



BHPBilliton Mitsubishi Alliance



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Queensland Competition Authority  
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Dear Mark

### **QR Network System Rules – Northern Bowen Basin System Rules**

BHP Billiton Mitsubishi Alliance (**BMA**) and BHP Billiton Mitsui Coal (**BMC**) supports the development of System Rules for all rail systems operating within the Central Queensland Coal Network (**CQCN**),.

This submission reflects our considered view on the Northern Bowen Basin System Rules and the QCA's Draft Decision on the Capricornia System Rules. We note AN recently submitted a new Capricornia System Rules and that we have not had an opportunity to review the issues in detail and so have remained silent on this submission.

### **The BMA Coal Chain**

As previously indicated, we believe BMA Coal Chain is uniquely placed to respond to the Northern and Capricornia System Rules documents from the holistic perspective of a producer, port owner/service provider and shipper within the CQCN.

As you are aware, BMACC is a functional group within BMA which manages all BMA and BMC's transport logistics business operations. The coal chain managed by BMACC comprises all mines, ports and railways within the BMA and BMC asset portfolio, including:

1. BMC – South Walker Creek and Poitrel mines;
2. BMA – Goonyella, Riverside, Broadmeadow, Daunia, Peak Downs, Saraji, Gregory Crinum, Blackwater mines (Caval Ridge to commence in CY14);
3. Dedicated Export Coal Terminal - Hay Point Coal Terminal (HPCT);
4. Dedicated rail operator - BMA Rail - commencing in the Goonyella System on 1 January 2014
5. Multi-User Export Coal Terminal Contractual Entitlements - RG Tanna Coal Terminal, Barney Point Coal Terminal, Dalrymple Bay Coal Terminal and Abbott Point Coal Terminal (FY2012); and
6. Multi-User Rail and AN Contractual Entitlements – Goonyella, Blackwater and GAP-Newlands Systems (FY2012).

BMACC integrates its coal chain logistics planning to optimally match coal production, railing, and shipping resources with customer demand in the operational planning horizon (0-24 months) and within the identified and emerging constraints of the CQCN. Furthermore BMACC interfaces directly with the global BHP Billiton Marketing function to provide an integrated logistics solution which extends to the customer plant.

BMACC manages bi-directional coal movements across the CQCN between the different ports, dependent on blending and market requirements, and monitors performance and optimisation capability to identify opportunities and drive improvement in its operation and throughput capability. In undertaking this role, the BMA Chain closely liaises with all internal and external service providers to manage its planning, scheduling and operational requirements within the capability and constraints of the System. Due to the single user nature of the BMACC, its direct coordination of all activities from mine to market ensures reliable delivery of product to the required quality whilst maximising throughput.

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## System Rules

The System Rules must identify the myriad of coal chains operating within the Northern and Southern Coal Systems and incorporate different coal chain operating paradigms within the System. The differentiation of coal chains is of critical importance to us because we have invested significantly in logistics infrastructure to obtain operational and commercial flexibility to enable us to operate within a "virtual" integrated supply chain to match coal logistics to our coal production and shipping and customer demand profiles.

We have some hesitation in embedding an overriding System Rule within the Northern and Capricornia System Rules "to maximise system throughput". Such a rule does not recognise the contractual reality of the number of coal chains within each System. For example in the Northern Bowen Basin, would this System Rule relate to the maximisation of DBCT throughput to the detriment of BMACC and APCT throughputs, or would it relate to the maximisation of BMACC and/or APCT to the detriment of DBCT. There are no easy answers to this question.

BMACC relies on its commercial contracts and AN's regulated network business to maximise its throughput through HPCT, APCT and RG Tanna. These commercial contracts underpin the substantial capital investments we have made over the last 3 years, namely the construction of two new mines (Daunia and Caval Ridge), the expansion of HPCT to 55 Mtpa, and the purchase of new rollingstock and establishment of BMA Rail as the 3rd rail operator on the CQCN. The imposition of an overarching System Rule which would enable AN to "socialise" the definition of System Throughput irrespective of individual contracts will have significant ramifications on our business and on our longstanding capital investment in the CQCN.

It is imperative that CQCN coal chain entities (producers and service providers) are not able to use this System Rules process to amend, change and improve contractual obligations and accountabilities which currently exist between producers and their service providers.

### NBB System Rules

The NBB System Rules provide significantly more information around how AN implements and manages the current train planning and scheduling process consistent with Schedule G in the 2010 Access Undertaking. We acknowledge AN's efforts in responding to industry's issues with respect to the first version of the Goonyella System Rules. The last 18 months have been educational for both AN and industry in terms of opening up AN's scheduling and planning process to scrutiny and commencing the first steps towards delivering the level transparency being demanded by industry.

