



10 March 2014

Mr David Hatfield
Director
Adjudication Branch
ACCC
GPO Box 3131
Canberra ACT 2601

By Email : adjudication@acc.gov.au

Dear Mr Schroder,

A91410 & A91411 – Rio Tinto Coal Australia Pty Ltd & Ors - Proposed Dalrymple Bay Coal Chain Coordination Arrangements

I refer to the ACCC's invitation to provide submissions regarding the application for authorisation of the Proposed Dalrymple Bay Coal Chain Coordination (**DCCC**) Arrangements. Vale appreciates the opportunity to provide this submission as part of the interim consultation process.

Carborough Downs Coal Management Pty Ltd (**CDCM**) (a related entity of Vale Australia Pty Ltd (**Vale**)), operates the Carborough Downs Coal Mine, as agent for and on behalf of the Carborough Downs Coal Joint Venture Participants. As a smaller producer in the Goonyella Coal Chain, CDCM is very interested in this activity and any possible competitive impacts it may have on its business.

The DCCC proposal is to establish a pooled operational capacity through a scheduling coordinator, initially provided by Pacific National, to manage and schedule the Members train requirements to potentially unlock efficiency benefits in the Dalrymple Bay Coal Chain. The DCCC believe by establishing this process they are likely to unlock capacity in the coal chain that is currently lost due to a lack of coordination between producers and service providers. Vale does not oppose the approval of an interim application for authorisation of the DCCC group but would like to highlight two points for further consideration by the DCCC group and the ACCC during the interim stage. The two points relate to the independence of the scheduling coordinator, and the tonnage restriction on participation in the management committee.

Independent Coordinator

Under clause 10.1(a) of the DCCC charter, Members will appoint one of its Members to act on their behalf. Pacific National has been appointed to this role for the first 12 months. Vale believes that it is important for appropriate measures to be established to ensure that the DCCC Members do not gain a competitive advantage to capacity due to discriminatory flow of information. Pacific National as both a Member of the DCCC and a contracted above rail operator of other users, of the Dalrymple Bay Coal Terminal, will have access to a significant amount of contractual and operational information. Prior to the DCCC the use of this information by Pacific National was determined by the contractual relationship of each producer. Vale is concerned that the non discriminatory flow of information could be compromised by the DCCC Charter as clause 4.2(a) states the objective of the DCCC is to maximise throughput of the Members through the DBCT Coal Chain Infrastructure. Vale believes there is the potential for conflict between DCCC Members and Pacific National's other customers and suggests that a

Vale Australia Pty Ltd ABN 17 062 536 270

Level 11, 100 Creek Street, 'NAB Building' Brisbane Queensland 4000
GPO Box 731, Brisbane Qld Australia 4001

Tel +61 7 3136 0500 Fax +61 7 3136 0510

clear and transparent information flow is established to mitigate any concerns that Pacific National may provide a competitive advantage to the DCCC group.

Management Committee Participation

Clause 1(b) of Schedule 5 of the DCCC Charter requires a Member to have not less than 2Mtpa to entitle it to appoint a Management Committee Representative, and to otherwise participate in Management Committee meetings. Vale believes this restriction will effectively discriminate against a smaller producer as it either does not participate in the DCCC or does so with no ability to vote or influence the direction of the group. Vale believes two legs could be added to the Management Committee Rules as below

- (a) Member's Annualised Nominated Coal Throughput is not less than 2 Mtpa on a rolling two-year basis, or
- (b) If the Member's Annualised Nominated Coal Throughput is less than 2 Mtpa, the Member's Annualised Nominated Coal Throughput is verified as 100% of its contractual entitlement with the Rail Operator Member or Members.

Vale believes this addition allows for the possibility of a smaller producer that cannot achieve the 2 Mtpa level, still being able to actively participate in the DCCC group. Vale believes the DCCC included the 2 Mtpa restriction to ensure a user does not include a small volume to disrupt the development and decision making of the DCCC. Vale has interpreted this as meaning that the DCCC does not want a user contributing a small volume of tonnage into the DCCC to cause disruption and gain advantages for its larger volume of tonnes not included in the DCCC group. However in trying to mitigate this possibility it inadvertently restricts a small producer participating in the management committee even if it contributes 100% of the rail operator member capacity. Vale does not believe the additional wording significantly weakens this position as item (b) is only triggered if a producer contribution is less than 2 Mtpa but includes 100% of the Rail Operator Member(s) allocation.

Vale appreciates the opportunity to provide its views on this topic and would be happy to discuss this further if you need any clarification.

Yours sincerely,



Anneliese Mattos
Specialist Logistics Development
Vale Australia Pty Ltd