

**QCA declarations review
Anglo American's submission in response to
DBCT Management's latest submissions**

Anglo American Metallurgical Coal Australia

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1 Executive summary

Anglo American Metallurgical Coal business (**Anglo American**) welcomes the opportunity to provide submissions to the Queensland Competition Authority (**QCA**) on the QCA's draft decision in respect of the review of the declarations (**Draft Decision**) of the Dalrymple Bay Coal Terminal (**DBCT**) and the latest submission from DBCT Management (**DBCTM**).

As noted in its submission dated 18 July 2018 (**Anglo Initial Submission**), Anglo American has a longstanding commitment to the Queensland coal industry, and is a member of the Queensland Resources Council (**QRC**) and the Dalrymple Bay Coal Terminal User Group (**DBCT User Group**). Anglo American endorses and supports the submissions of the QRC and the DBCT User Group. This brief submission is intended to supplement those submissions. This submission considers issues in relation to the services provided by DBCT.

In summary:

- (1) Anglo American strongly endorses the QCA's draft decision in respect of the declaration of the DBCT service;
- (2) Anglo American continues to hold the view that each of the declaration criteria are satisfied in respect of the DBCT service;
- (3) Anglo American holds concerns about the conduct of DBCTM in respect of the declaration review process, including in respect of the conduct of the QCA Stakeholder Forum; and
- (4) Anglo American does not consider that any other coal handling services at other Queensland coal terminals are substitutable for the service subject to declaration (being the service at DBCT).

In this submission, Anglo American seeks to emphasise the following points:

- (1) Marginal use of other coal handling facilities by Anglo American or other DBCT users should not be taken to be indicative of a broader market than that the Hay Point catchment coal exploration and development tenements market or indicative that those services are substitutable for the service the subject of declaration at DBCT. Instead, those who hold contracts with DBCT and other coal handling facilities are predominantly incentivised to contract some portion of their capacity away from DBCT for non-cost reasons (such as geographical distribution of mines with common ownership, risk diversification or blending or co-shipping opportunities) – and enter into those contracts on the basis that the acquisition of coal handling services at other coal terminals are not substitutable services for DBCT but different services with different characteristics. This is consistent with Anglo American's experience of the relevant market as a long term market participant.
- (2) In Anglo American's experience, the cost of using other coal handling facilities is materially greater than a SSNIP – which supports its view that the services are not substitutes for each other.
- (3) The access queue at DBCT is not a credible way for modelling foreseeable demand at DBCT for a range of reasons – including that producers provide optimistic assessments of their potential projects given the nature of the access queue and exploration projects themselves: there is no cost to users for seeking to maintain a place in the queue (such that there is no down side for access seekers in submitting renewal applications that require later revisions as information becomes more reliable) and the development of projects is inherently

unpredictable, such that the estimates provided by access seekers of the commencement of their projects always has the potential to require revision depending on circumstances outside of port capacity requirements.

- (4) The appropriate market for consideration in relation to criterion (a) with respect to DBCT is the Hay Point catchment coal exploration and development tenements market (as defined in the DBCT User Group Submission). This market is distinct from other coal tenement markets – and it is Anglo American’s experience as a long term participant in that market that the declaration of DBCT has a material impact on the competitive dynamics of that market. Anglo American rejects DBCTM’s proposition that the relevant market is not geographically bounded and it is inconsistent with Anglo American’s experience in the relevant markets to claim that the market is a whole of Queensland coal tenements market.

2 Criterion (b) considerations

2.1 Substitution of the DBCT service

DBCTM criticised the QCA’s approach to market definition in relation to criterion (b) in the Draft Decision on the basis that it alleged the QCA ‘considers substitutability of coal handling services in very ‘coarse’ terms by reference to representative users in the Goonyella system and elsewhere, rather than by reference to the costs and incentives faced by each mine.¹

Anglo American makes the following points in response:

- (1) Requiring a mine by mine analysis is an inappropriate way to assess the relevant market, and the QCA’s approach to market definition in the draft decision is appropriate in the circumstances.
- (2) DBCTM has not offered any appropriate SSNIP analysis to support its analysis. Anglo American considers that this is because there is no SSNIP analysis that could support DBCTM’s position. Anglo American [REDACTED] operates Capcoal, which is the one of the closest mines to the Gladstone coal terminals that contracts with DBCT. [REDACTED]

[REDACTED] Given that, it is clear that RG Tanna coal terminal services and DBCT coal handling services are not substitutable even on an individual mine analysis.

Anglo American reiterates the submissions it made in the Anglo Initial Submission in respect of the reasons why Anglo American – and other users in similar positions – may contract services with other coals terminals despite predominantly using DBCT. As noted in the QCA Stakeholder Forum, the services offered by alternative coal terminals (including RG Tanna) are not considered substitutes for DBCT, but an alternate and different service that offers different benefits and draw backs from DBCT.

DBCT Management response to QCA draft recommendation, 11 March 2019, p 12 (DBCT Latest Submission).

