QR 2020 Draft Access Undertaking Submission in Response to QCA Draft Decision

27 September 2019

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1 Introduction

This submission is made on behalf of Yancoal Australia Limited (**Yancoal**), in its capacity as operator of the Cameby Downs mine, located on Queensland Rail's (**QR**), West Moreton rail network.

It is provided as a 'collaborative submission' in relation to the draft access undertaking submitted by QR (the **2020 DAU**), and responds to:

(a) some of the issues raised by other stakeholders in their submissions in response to the to the Queensland Competition Authority (**QCA**) April 2019 Draft Decision (**Draft Decision**); and

(b) matters on which QR has consulted with Yancoal since the last round of submissions.

In particular, it principally addresses issues regarding the West Moreton reference tariff which were raised in QR's latest submission of 11 July 2019 (the **Latest QR Submission**). It also addresses a number of wording issues concerning the 2020 DAU and the Standard Access Agreement (**SAA**), including compromise wording that has been agreed with QR as part of recent consultations.

As this 'collaborative submission' is confined to addressing particular issues that have been the subject of submissions or discussions among stakeholders since the Draft Decision it should be read together with Yancoal's prior submissions in this process of 17 October 2018, 16 November 2018 and 11 July 2019 (which provide a more complete view of Yancoal's comments on the 2020 DAU).

Consistent with Yancoal's previous submission of 11 July 2019 (the **3rd Yancoal Submission**), Yancoal continues to support the Draft Decision, including the conclusion that it is not appropriate to approve the 2020 DAU in accordance with section 138 of the *Queensland Competition Authority Act 1997* (Qld). That remains Yancoal's view principally because of the inappropriateness of the West Moreton tariff proposals.

2 Volume Forecast

The Latest QR Submission proposes an updated volume forecast (which has been redacted from the publicly available version of the submission).

Given the redactions of the volume forecast being sought, and the limits on Yancoal's insight into New Hope's likely production profile, it is difficult for Yancoal to comment usefully on the volume forecasts QR now proposes.

However, it appears from the commentary provided in the Latest QR Submission regarding New Acland Stage 3, that QR is seeking to lower the 'high tonnage scenario' volume forecast based on a further than previously anticipated reduction in respect of New Acland. Public commentary from New Hope regarding the impact on that project of continued delays suggests that a reduction in volumes for the initial part of the 2020 DAU term may be warranted.

If the QCA considers that is the case, and that would, on a pure application of the building blocks methodology, result in a higher tariff through the same revenue being sought to be recovered over materially lesser volumes, Yancoal:

(a) confirms that in the circumstances it is supportive of the QCA's approach in the Draft Decision (page 134 Draft Decision) of setting the tariff by reference to the 87 paths known to be available for coal services independent of the forecast volume level; and

(b) if the QCA was to determine that reference tariffs should instead be based on a lower volume forecast, emphasises its comments in the 3rd Yancoal Submission and in section

5.4 below about the limits on its ability and willingness to pay and the need to be conscious of tariffs set above those levels permanently removing demand for the reference service and stranding the investments of the remaining stakeholders (particularly Yancoal and Aurizon Operations).

Yancoal appreciates that there is currently a period of uncertainty about the likelihood of whether New Acland Stage 3 will proceed, and what the timing of that development is likely to be. However, it appears possible that that uncertainty will be resolved in the near future and well before the 2020 DAU is set to commence on 1 July 2020. Accordingly, if (contrary to the Draft Decision) the QCA wishes to set reference tariffs by reference to volume forecasts, Yancoal also considers it is likely there is merit in either:

(a) adopting a normalised volume forecast assuming the development of New Acland stage 3 and providing a new provision of the 2020 DAU that provides for the QCA to consider the appropriateness of a tariff reset if that does not occur within a certain period; or

(b) determining the appropriate non-tariff terms, and delaying the final decision on tariffs until closer to the time for commencement.

3 87 Path Constraint / Cost Allocation to Coal Services

Yancoal continues to consider the Draft Decision's approach of allocating to coal services the proportion of network costs reflecting 87 paths (at least until a higher volume of paths are contracted for long term coal services) is appropriate.

