

Bloomfield Collieries Pty. Limited (Bloomfield)
Submission to ACCC
Regarding 14 September amended Capacity Framework
Arrangements

Background

On the basis that Bloomfield accepts the 29 June 2009 version of the document, and given the limited time available to provide feedback, our comments are confined to the changes proposed in the 14 September 2009 version.

The Applicants submit that the proposed changes from the 29 June 2009 document are largely –

Reason 1 - clarifications and practical changes necessary to give effect to the long term solution for capacity expansions

Reason 2 - a variation to the mechanics of the relevant arrangements, or are intended to address certain practical issues

Bloomfield submits that there are 2 proposed changes in the 14 September 2009 submission that are unacceptable, but not necessary to achieve the Applicant's stated criteria. These changes relate to –

- 1) Clause 9 (e) – **Vessel queue**
- 2) Part C – Dictionary – **Allocation Period**

The content of these proposed changes have been the subject of recent meetings and correspondence between PWCS, Producers and others. Bloomfield has separately indicated to PWCS that it does not support the introduction of these changes at this time.

Bloomfield does not necessarily reject the thrust of the changes. Our objection is primarily the timing and the consequential impact that may result on the detail of the change.

There are many significant changes proposed for the operation of the Coal Chain commencing 1 January 2010. Bloomfield believes that by delaying any non-essential changes until after the cumulative impact is fully understood, will allow for these changes to

- fully account for the actual new long term operating environment and be correct in their detail
- minimise unnecessary additional disruption to the Coal Chain at a time of enormous change
- reduce the risk of unintended consequences.

Bloomfield believes that a significant number of other Producers share this view.

Specific Comment

Clause 9 (e) – Vessel Queue

The proposed clause in the 14 September submission is as follows

(e) Vessel queue:

- (i) If a Producer is utilising the turn of arrival system for vessels, then if at any time an excessive vessel queue arises or is forecast to arise which PWCS reasonably determines is due to unutilised PWCS Capacity arising from the random nature of vessel arrivals during the relevant period under the turn of arrival system, PWCS may make one or more downward adjustments on a pro rata basis to the Load Point Allocations of the Producer and any other relevant customers who are utilising the turn of arrival system for the relevant period, in a manner that reasonably reflects the lost capacity of the Terminals.
- (ii) In deciding the amount of any downward adjustment to the Load Point Allocations of the Producer and any other customer, PWCS may have regard to the System Assumptions and any recommendations made by HVCCC.

The fundamental, and currently only, principle which determines the order in which vessels are load at PWCS is "turn of arrival". The clause, as drafted, suggests that there may be circumstances where Producers using the "turn of arrival" system will be compressed while Producers using a yet to be defined system will not.

Alternative and/or complementary systems have been discussed by the industry. Like other Producers, Bloomfield can see merit in aspects of the various models, however there has been no agreement to change from the status quo and there is no reference in the 14 September submission to any other system that may apply. So there is no definite understanding of any particular alternative, its detail, accessibility, impact or support from Producers.

Clearly this clause as drafted is not required to satisfy Reason 1 or Reason 2 and should therefore be modified. From 1 January 2010 the Producers and greater Coal Chain will be impacted upon by significant commercial and operational changes. Bloomfield believes that the most appropriate time to consider any change to the "turn of arrival" system would be once the combined impacts of these changes are fully understood. It is only at this time, with the benefit of real-

time running and modeling that any new system should be considered and necessary contractual amendments proposed.

Bloomfield suggests that the following amended clause would be sufficient for the Applicant at this time and would be acceptable to Bloomfield.

e) Vessel queue:

- (i) [REDACTED]
[REDACTED] If at any time an excessive vessel queue arises or is forecast to arise which PWCS reasonably determines is due to unutilised PWCS Capacity arising from the random nature of vessel arrivals [REDACTED] [REDACTED] PWCS may make one or more downward adjustments on a pro rata basis to the Load Point Allocations of [REDACTED] Producer and any other relevant customers [REDACTED] [REDACTED] in a manner that reasonably reflects the lost capacity of the Terminals.
- (ii) In deciding the amount of any downward adjustment to the Load Point Allocations of the Producer and any other customer, PWCS may have regard to the System Assumptions and any recommendations made by HVCCC.

Part C – Dictionary – Allocation Period

The proposed wording in the 14 September submission is as follows

Allocation Period means for the period 1 January 2010 to 31 December 2011, where the Producer has aggregate Load Point Allocations in the relevant year:

(a) greater than 5 Mtpa, a month; or

(b) less than or equal to 5 Mtpa, a quarter.

From 1 January 2012 onwards, where the Producer has aggregate Load Point Allocations in the relevant year.

(c) greater than 3 Mtpa, a month; or

(d) less than or equal to 3 Mtpa, a quarter.

Currently there are 4 Producers on monthly allocation and the remainder on quarterly. This grouping was determined some years ago, with the monthly allocation Producers being the 4 largest at the time.

Bloomfield believes that the status quo will be effectively maintained by introducing the definition in the 14 September submission that specifies a Producer's Allocation Period as 1 month for Producers with aggregate Load Point Allocations greater than 5Mtpa and quarterly for the remainder. Bloomfield supports this initiative.

However Bloomfield believes that this clause as drafted is not required to satisfy Reason 1 or Reason 2 and should be modified. From 1 January 2010 the Producers and greater Coal Chain will be impacted upon by significant commercial and operational changes. Bloomfield believes that the most appropriate time to consider any change to the status quo for Allocation Period would be once the combined impacts of these changes are fully understood. It is only at this time, with the benefit of real-time running and modeling that any changes to the split between monthly and quarterly allocation periods should be considered and necessary contractual amendments proposed.

Bloomfield suggests that the following amended clause would be sufficient for the Applicant and would be acceptable to Bloomfield.

Allocation Period means for the period 1 January 2010 to 31 December 2011, where the Producer has aggregate Load Point Allocations in the relevant year:

(a) greater than 5 Mtpa, a month; or

(b) less than or equal to 5 Mtpa, a quarter.

~~Allocation Period means for the period 1 January 2010 to 31 December 2011, where the Producer has aggregate Load Point Allocations in the relevant year:~~

~~(a) greater than 5 Mtpa, a month; or~~

~~(b) less than or equal to 5 Mtpa, a quarter.~~