We support AN's NBB System Rules, subject to the QCA recommending a number of changes with respect to TSE calculation and consumption principles. Both changes reflect the recognition that access agreements outline a monthly access entitlement with the ability to catch up through the year where contractually possible.

<b>BMACC Recommendation</b>
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That the NBB System Rules be approved, subject to BMACC's recommended amendments.
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### TSE Determination

Contractual certainty must exist for industry when it executes contracts with AN. Whilst industry identifies its annual tonnage requirements (mine origin to port), it is AN who controls how that annual allocation is distributed into TSEs sufficient to deliver to contract. As we found out in the first round of the Capricornia and Goonyella System Rules, this calculation methodology has never previously been made transparent to producers. The identification of the calculation methodology now raises issues with respect to whether the calculation parameters are appropriate given AN's operational variability and delivery of its maintenance and capital programs.

Notwithstanding our support for the NBB System Rules, we request the Authority specifically consider the merits of the TSE calculation methodology outlined in the document. Our question revolves around whether the calculation methodology has been correctly stated or whether it is actually calculated using a different approach. We also seek the QCA's view on whether the restated methodology (outlined by us) requires a bit of amendment so producers can have contractual certainty that annual tonnage can and will be delivered given within the variability in the Day of Operations (DOO).

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AN identified the following formula is applied to calculating TSEs in access agreements.

$$\text{Indicative weekly TSE} = \text{Annual net tonnage} / 360 \text{ days} / \text{nominal payload} \times 7 \text{ days} \times 2 \text{ (rounded up)}$$

We are of the understanding that the TSE calculation methodology applied in our contracts reflects the following methodology:

$$\text{Annual TSE} = (\text{Annual Tonnes} / \text{Train Payload}) \times 2 \text{ (rounded up)}$$

$$\text{Monthly TSE} = \text{Annual TSE} / 12 \text{ (rounded up)}$$

$$\text{Weekly TSE} = (\text{Monthly TSE} / 30) \times 7 \text{ (rounded up)}$$

We support our methodology as the preferred methodology as it recognises that our contractual entitlement in access agreements is a monthly entitlement and that no reference is made to a nominal weekly entitlement in those agreements. We acknowledge AN nominally separates a producer's Monthly TSE entitlement into even weekly amounts to reflect the even railings operating paradigm of the contracts, however, it is our position that our monthly entitlement is what AN is contractually obligated to deliver.

We remain concerned that the use of 30 days in a month underestimates the number of train paths required by a producer to meet annual tonnage expectations. We seek greater understanding on how AN's can determine that the CQCN is operating at full capacity for access holders for 360 days of the year. We question whether a preferred approach would be to adopt a position similar to the ARTC in the Hunter Valley where it has publicly stated that it sells access rights based on an assumption of 75% utilisation of the Hunter Valley network (which allows for 25% operational variability to occur in relation to planned maintenance, unplanned maintenance, emergency events and demand variation).

We recommend the Weekly TSE calculation be divided by a number less than 30 to reflect the variability inherent in the CQCN within a month. For example, AN acknowledge in their Supply Chain Operating Assumptions a 12.25% unplanned DOO loss allowance for the year. This then would translate to the available days in a month being 26.6 days instead of AN's 30 days (eg 365 days – 12.25%). In addition to this there are planned system outages for scheduled maintenance and inherent demand variability.

We question the applicability of using 30 days in a month to derive the weekly nomination given the CQCN is not available for running trains 30 days in a month. We request the QCA to amend AN's methodology to ensure each producer, contractually, has sufficient TSEs to deliver to their monthly and annual access entitlements. We recommend, from a contractual perspective, the QCA apply a number less than 30 days to the weekly denominator. This approach would enable AN to manage its operational variability whilst ensuring it can deliver contractual certainty in its access agreements.