Consistent with Yancoal's comments in the 3rd Yancoal Submission:

(a) the issue is not so much whether pathing constraints on coal services apply now (as the Recent QR Submission and the correspondence from the Department of Transport and Main Roads (**DTMR**) it annexes is solely focused on), but that as a practical matter it did in the past (as found it previous QCA decisions), and that practical constraint has had enduring impacts on the extent of current coal service usage of the West Moreton and Metropolitan network;

(b) it is only at the point of coal services actually contracting above 87 paths on a long term basis at some point in the future that it will become clear whether any constraint has truly ceased to exist (noting that such constraints can arise not just through matters of law or QR or DTMR decisions, but through policies implemented by whether Ministerial approval is given for future access agreements – which QR and DTMR cannot guarantee in advance);

(c) the 87 path based allocation already allocates to coal services a higher proportion of infrastructure costs that the proportion of capacity currently utilised by coal services (such that Yancoal, and New Hope, are already subsidising QR in relation to capacity that was previously contracted for the Wilkie Creek mine); and

(d) there is no legitimate rationale for allocating to coal further costs of a network in the current context where there are no paths preserved for coal services, the network is not designed or optimised for coal services and QR is both suggesting that coal volumes are at risk of reducing further and yet that it proposes continuing to incur costs as if that is not occurring.

Accordingly, Yancoal remains of the view that the Latest QR Submission and DTMR correspondence it annexes do not alter the appropriate position from that set out in the Draft Decision.

4 Weighted Average Cost of Capital

4.1 Flawed Comparisons to Other Infrastructure Providers

In the Latest QR Submission, QR has requested the QCA to re-examine the proposed weighted average cost of capital (**WACC**), including undertaking a 'top down systematic examination' of the appropriate methodologies for calculating the rate of return to be reflected in the West Moreton reference tariffs.

Yancoal considers the QCA has clearly already conducted such a thorough examination in the Draft Decision in a manner that is aligned with past QCA practice and the approach of other regulators.

As discussed in the 3rd Yancoal Submission, Yancoal continues to consider that the WACC proposed in the Draft Decision is in fact too generous, particularly in relation to the estimate of the asset beta that has been provided.

It is economically illogical to assert (as the Latest QR Submission does) that the QCA's proposed rate of return is too low simply by way of comparison to the ultimate rate of return figures determined for different regulated businesses. In addition, the businesses QR has used as comparators have been cherry-picked by QR, without any consideration of the extent to which the underlying characteristics of those infrastructure services are similar to .

In particular, Yancoal notes:

(a) the decisions referenced by QR are made at different times – such that the market and time based parameters will obviously have been different to those which will be utilised in respect of the 2020 DAU and were reflected in the tariffs projected in the Draft Decision (noting that Yancoal has already indicated in the 3rd Yancoal Submission its willingness to support a longer averaging period with a view of reducing the potential volatility from the estimates of time based parameters);

(b) the regulated businesses involved in the regulatory decisions referred to by QR have a range of material differences, most evidently including:

   (i) different levels of commercial and regulatory risk compared to those borne by QR in the provision of West Moreton coal reference services (which obviously impact directly on the appropriate asset and equity beta underlying the return on equity component); and

   (ii) different assumed gearing levels (which impacts on the proportion of the rate of return relating to return on debt and return on equity, and consequently the equity beta); and

(c) QR's selected comparators are not the most appropriate comparator businesses – while they are all below rail business, the risks involved in some of the businesses selected are materially different and QR have excluded lower risk regulated businesses from the comparison which have more similarities to QR, particularly when the form of QR's regulatory arrangements are taken into account (noting the analysis of Incenta Economic Consulting and the analysis of the QCA Draft Decision that the appropriate asset beta for West Moreton coal services is likely to be less than the asset beta for toll roads but greater than the asset beta of regulated energy and water businesses).

In a similar vein, Yancoal notes that it is not appropriate to simply adopt asset betas from diversified below rail networks (such as the New South Wales regional rail network, the ARTC interstate rate network and the WA regional rail networks), which involve higher commercial and regulatory risks than is involved in providing services to the West Moreton coal users as discussed in the Draft Decision. In that regard, Yancoal particularly notes, the strong regulatory protections QR benefits from (as described in page 8 of the 3rd Yancoal submission), and the greater similarities to the risk profiles of other coal networks (such as the Aurizon Network central Queensland coal region and ARTC Hunter Valley rail networks).

