

BMC



31 March 2014

BHP Billiton
Level 25, 12 Creek Street
Brisbane Qld 4000
GPO Box 1349
Brisbane Qld 4001 Australia
Tel +61 7 3835 2000
Fax +61 7 3329 8932
www.bhpbilliton.com

By email: adjudication@accg.gov.au
David Hatfield
Director, Adjudication Branch
Australian Competition and Consumer Commission
GPO Box 3131
CANBERRA ACT 2601

Dear Mr Hatfield

BHP Billiton Mitsui Coal Submission - Applications for Authorisation A91410 and A91411 by Rio Tinto Coal Australia Pty Limited, Peabody Energy Australia Pty Ltd and Pacific National Pty Ltd

Thank you for providing BHP Billiton and BHP Billiton Mitsui Coal (**BMC**) the opportunity to comment on the above authorisation applications (the Applications).

In support of the Applications, the applicants have asserted that the primary public benefit of the proposed arrangements is to alleviate underperformance of the DBCT coal chain. However the underperformance of the DBCT coal chain is primarily a result of insufficient capital investment in physical infrastructure at DBCT, in particular port stockpile space and rail in-load capability, which is necessary to absorb the variability inherent in the operation of the DBCT coal chain. Coordination of rail ordering by users may provide some marginal benefits, but will not address the core problem. For that reason, BMC is of the view that the purported public benefits of the arrangements contemplated by the Applications are overstated.

BMC notes that there are in fact three coal chains using the Goonyella rail system, namely the DBCT coal chain, the Hay Point Coal Terminal (HPCT) coal chain and the Abbot Point Coal Terminal (APCT) coal chain. The interactions between the coal chains are complex.

BMC requests the ACCC to ensure that any arrangements approved by the ACCC to help address underperformance of the DBCT coal chain do not negatively impact on any other coal chains linked to the Goonyella rail system, or other users of those coal chains.

The interactions of the coal chains is illustrated by, BHP Billiton's management of BMA and BMC's complex transport logistics operations in the Bowen Basin. BHP Billiton has the contracted capability to transport approximately 75 million tonnes of coal per annum, from 8 mines, across the Goonyella, GAPE and Blackwater rail systems through to 4 ports, namely DBCT, HPCT, APCT and Gladstone Port. In terms of the northern Bowen Basin, our logistics operation requires bi-directional coal

movements along the Goonyella rail system in order to feed coal to DBCT, HPCT and APCT using 3 rail service providers (Pacific National, Aurizon Operations and our internal rail provider BMA Rail).

BHP Billiton requires a high degree of flexibility to be able to coordinate and manage these complex logistics in a way which maximises throughput and efficient rail to stock services. Although not asserting that the arrangements contemplated by the Authorisations will necessarily do so, any proposed arrangements which constrained this flexibility, created inefficiencies in the system or impacted on the contractual rights of other participants, would be of significant concern to BHP Billiton and BMC.

BMC would therefore want to ensure that any authorisation of the arrangements contemplated by the Applications should not permit, or permit arrangements which could result in (whether directly or indirectly):

- displacement of the current planning and scheduling roles of DBCT Pty Ltd or Aurizon Network Pty Ltd, or users ability to place orders directly with them;
- impacts on the contractual rights of other users of the coal chain and associated ports - whether that be above rail, below rail or at port;
- the creation other inefficiencies or negative impacts on commercial outcomes for other users of the regulated rail infrastructure and associated ports including HPCT and APCT;
- extension of the proposed arrangements to other coal chains (which are not facing DBCT's underperformance issues); or
- restrictions on the ability of users who do not choose to participate in the DCCC to manage their logistics portfolio in the way which best suits their business.

Such impacts would negatively impact on competition, and would also significantly undermine any purported public benefits of the arrangements contemplated by the Applications and create significant public detriments.

I would be happy to discuss any of the above with you further. Please do not hesitate to contact me on (07) 3329 2663 or jacqui.j.mcgill@bhpbilliton.com.

Yours sincerely



Jacqui McGill
Asset President BMC