



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: C2005/583-04  
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19 October 2005

Dear Sir or Madam

**Applications for Authorisation (A30239-A30241) lodged by Dalrymple Bay Coal  
Terminal Pty Limited**

I refer to my most recent letter of 10 August 2005 concerning the applications for authorisation lodged by Dalrymple Bay Coal Terminal Pty Ltd (DBCTPL).

As you may recall, on 2 August 2005 DBCTPL requested the Australian Competition and Consumer Commission (ACCC) further delay issuing a draft determination in this matter, so as to allow the industry to conduct an extended review of the operation of the queue management system (QMS) in September 2005, with a view to possibly amending *Dalrymple Bay Coal Terminal, Queue Management System Amendments to Terminal Regulations*, as approved by Babcock and Brown Infrastructure on 29 August 2005 (Terminal Regulations).

On 4 October 2005 DBCTPL sought to vary the interim authorisation originally granted by the ACCC on 29 April 2005 (and most recently varied on 10 August 2005), so as to apply to three further amendments to the Terminal Regulations which have arisen from the September review.

In summary, DBCTPL advises the following three operational amendments to the Terminal Regulations are proposed.

**Queue adjustment**

Clause 4.2 currently allows the Independent Expert to apportion entitlement based on a tonnage less than the actual predicted coal chain capacity, in order to reduce an excessive vessel queue to a working queue (as occurred when the QMS was introduced in June).

The proposed amendment will also allow the Independent Expert to distribute entitlement based on a tonnage higher than the actual predicted coal chain capacity, in order to increase the working queue if it is otherwise predicted to fall below an optimum level.



### **14 day notice period to swap entitlement**

Clause 5.4 of the Terminal Regulations currently requires producers to provide at least 14 days notice of a swap of coal loading entitlement.

The proposed amendment will now allow less than 14 days notice to be given. The date for loading may be re-scheduled if the swap adversely affects other producers (but not to a date later than 14 days from the notice of a swap).

### **Establishment of a forum to facilitate early swapping of entitlement**

Under clause 5.4(c) of the Terminal Regulations, it is proposed that DBCTPL will provide a forum (for example, an internet portal) to facilitate exchange of information to encourage producers to swap entitlement as early as practicable.

DBCTPL submits the current amendments to the Terminal Regulations are likely to be supported by all producers, as they seek to further increase the incentives to maximise throughput at Dalrymple Bay Coal Terminal and to encourage early swapping of coal loading entitlement if a producer is not able to use that entitlement. The ACCC understands the draft amended Terminal Regulations are subject to approval by Babcock and Brown Infrastructure.

On the basis of the information before it, the ACCC considers these changes to be minor and unlikely to have an anti-competitive effect. The ACCC has decided to vary the interim authorisation so as to apply to the Terminal Regulations, as amended.

The ACCC awaits a copy of the amended Terminal Regulations as approved by Babcock and Brown. The amended Terminal Regulations will be made available from the ACCC's website at <http://www.accc.gov.au> (by following the Public Registers and Authorisations links).

Interim authorisation allows the applicant to engage in the conduct prior to the ACCC considering the substantive merits of the application. This interim authorisation does not extend to any subsequent variations made to the Terminal Regulations.

The ACCC's decision in relation to interim authorisation can be reviewed at any time if concerns arise and should not be taken as an indication that the ACCC would make a similar decision in its final determination.

Should you have any questions please contact David Hatfield on (02) 6243 1266 or Ms Jaime Norton on (03) 9290 1885.

A copy of this letter will be placed on the public register.

Yours sincerely



Scott Gregson  
General Manager  
Adjudication Branch

**Dalrymple Bay Coal Terminal Pty Limited application for authorisation  
– interested parties**

1. Department of Industry, Tourism & Resources
2. Trade Development Division - Department of Foreign Affairs and Trade
3. Queensland Department of Natural Resources and Mines
4. Queensland Department of Transport
5. Queensland Environmental Protection Agency
6. Queensland Department of Transport
7. Queensland Competition Authority
8. The Maritime Union of Australia
9. Ports Corporation of Queensland
10. BMT Maritime Consultants Pty Ltd
11. QR
12. Babcock and Brown Infrastructure
13. Macarthur Coal
14. Millennium Coal
15. Anglo Coal
16. RTCA Rio Tinto
17. AMCI
18. Xstrata Coal
19. Australian Premium Coal
20. BHP Billiton Mitsubishi Alliance
21. Peabody Energy Australia Coal Pty Ltd
22. Foxleigh Coal Mine Pty Ltd
23. Rowland Communications
24. McCullough Robertson
25. The Institute of Energy Economics Japan