In relation to QR's reference to the Aurizon Network UT5 WACC draft amending access undertaking that is currently before the QCA, Yancoal notes that the rate of return uplift which is proposed in that draft amending access undertaking is being proposed in recognition of the additional risks and obligations Aurizon Network is also proposing (particularly in relation to expansion commitments and independent capacity assessments to name clear examples). QR is not proposing in the 2020 DAU that it should bear such risks and obligations (and Yancoal considers that any such trade-off between such risks and obligations and a higher tariff is not appropriate in the context of the West Moreton coal reference tariffs, the current surplus capacity and the affordability challenges that already exist) such that it is not particularly relevant how Aurizon Network's rate of return may be influenced by doing so.

4.2 Systemic Risk

Yancoal also rejects QR's statements in its latest submission about systemic risk.

QR's suggestions, made by reference to New Acland Stage 3 and Wilkie Creek, appear to be that the QCA has not taken into sufficient account the exposure that the West Moreton has to thermal coal demands / prices.

However, a review of the Draft Decision clearly indicates the QCA did take this into account. For example, page 134 to 141 specifically consider the:

(a) the demand for thermal coal generally;

(b) the more specific demand for thermal coal with the characteristics produced by the coal mines in the West Moreton region;

(c) the extent to which customers usage of West Moreton network has been influenced by varying thermal coal prices over time; and

(d) the features of the regulatory framework that mitigate the risks that may otherwise arise from changes in coal prices.

Similarly, the Incenta Report contains a detailed first principles analysis which specifically considered QR's exposure to its position on the thermal coal cost curve of the West Moreton coal users and the resulting potential for asset stranding (pages 27 to 28).

Both the Draft Decision and the Incenta Report concluded that, principally as a result of those matters, QR's West Moreton coal services involved higher risk than Aurizon Network's central Queensland coal region.

While it is obviously true that Wilkie Creek has previously closed, the future risk borne by QR is a feature of the exact factors that the QCA and Incenta considered, and Cameby Downs and New Acland's position on the thermal coal supply cost curve is more favourable than Wilkie Creek's was understood to be, such that the risk profile is lesser going forward.

The fact that the New Acland project's production timeline has been delayed, has not changed the longer term risk profile for the West Moreton network.

Yancoal therefore considers that it is clear that the Incenta Report and Draft Decision have carefully considered the systemic risks that QR bears in providing the West Moreton coal rail access service, and appropriately taken that into account in setting the asset beta.

5 Low Tonnage Scenario – Loss Capitalisation & Ability to Pay

5.1 Overview of Yancoal Position on Loss Capitalisation

As discussed in the 3rd Yancoal Submission, Yancoal's position on loss capitalisation is that:

(a) in principle, it is willing to support some degree of loss capitalisation that results in an appropriate tariff for West Moreton users during the period in which it applies and which contains a methodology for recovering capitalised under-recoveries once volume has return to a point where such recovery becomes economic;

(b) it is supportive of the QCA's proposal for a limited life capitalisation as an appropriate method of balancing the competing interests of QR revenue adequacy and West Moreton users' ability to pay in the short term, while seeking to facilitate a return of volumes (noting that where QR itself continues to provide 'low volume' scenarios and is seeking a higher asset beta due to risks of further volume reductions – any loss capitalisation regime needs to be set in a way that avoids capitalisation continuing in the absence of volume returning – as at that point recovery will never be economic and sustainable);

(c) it is opposed to loss recovery premiums of anywhere near the 15% level proposed by the QCA, due to being highly concerned that that will result in the 'low volume' tariffs substantially exceeding the willingness and ability to pay threshold for West Moreton coal users and thereby defeating the very purpose of loss capitalisation (being to allow volumes to be maintained and ultimately recover to a point at which the interim under-recovery can then subsequently be resolved);

(d) any loss recovery premium that is applied should only be applied to new access rights that are contracted during the term of the 2020 DAU (when access seekers can make investment and contracting decisions knowing that will be the case, and with a view of trying to prevent losing the remaining existing volume which would obviously exacerbate the issues being encountered); and

(e) if volume does not ultimately return, clearly there will be a need to consider optimisation of the regulatory asset base.

5.2 Responses to Latest QR Submission on Loss Capitalisation

Yancoal acknowledges that loss capitalisation is something that has been employed by regulators previously. However, it is typically employed where there are considered to be clear prospects of a material increase in volume (NBN Co, ARTC's Zone 3 rail, and Aurizon Network's WIRP arrangements, being obvious examples).

