriment in that there should be no reduction in overall exports.

### ***Interim authorisation***

DBCTPL management have worked extremely hard in coming up with a very operationally "elegant" set of draft Terminal Regulations which would appear to be operationally uncontroversial and apply equitably and transparently. The draft Terminal Regulations are publicly available and DBCTPL management have sought to consult with all users wishing to work constructively to address coal chain issues. In this respect Xstrata believes that it is important for the industry to work together on this matter.

Xstrata Coal supports DBCTPL's request for urgent interim relief. Without interim authorisation, Xstrata Coal will continue to incur substantial deadweight demurrage costs. These funds could be more efficiently directed elsewhere, rather than having to be paid to overseas shipping companies for vessels to sit idle. As the Commission recognised in relation to the PWCS matter, the reduction in deadweight demurrage costs are a substantial public benefit.

The QMS is now clearly defined in the draft Terminal Regulations so that the Commission and all parties can clearly see what is being requested to be authorised. The QMS is also effectively on a monthly basis and applies in an equitable manner across users. In Xstrata's view, the granting of an interim authorisation would allow the DBCTPL management to immediately begin taking steps to transition to the full operation of the QMS (such transition addressing the comments of some to allow a phased introduction). As the QMS effectively operates on a monthly basis, if the Commission were ultimately not to grant authorisation, the effects of the interim authorisation are quickly reversible. Xstrata notes that if that were to occur, coal producers would immediately send more vessels creating the substantial vessel queue once again.

Xstrata Coal appreciates that some may view the urgent application as having been initially somewhat rapid in original application. However the demurrage costs of approximately \$500m this year warrant urgency and in Xstrata's respectful submission, the granting of an urgent interim authorisation by the Commission. Xstrata hopes that with the good work undertaken by the DBCTPL management, the DBCT User Group and Coal chain improvement team, that the industry and all coal Terminal users will understand the initial approach in context, the resolve and commitment of DBCTPL shareholders to a solution and will work together to focus upon a collaborative and constructive industry solution - an approach we very much support.

### ***Further information***

Xstrata Coal would be pleased to provide further information or to meet with the Commission to discuss its position further.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Bridger', written in a cursive style.

Stephen Bridger  
General Manager Business Development  
Xstrata Coal Queensland