

11 July 2018

Mr George Passmore
Director – Business Performance
Queensland Competition Authority

Dear Mr Passmore

DBCT 2017 AU – Application under s.5.4(k)(5)

Application under Section 5.4(k)(5) of the 2017 Dalrymple Bay Coal Terminal Access Undertaking (AU)

1. Background

DBCT Management Pty Limited (DBCTM) has been approached by an Access Holder who also currently holds a position in the Queue formed under Section 5.4(a) of the AU. This Access Holder has requested that an additional 600,000 tonnes of capacity be added to its Access Agreement for the 2018/19 Financial Year by way of a variation of the 'Annual Contract Tonnage' under its Access Agreement.

Due to the Notifying Access Seeker processes already underway under Section 5.4 of the AU, DBCTM is unable to contract the requested capacity until this process has been completed (which will occur on 24 August 2018, being the end of the three month period required under Section 5.4(e)(5) of the AU).

2. Section 5.4(k)(5) of the AU

Section 5.4(k)(5) of the AU allows DBCTM to enter into an Access Agreement based on an alternative process, approved by the QCA, if the process set out in Section 5.4 'would result in a materially greater amount of Available System Capacity not being able to be utilised than could otherwise be the case if an alternative process is followed'.

In the circumstances described above, the process set out in Section 5.4 effectively 'locks up' Available System Capacity until 24 August 2018. In addition, the requirements under the Access Agreement to use reasonable endeavours to ship Annual Contracted Tonnage evenly throughout the year mean that it is not feasible for the Access Holder to ship at a greater rate until the completion of the Section 5.4 process that is currently underway. If the Access Holder does this, DBCT's Operator may deprioritise the Access Holder's vessels by applying Terminal Regulation 2.3, resulting in lower utilisation of Available System Capacity.

Proposed 'alternative arrangements'

DBCTM seeks the QCA's approval in accordance with Section 5.4(k)(5) for the following 'alternative arrangements' which it believes will enable the materially greater utilisation of Available System Capacity as contemplated by the AU.

DBCTM has entered into an agreement to vary the Access Holder's Access Agreement such that the Access Holder will receive the additional capacity as follows:

1. for the period between 1 July 2018 and 24 August 2018, the Access Holder will receive 0.6 Mtpa (reduced on a pro rata basis for this period); and
2. if, at 24 August 2018, following completion of the Notifying Access Seeker process, there is still sufficient uncontracted tonnage to satisfy this access request, the Access Holder will receive 0.6 Mtpa for the full 2018/19 Financial Year (or such lesser period for which the capacity is available).

There are conditions precedent in the variation deed to the Access Holder's Access Agreement which will give effect to the above conditions.

DBCTM believes that this alternative arrangement is a materially greater utilisation of Available System Capacity in these circumstances.

DBCTM thanks the QCA for its attention on this matter and welcomes the QCA's feedback in due course. Unless the context otherwise requires, capitalised terms which are not defined in this letter have the meanings given to them in the AU.

Please contact me if you have any related queries.

Yours sincerely

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Jesse Knight
General Manager – Operations
DBCT Management