Here, on QR's own view, the volume outlook is not as clear. To achieve the principles that QR proposes in the Latest QR Submission of providing incentives for future expansion and not acting as a disincentive for future access seekers requires a very different approach to what QR is actually now advocating.

The Latest QR Submission does not provide a detailed recovery mechanism on which to comment, and it is clear that QR's views are sufficiently far apart from those of other stakeholders that any mechanism that QR does present in the 2020 DAU process is highly unlikely to be one that is agreed.

However, Yancoal has sought below to provide comments on what appear to be the two key arguments against the position proposed in the Draft Decision raised in the Latest QR Submission, namely:

(a) that a longer period of recovery should be preferred over a depreciation profile or limited life of capitalised losses if volume does not return; and

(b) that a higher tariff should apply on the basis that West Moreton's users ability to pay is higher than the prevailing reference tariff.

Yancoal strongly disagrees with both of those points.

5.3 Longer period of recovery vs limited life capitalisation

Yancoal agrees with the principle in the Draft Decision (page 64) that any loss capitalisation methodology introduced in respect of the West Moreton coal access services needs to be appropriately constructed to suit the nature of the asset and the market for access.

The key issue in that regard is what makes the West Moreton rail infrastructure quite unique compared to other infrastructure facilities for which loss capitalisation has been applied. In particular:

(a) typically loss capitalisation is applied where a large and 'lumpy' capital investment is required to meet demand which is highly likely to arise but will take some time to ramp up to fulfil the capacity created (such as would be the case for dams, a new network or a long rail connection or pipeline to a new coal basin or gas producing region);

(b) whereas, in respect of the West Moreton network the capital investment is already sunk, excess capacity already exists, and the prospects of demand returning is uncertain.

The lesser certainty that exists in relation to demand growth means that, as acknowledged in the Draft Decision, the mechanism adopted needs to be able to prevent the capitalised losses ballooning to an unrecoverable amount.

The most likely near term source of demand recovery is the progression of the New Acland Stage 3 project. That project is a mine life extension project in respect of an existing mine, Given its nature, Yancoal considers its prospects of ever proceeding recede dramatically if it is not developed in the near future. In that regard, Yancoal notes that New Hope has announced that if the required approvals are not received by early September 2019 it will commence redundancies for their local workforce. Once that has occurred, the remobilisation costs would be anticipated to make a future investment decision harder.

This is exactly why a limited life to the capitalisation is necessary, in order to prevent capitalised losses continuing to build after the prospects of material demand returning (at least in a timeframe which would make the under-recoveries recoverable) have largely disappeared. That is also important both in terms of providing the right incentives for QR to minimise and defer major capital investments in the interim and not to disincentivise potential users from investing in mining operations which will bring volume back to the network.

As Yancoal understands the QCA's proposal, the capitalised losses would have 5 years to accumulate before depreciating over the next 5 years. Yancoal considers that, if anything, the proposed 5 years is too long – noting that ramp-up of a mining project to full production would typically be able to occur over a 2-3 year period, such that this actually allows until about the middle of the term of the 2020 DAU period for demand to commence returning.

In other words, the QCA methodology is already allowing for a far more delayed return of volumes than shown in the QR examples (which instead shows material increases in volumes commencing on 1 January 2023).

In determining what is appropriate, the risk that must be avoided as a critical priority is that the capitalised losses and the recovery mechanism disincentive new volumes – as at that point QR's investment (and that of other stakeholders like Yancoal and Aurizon) is stranded forever. The West Moreton network is already a high cost network and it cannot afford any further chilling of investment incentives.

Accordingly, Yancoal strongly supports the need for a limited life / depreciation of capitalised losses, but considers that the QCA's proposals involve too long a time frame given that if New Acland Stage 3 is to be developed it is likely to occur in the nearer term than the 5 years from the commencement of the 2020 DAU on 1 July 2020 that the QCA is proposing would be allowed.

5.4 Ability to Pay

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6 Ad Hoc Path Premium

Yancoal reiterates its opposition to utilisation of ad hoc paths involving an additional premium being payable by the access holder.

That opposition is based on the facts that:

(a) this will not incentivise contracting greater amounts (as the 100% take or pay liability means that the detriment of over-contracting capacity is far greater than any ad hoc path premium);

(b) instead this will disincentive the use of ad-hoc paths for marginal production and marketing opportunities. This is clearly inappropriate when the regulatory framework should be seeking to incentivise volumes of all types given the current environment for usage of the service and the existence of material spare capacity; and

(c) premiums for ad-hoc paths are punishing users for not contracting when there are reasons for not long term contracting that will not be overcome by a price premium (such as the uncertainty created by QR's position on low volume tariffs and the uncertainties arising from the regulatory delays experienced by New Acland Stage 3).

