



**Australian  
Competition &  
Consumer  
Commission**

Our Ref: 53987  
Contact Officer: Hannah Ransom  
Contact Phone: (02) 6243 1255

GPO Box 3131  
Canberra ACT 2601

23 Marcus Clarke Street  
Canberra ACT 2601

tel: (02) 6243 1111  
fax: (02) 6243 1199

[www.accc.gov.au](http://www.accc.gov.au)

27 February 2014

## **By email**

Dear Sir or Madam

### **Rio Tinto Coal Australia Pty Limited, Peabody Energy Australia Pty Ltd and Pacific National Pty Ltd applications for authorisation A91410 & A91411 - interested party consultation**

The Australian Competition and Consumer Commission (**the ACCC**) has received applications for authorisation from Rio Tinto Coal Australia Pty Limited (**Rio Tinto**), Peabody Energy Australia Pty Ltd (**Peabody**) and Pacific National Pty Ltd (**Pacific National**) (together, **the Applicants**). The ACCC invites you to comment on the applications. Attached is a summary of the authorisation process including how to make a submission to the ACCC.

By way of background, Rio Tinto and Peabody operate coal mines south of Mackay in Queensland. Coal from these mines is transported to the Dalrymple Bay Coal Terminal (**DBCT**) for export via the Goonyella Coal Chain railway line.

Rio Tinto and Peabody, together with above rail service provider Pacific National Pty Ltd have applied for authorisation to coordinate operational arrangements relating to the transportation of coal for export through DBCT, to seek to capture greater throughput efficiency. The proposed arrangements are set out within the DBCT Coal Chain Coordinator (**DCCC**) Members' Agreement and Charter and involve the appointment of a Scheduling Coordinator to act on behalf of all members in submitting orders to the port operator (DBCT Pty Ltd) and below-rail operator (Aurizon Network).

The Applicants submit that membership of the DCCC will be open to all coal producers and rail operators on the Goonyella coal chain, following a three month period to allow time for the operational and staffing arrangements to be finalised.

A full copy of the applications for authorisation are available from the ACCC's website <[www.accc.gov.au/AuthorisationsRegister](http://www.accc.gov.au/AuthorisationsRegister)>.

### **Interim authorisation**

The Applicants have requested interim authorisation to the proposed arrangements, in order to commence taking the steps necessary to implement the proposed DCCC arrangements and to allow the resulting benefits to be realised sooner. The Applicants submit interim authorisation is necessary to ensure the arrangements can be implemented and tested as a way to inform the Queensland Competition Authority's current regulatory process which will result in a new access undertaking for the Aurizon Network.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise as a result of the proposed conduct.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible benefit and detriment to the public, the urgency of the matter and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

### **Request for submissions**

The ACCC invites you to make a submission on the likely public benefits and effect on competition, or any other public detriment, from the proposed arrangements. In particular the ACCC would appreciate your views on whether interim authorisation should be granted.

If you intend to provide a submission in relation to the applications for authorisation, please do so by **COB Friday, 28 March 2014**. Submissions in relation to interim authorisation should be provided by **COB Monday, 10 March 2014**. Submissions should be emailed to [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au) with the subject "A91410 & A91411 – Rio Tinto Coal Australia Pty Ltd & Ors – submission".

Submissions, including oral submissions, will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

## Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information.

<b>25 February 2014</b>	Lodgement of application and supporting submission.
<b>February 2014</b>	Public consultation process begins.
<b>10 March 2014</b>	Closing date for submissions on interim authorisation.
<b>Late March 2014</b>	ACCC decision regarding interim authorisation.
<b>28 March 2014</b>	Closing date for submissions from interested parties.
<b>April 2014</b>	Applicant responds to issues raised in the public consultation process.
<b>June 2014</b>	Draft determination.
<b>July 2014</b>	Public consultation on draft determination including any conference if called.
<b>August 2014</b>	Final determination.

Please advise if you do not wish to make a submission at this time, but would like to be informed of the progress of the applications at the draft and final determination stages. If you are able to please provide a nominated contact email address for future correspondence.

You can also forward this letter to any other party who may wish to make a submission to the ACCC regarding the applications.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter, please do not hesitate to contact Hannah Ransom on (02) 6243 1255 or [adjudication@acc.gov.au](mailto:adjudication@acc.gov.au).

Yours sincerely



David Hatfield  
Director  
Adjudication Branch

## **Parties consulted**

Anglo American

Aurizon Network

Aurizon Rail

BHP Billiton

Bowen Central Coal (Eagle Downs Coal Management)

DBCT Management

DBCT Pty Ltd

Glencore

Integrated Logistics Company

Jellinbah Resources

Minister for Transport and Main Roads

North Queensland Bulk Ports

Queensland Resources Council

Queensland Competition Authority

Queensland Department of State Development, Infrastructure and Planning

Queensland Treasury

Vale