#### **BMACC Recommendation**

That the QCA endorse that the following TSE methodology be applied by AN when calculating the number of TSEs to include in a customer's access agreement.

$$\text{Annual TSE} = (\text{Annual Tonnes} / \text{Train Payload}) \times 2 \text{ (rounded up)}$$

$$\text{Monthly TSE} = \text{Annual TSE} / 12 \text{ (rounded up)}$$

$$\text{Weekly TSE} = (\text{Monthly TSE} / <30) \times 7 \text{ (rounded up)}$$

#### **TSE Consumption Matrix**

Whilst some transparency exists directly between AN and the rail operators (as the majority of all access holders), much confusion exists when producers seek greater clarity around why a requested or ordered train service is not delivered. There is producer suspicion AN does not have sufficient train paths to deliver to contract when maintenance (planned and unplanned), capital and network restrictions are applied within the DOO. Such suspicion is then compounded by a further lack of clarity as to how the rail operator distributes and utilises its TSEs amongst its portfolio of customers. Often, producers are unsure if the reason they did not receive a requested train service is because of AN (due to maintenance, capital closures, weather or speed restrictions) or a rail operator (due to lack of rollingstock, crew, maintenance or provisioning problems).

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We recommend AN proactively provide each producer with a monthly view as to their TSE entitlements. Such transparency will enable producers to account for the utilisation of their contracted TSEs and reconcile causal impacts of non-delivery to the relevant coal chain entity (e.g. port, rail operator or AN).

We recommend AN use a rolling weekly TSE entitlement calculation within the monthly entitlement. This means that where a producer does not fully reach its derived weekly TSE quota within a week, then the unutilised TSEs are carried over into the subsequent weeks of the month to allow a producer to catch up on tonnes lost due to other coal chain causes. That way a producer can accrue within the month the flexibility to deliver additional coal tonnes so the monthly contract can be delivered.

We support the Authority's position requesting AN to be clear on the treatment of system variability, and how the allowance for variability is applied across access holders and producers. We support the maintenance multiplier and a multiplier to cover train paths lost due to emergency and urgent possessions as set down in the Authority's Draft Decision on the Capricornia System Rules.

We are not completely clear on how AN treats TSE consumption as outlined in Table 10 and Appendix C. However, we can confirm that we would support an AN TSE consumption matrix which guaranteed the following:

- If a train service is put in the weekly train plan (consuming 2 TSEs) and then that train service is run on another scheduled path within the week (Sunday midnight to Sunday midnight) then AN will deem the train service to have only consumed 2 TSEs.
- If a train service is put in the weekly train plan (consuming 2 TSEs) but cancelled before AN publishes the train service in its 48 hour plan then AN will deem the train service to not have been scheduled and no TSEs will be deemed consumed.
- If a train service is put in the weekly train plan (consuming 2 TSEs) and not run within that weekly train schedule timeframe (Sunday midnight to Sunday midnight) but not cancelled by the access holder before AN's 48 hour plan is published then AN will deem the train service to have consumed 2 TSEs.
- If a train service is put in the 48 hour plan (consuming 2 TSEs) but not run then AN will deem the train service to have consumed 2 TSEs.
- If a train service is put in the 48 hour plan (consuming 2 TSEs) but is diverted within the 48 hour environment and run successfully on another train path, we suggest AN can deem the train service to have only consumed 2 TSEs.

We believe the last point above can be accommodated within AN's scheduling process as the rules outlined in the NBB System Rules identify that diversions can only be accommodated in circumstances where the requested diversion:

- does not result in any other access holder's scheduled train service not being met;
- can be accommodated within the DTP; and
- does not impact on AN's ability to provide TSEs in accordance with AN's obligations under the existing access agreements.

Given these considerations if a train service can be successfully diverted in the 48 hour plan then the access holder should not be penalised consumption of 4 TSEs but be registered as only having consumed 2 TSEs. This approach would be advantageous to the entire System as it encourages all users to immediately advise of changes within the 48 hour environment to optimise the potential for another party to use the paths being released.

In terms of Delay Cause Identification, we would like to see the Authority's position in section 4.1 of the Draft Decision on the Capricornia System Rules applied to section 10.2.2 of the NBB System Rules. Specifically, we believe that where a train service has been delayed, diverted or cancelled due to a Network Cause then the impact of this delay will have a consequential impact on the following two train cycles following that specific train service. The main implication is that causal identification should allow coal chain entities to look back into train performance for up to two cycles to determine causal attribution. As this issue is not dealt with contractually in the current Standard Access Agreement, we recommend the Authority consider this issue in the next draft of the Standard Access Agreement through the 2013 Access Undertaking process.

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We support the implementation of a new TSE consumption matrix as a matter of priority. Currently, access holders and producers lack sufficient scheduling flexibility to manage mine and port movements through the week.