As this was proposed by the QCA as an alternative to the volume based endorsed variation event, Yancoal continues to consider it appropriate that to the extent there is long term contracting above the 87 coal paths used to determine tariffs, that should constitute an endorsed variation event which would trigger a recalculation of the applicable tariffs.

7 Capital Expenditure Approval Process

Consistent with the 3rd Yancoal submission, Yancoal continues to support QR's proposal for the annual capital expenditure review process to continue.

If anything, give the varying views of demand outlook, it seems even more clearly prudent that assessment of capital expenditure should occur more regularly rather than through a single end of term review.

8 Response to New Hope – Coverage of Incremental Costs

Yancoal also wishes to address New Hope's assertion that Cameby Downs should be paying a higher tariff in order to cover QR incremental costs.

First, Yancoal has not been presented with any evidence that confirms that is the case. Particularly given that the Queensland Competition Authority has previously found that this assertion was not the case (in respect of the current tariffs), the QCA should carefully scrutinise the veracity and accuracy of the current claims.

Second, given the higher proportion of the anticipated volume coming from Cameby Downs (relative to New Acland) which QR appears to be anticipating in its revised volume forecasts, Yancoal considers it is even less likely that based on QR's revised volume forecasts that would be the case.

Third, there is no legal requirement in the QCA Act or the proposed 2020 DAU terms that reference tariffs are set in the way New Hope suggests. The QCA should seek to determine appropriate reference tariffs. The floor and ceiling provisions in the 2020 DAU terms are intended to provide negotiating parameters for non-reference services.

Fourth, to the extent it is arguable that a mine is not meaning its full incremental costs – that is presumably an inherent and appropriate result of the 'distance taper'. As discussed in the Draft Decision, the distance taper, by having part of the tariff recovered on a per path rather than distance basis, fosters development along the West Moreton line, and removing incentives of that nature seems counterproductive at a time the regulatory framework should be incentivising the return of volumes.

Fifth, given that all stakeholders now appear to be preparing for the potential that Cameby Downs will, for at least a period, be the only coal user of the West Moreton network – it is critical that nothing is done to increase the costs of Cameby Downs as doing so will sabotage the potential ability to preventing the economic stranding of QR's West Moreton network and the West Moreton coal mines (noting the discussion about the ability to pay in section 5.4 of these submissions above).

For all of those reasons, it would be clearly inappropriate for QR to increase the cost of rail access to Cameby Downs in the manner which New Hope appears to be suggesting.

9 Supported Drafting for Undertaking and Standard Access Agreement

Yancoal has engaged in consultation with QR and other stakeholders in relation to a number of potential drafting proposals in relation to the wording of the 2020 DAU and the SAA.

Yancoal supports (and believes based on the consultations that have occurred) that there is general support among stakeholders for the amendments to be outlined in QR's collaborative submissions in relation to the matters outlined in the table below:

Undertaking wording

Topic	Status of QR Proposals	Yancoal Comments
Access Applications – 2.1.1	QR collaborative submission will present agreed drafting	
Preliminary steps – 2.1.2	QR collaborative submission will present agreed drafting	
Operating Requirements Manual – 4.2/4.3	QR collaborative submission will present drafting that has been agreed, with the exception of clause 3.4(f)	Yancoal does not support QR's proposed clause 3.4(f) which undermines the whole point of having the undertaking provide protections against ORM changes given the cost and other impacts that changes to operating arrangements can cause. The ORM does not restrict how QR can act in an emergency and in non-emergency situations, Yancoal considers that stakeholders will support genuinely safety related amendments.
Resolution of safety related disputes – 6.1.4	Drafting & Policy agreed, including Yancoal's proposed clause 6.1.4(c) is agreed. Clause 6.1.4(d) is **not agreed** which QR considers is need to safeguard Queensland Rail	As is shown in QR's proposed drafting, Yancoal proposed a revised clause 6.1.4(c)-(d) to try to find a position which resolved QR's concerns in relation to not being able to comply with access determinations without potentially risking safety outcomes or their

