



**FOXLEIGH MANAGEMENT**

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19 January 2021

Australian Competition and Consumer Commission,

In response to your invitation for comments, dated 22 December 2020, Foxleigh Management Pty Ltd (**FoxMan**) is pleased to submit this letter as an existing access holder of the Dalrymple Bay Coal Terminal (**DBCT**), reinforcing our request under section 88 of the *Competition and Consumer Act 2010 (Cth)* (**CCA**), along with the other applicants being;

- Anglo American Metallurgical Coal Pty Ltd
- BHP Billiton Mitsui Coal Pty Ltd
- BM Alliance Coal Operations Pty Limited
- Glencore Coal Assets Australia Pty Limited
- Clermont Access Pty Ltd
- Fitzroy Australia Resources Pty Ltd
- Peabody Energy Australia Pty Ltd
- Peabody Energy Australia PCI (C&M Management) Pty Ltd
- Pembroke Olive Downs Pty Ltd
- Stanmore IP Coal Pty Ltd
- South32 Eagle Downs Pty Ltd
- Whitehaven Coal Mining Limited

for;


- a) the collective negotiation by such existing potential future users with the access provider, DBCT Management Pty Ltd (**DBCTM**) of the terms and conditions of access relating to use of DBCT's coal handling service; and
- b) a potential collective arbitration if those negotiations fail to resolve the terms of access.

Given the take or pay nature of DBCTM fees, these fees become costs which are a key influence on the value and outcomes of asset assessments for mines in the Goonyella system.

FoxMan strongly believe that this application is required due to changes in the Queensland access regulation framework that apply to DBCT, which would remove the independently determined reference tariff. DBCTM holds a monopoly position which limits the negotiation power of smaller existing access holders and access seekers in particular. With this in mind, Foxleigh Management Pty Ltd intend to limit the uncertainty and barriers to entry to fairly negotiate the pricing of access to DBCT via DBCTM in the absence of a reference tariff and fully support the Application for authorisation to collectively negotiate existing and potential future access agreements with DBCTM for the period until 30 June 2031.

Pricing and access negotiations timeframes are approaching and Foxman believes it prudent for an interim application to be made, and we support this interim application in full.

Kind regards,



Michael Rosengren  
**Director**