#### **BMACC Recommendation**

That the QCA endorse:

- AN provide each producer with a monthly view as to their TSE entitlements contracted by their rail operator.
- AN use a rolling weekly TSE entitlement calculation within the monthly entitlement.
- AN introduce a maintenance multiplier or similar and identify how the allowance for variability is spread across access holders within the month via the Critical Asset Alignment Calendar.
- AN deem a train service to have only consumed 2 TSEs if the train service once published in the 48 hour plan (consuming 2 TSEs) can be diverted and run in the 48 hour environment without adversely affecting another access holder's contractual rights.
- AN to look back into train performance for up to two cycles to determine causal attribution of scheduled performance.

#### ***Monthly, Weekly (referred to by AN as the ITP) and rolling Daily (48–72 hours) Train Planning Process***

We support AN's disciplined monthly and weekly<sup>1</sup> train planning processes. We support alignment of this planning process to the port shipping demand profile and operational capabilities at the ports as well as coal availability at the mines.

We manage our BMACC operations to similarly deliver a stable internal planning environment within the quarterly, monthly, weekly and daily time horizons. By replicating this planning process internally within BMACC, we are able to maximise the utilisation of our scheduled train paths, minimise variation across our portfolio of mines, maximise our operational capability and deliver throughput to meet our production forecasts.

We support AN's rolling 48-72 hour daily planning process which enables the train plan to be changed within the week to match shipping profiles and DOO changes from producers, rail operators and AN. Importantly this process builds flexibility within the disciplined planning system and allows coal chain entities the opportunity to adjust, divert and remove weekly scheduled train services without penalty in the TSE weekly consumption matrix.

#### **Next Steps**

Subject to specific comments raised above, we fully support implementation of the NBB System Rules. We believe the NBB System Rules are consistent with Schedule G of the 2010 Access Undertaking and provide additional information and transparency around how Schedule G is implemented within AN. We also believe the new TSE measurement process represents a positive step in providing producers with greater contractual certainty that their tonnes can be delivered in accordance with contractual obligations. We support building into the TSE performance matrix sufficient flexibility so that producers are not penalised for diversions and rescheduled train services which can be accommodated in the daily planning process and which have no adverse impacts on other access holders in the NBB System.

We recommend further consideration be given to taking the NBB System Rules to the next step in terms of transparency and accountability. This could be delivered at the operational level by AN but may require some oversight by the Authority to ensure those steps are taken in the interests of producers. The area where transparency and accountability is required is within the oversight and measurement of train schedule performance. Current concerns around this process exist because the majority of producers do not hold the access rights underpinning their haulage contracts. This means producers lack certainty around the reasons

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<sup>1</sup> We note recent DBCT Management changes to enforce the weekly DBCT Train Order Rules with DBCT PL complements AN's weekly train planning process. DBCT Management's stated aim is to establish transparency in the weekly train ordering process with a weekly reconciliation process between DBCT and rail operators, with feedback being provided to relevant producers.

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why either their ordered train services or their scheduled train services are not delivered in the DOO. Another concern in this space is that AN has the absolute right to adjudicate causes for schedule non-performance where no decision can be reached collectively amongst the service providers. As producers remain outside the schedule performance discussions, it is unclear to producers how schedule non-performance causes are identified, attributed and addressed. A major concern is that when allocating reasons for losses, individual service providers may seek to elevate their own commercial interests to the detriment of a producer's commercial and throughput interests.

We recommend the Authority consider how to improve the casual identification processes to ensure that service providers do not use the attribution of losses process by AN to unfairly protect their commercial position and hide behind a culture of "blame shifting". We recommend the process be re-worked so that service providers are encouraged to problem-solve and identify potential improvements which could be made in schedule performance to improve reliability and delivery of all contracted services. More clarity is also required on the reasons for schedule non-performance. The aim is to generate more openness and understanding by service providers and producers to enable the different industry forums, established to optimise coal throughput in a specific coal chain, to better understand the corrective mechanisms available to the System to mitigate coal chain losses in the DOO.

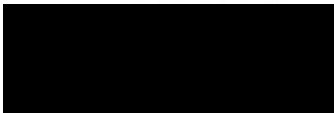
**BMACC Recommendation**

The QCA consider next steps to broaden the measurement and transparency of train schedule performance to producers who hold the underlying access rights.

We support consistency in the application of detailed planning processes within the NBB System and the Capricornia Systems. As BMACC operates across all systems, it is fundamentally important that we can align our planning and scheduling horizons and provide stable forward transport logistics planning for the business. We support the approach put forward by the Authority in its April 2013 Draft Decision on the Capricornia System Rules submission, but we are yet to form a view on the most recent AN Capricornia Rules submission.

If you have any queries or require more information, please feel free to contact Ms Tanya Boyle on mobile 0459 812257 or myself.

Yours sincerely



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