Anglo American notes that it has, from time to time, railed coal to RG Tanna instead of DBCT [REDACTED] for a range of reasons – each of which relate to the specific services offered at RG Tanna coal terminal rather than simply cost-related reasons. These reasons include:

- (1) whether shipping to RG Tanna offered the ability to blend coal products with mines that sit outside of the Hay Point catchment, such that it is not a cost decision but instead a decision about sales;
- (2) whether opportunities for co-shipping that would not otherwise be available at the principal terminal (i.e. DBCT) have been available, and whether it makes commercial sense for producers to take up those co-shipping opportunities even if moving product to an alternative terminal would otherwise be uneconomic; and
- (3) whether a customer has expressed a preference for shipping out of a specific coal terminal [REDACTED]). This demand-based shifting suggests that there are differences between the services offered by DBCT and RG Tanna such that the services should not be taken to be substitutable – [REDACTED]

[REDACTED]

Each of the above points are consistent with Anglo American’s experience of the relevant market as a long term market participant and how Anglo American has managed its portfolio of mines and associated infrastructure from time to time.

[REDACTED]

For these reasons, Anglo American agrees with the QCA’s DBCT Draft Decision observation that the co-shipping and blending services offered at DBCT are distinct from those available elsewhere – the nature of the handling operations at DBCT means that blending options are available at DBCT that are not feasible elsewhere. DBCT is the largest metallurgical coal exporting terminal in Australia, and offers products as well as blends that are not available at any other coal terminal. Nearly all of the throughput is high quality coking coal – which offers commercial opportunities for its users and access seekers that are unavailable at other coal export terminals. [REDACTED]

[REDACTED]

As such, it is Anglo American’s firm view that the services offered at DBCT and other coal terminals are not substitutable services and any assertion to the contrary does not reflect the realities experienced by customers acquiring those services in the relevant – and distinct – markets.

2.2 **The access queue is not a credible forecast of demand**

Anglo American notes that DBCTM alleges the QCA has erred in its exclusion of Moranbah South in the total foreseeable demand for the service, and has included in Appendix 5 of the DBCTM Latest Submission a series of correspondence between Anglo American and DBCTM concerning various access applications [REDACTED].

Anglo American understands that this material, partly redacted, was tabled as part of the tender bundle at the QCA Stakeholder Forum on 20 March 2019. Anglo American and its advisers were not provided with advance notice of this intention. Anglo American and its advisers were not provided of a copy of any the material contained in the Latest DBCTM Submission until 27 March 2019 – and only upon request by the representatives of Anglo American’s advisers. This – understandably – impacted on the ability of Anglo American to fully engage at the QCA Stakeholder forum and reduced the amount of time Anglo American has had to prepare its submissions and consider the relevant material. Anglo American is disappointed at the duplicity with which DBCTM has approached the separate issues of its management of the access queue and the declaration review process.

With respect to this material, Anglo American notes that DBCTM has offered no substantive analysis as to what probative value it considers Appendix 5 and the material relating to Anglo American in Appendix 3 offers to the QCA’s consideration of foreseeable demand. The QCA should not accept that the mere existence of the access applications – in the absence of context and analysis – should result in their inclusion in the foreseeable demand during the declaration period. In particular, Anglo American notes:

- (1) Having an access application in the queue is essentially a no cost option that preserves optionality for project proponents without having to commit to long term take or pay contracts; and
- (2) There is an incentive for access seekers to have an access application in the queue and preserve their position in the queue as it facilitates access to the services when projects are better understood through various stage gates, approvals, etc and ready to negotiate long term access agreements subject to capacity becoming available, when the start date becomes more certain.

Access applications will be based on information about projects or expansions understood by the relevant access seekers at the time the applications are made. This is a consequence of the nature of projects and the access queuing process, with projects requiring access applications to be lodged well before those projects are understood in any detail. [REDACTED]

[REDACTED] Anglo American makes the following comments [REDACTED] in support of the proposition that it is difficult to estimate a start date for a project, such that the access queue is not a credible forecast of demand:

- (1) The Wood Mackenzie base case put forward by the DBCT User Group submissions considers that the Moranbah South project is likely to commence in 2034. That date represents Wood Mackenzie’s independent view and not Anglo American’s view. Given the criticisms that DBCTM has sought to make of the DBCT User Group making adjustments to forecasts, it was determined by the DBCT User Group and its advisers to present the Wood Mackenzie data to the QCA without any adjustments by individual users. Given these numbers were not adjusted with user input, it is likely that some projects will start earlier and some will start later (or be at different production profile ramp ups or annual volumes forecasts) depending upon a number of factors (including their stage gate timing and level of development) – but as an aggregate forecast of demand it is considered appropriate in that context for that purpose.

[Redacted]

- (3) The User Group submission referred to a 2029 date for commencement which reflects a more conservative view as to when the project may commence production, which is clearly not as conservative as the Wood Mackenzie view.

Moranbah South remains an important greenfield development option for Anglo American. At this stage, no timing is available for when the project may move to production. [Redacted]

[Redacted]

The commercial realities of developing a project make it difficult to accurately forecast when the start date of the Moranbah South project is likely to be – and the existence of a range of plausible dates indicates that the access queue is not a reliable measure of foreseeable demand for the declaration period.

[Redacted]