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19 December 2008

Mr Darrell Channing  
Director  
Adjudication Branch  
Australian Competition and Consumer Commission  
GPO Box 3131,  
CANBERRA ACT 2601

Dear Mr Channing

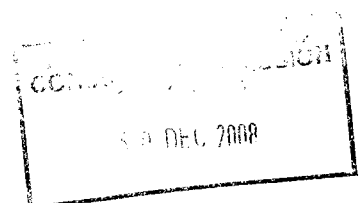
#### **Applications for authorisation A91107-A91109 regarding Dalrymple Bay Coal Terminal**

Thank you for the opportunity to comment on the above application which seeks ACCC authorisation for a six month extension of the Queue Management System (QMS) at Dalrymple Bay Coal Terminal (DBCT) from 1 January 2009 to 30 June 2009.

Given the short timeframe of the proposed extension QRNational Coal does not oppose the application for a six month extension of the QMS, which in a high demand environment can help to minimise the number of vessels in any queue for DBCT and limit demurrage costs as a result. Notwithstanding, QRNational Coal believes the ACCC should closely examine the public benefits that may be realised, particularly in light of the potential impact on the demand for coal resulting from the current financial crisis. We agree with the ACCC's general concern that unfettered extensions of the QMS may result in under investment in future capacity, although QRNational Coal is in the process of installing substantial new capacity which will enable us to meet current and future haulage contracts.

Whilst QRNational Coal is supportive of the intent of developing a Long Term Solution (LTS) to replace the QMS (which will be subject to a discrete application for authorisation), we believe the ACCC may wish to consider:

- The imperative for all supply chain participants to be actively involved in the development of the Long Term Solution (LTS) and the detailed implementation plan. The LTS will have substantial commercial and contractual implications for the port, the Rail Infrastructure Provider and above-rail operators (such as QRNational Coal), and it is important that affected parties are actively involved to ensure any issues and potential disconnects are identified and resolved early in the process if the proposed timeframes are to be realised.
- That the LTS be developed with due consideration of the regulatory framework (for both track and port access) and a comprehensive understanding of how the new access undertakings will operate. In developing the LTS, the parties need to consider:



- Mechanisms for achieving incentives in commercial arrangements to ensure that contracted capacity is delivered
- How contractual rights and obligations held under old access agreements (i.e. track access agreements with terms and conditions associated with the 2001 and 2006 Access Undertakings) might be dealt with to achieve the desired outcomes

Those developing the LTS and implementation plan need to ensure that the new access undertakings and the regulatory framework will practically support the solution.

- The potential for misalignment of timings of the proposed submission of the application for authority for Phase 1 of the LTS (proposed on or before 31 March 09), given that the draft access undertakings for track access and port will in all likelihood still be subject to stakeholder consultation and may not be representative of the final position. The new undertakings are not expected to take effect until 1 June 2009.

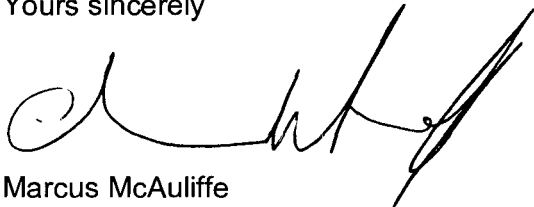
## Conclusion

QRNational Coal is supportive of the intent for implementing a long-term solution in the DBCT Coal Chain, and is not opposed to the short term extension of the QMS authorisation which seeks to provide a stop gap measure in the interim.

Notwithstanding, QRNational Coal believes it is important that all parties are involved in the development of the LTS and that parties work together to ensure the solution is practical and supported by an aligned contractual and regulatory framework.

If you have any further queries or require more information please feel free to contact Michelle Yeaman, National Access Manager on telephone 07 3235 7849.

Yours sincerely



Marcus McAuliffe  
A/ Executive General Manager  
QRNational Coal