	where it needs to act in a manner to comply with accreditation or rail safety laws.	accreditation. Yancoal does not believe that the QCA would make a finding with such an outcome, and considers its proposed clause 6.1.4(c)-(d) were already generous in addressing QR's concerns. The whole point of QR's initially proposed amendments was to ensure that the QCA had the benefit of the safety expert's determination so it could make informed decisions about safety matters. Safety is obviously critical – but allowing QR to simply assert a different view of safety and thereby reject a QCA determination, creates the obvious potential for the whole access dispute regime to be unworkable in relation to safety matters.
Regional Network User Groups – productivity and operational improvements	Policy & drafting agreed **except** provision for rotating chair and inclusion of supply chain investment decisions.	Yancoal strongly supports the recognition in the undertaking of at least the South West User Group (the SWUG) – in QR's terminology, the Regional Network User Group for the West Moreton system. However, it considers that: 1) the chair should be a user representative (as is the case for the SWUG currently), noting that end users have contracts with the provider for each element of the supply chain, giving them a unique insight into where supply chain issues might be 2) given that some productivity or operational improvements might be most efficiently resolved with capital investment, discussions about capital investment should be within the scope of the supply chain group (noting that its non-binding nature means that inclusion within the scope of the ground would not be inconsistent with the provisions of clause 1.4 of the access undertaking).

SAA

Topic	Status of QR Proposals	Confirmed/Comments
Good faith **1.2, 1.3, 6.7(c), 8.8(b), 18.2(c) and Schedule 3 clauses 2.2 and 5.4(a).**	Agreed to reinstate 'good faith without definition.	
Productivity and efficiency variations – 1.3	Drafting & Policy agreed.	
Security Amount	Drafting & Policy agreed.	

The remaining issues raised in the Latest QR Submission are addressed below.

10 Undertaking Wording

10.1 Network management principles

The points raised in the Latest QR Submission in respect of the network management principles (**NMP**) largely appear consistent with the 3rd Yancoal submission and the Draft Decision.

However, Yancoal is concerned that the Draft Decision and QR's response seem to envisage the Western Corridor Alignment Calendar being something that exists separately from and merely alongside the Master Train Plan (**MTP**) and Daily Train Plan (**DTP**) – without really altering the functions of the MTP and DTP.

However, for inclusion of Planned Possessions and Special Events in, and regular updating of, the Western Corridor Alignment Calendar to achieve the intended objectives of allowing stakeholders to plan their logistics decisions around anticipated possessions, it is also necessary for:

(a) the DTP to be calculated from the Western Corridor Alignment Calendar (not just the MTP); and

(b) the NMP to provide the same level of protections for users when new Planned Possessions are included in the Western Corridor Alignment Calendar as the QCA proposed, and QR has indicated it would accept, being included in the MTP.

For completeness, Yancoal notes that its supports the Draft Decisions' requirements that Planned Possessions are not implemented where they are the subject of a bona fide dispute provided that notice is given within a specific period. Yancoal is willing to accept a shorter time frame for the raising of disputes if that would assist – but considers that it is not appropriate to simply allow QR to proceed with disputed possessions. In the West Moreton system, the difficulty is that QR has competing incentives relating to the Metropolitan network and passenger services – such that the analogy QR seeks to draw to ARTC is not appropriate.

10.2 Reporting

Yancoal is willing to accept what QR proposes in respect of reporting. This appears to just be a practicality of the Queensland Audit Office's processes, and still achieves the intent behind the Draft Decision's proposal that the Below Rail Financial Statements and Annual Performance Report are produced together.

10.3 QCA Fee and Levy

Yancoal is not overly worried about the timing issues raised by QR of exactly when the QCA levy is finalised, and provided the QCA considers QR's proposal in that regard is workable would be willing to accept the varied timing proposed by QR.

However, as noted in the 3rd Yancoal submission:

(a) Yancoal is, in principle, supportive of the Draft Decision proposal to pre-determine the allocation for the term of the 2020 DAU as a manner of reducing the regulatory burden for all stakeholders;

(b) but Yancoal has concerns with the proposed proportion of the allocation of the QCA fee to West Moreton coal service.

That concern with the proportionate allocation was originally premised on the fact that the QCA work involved in determining the West Moreton and Metropolitan tariffs should have materially decreased from the time when these proportions were first set in connection with the extensive work the QCA was required to do to formulate the first bottom-up West Moreton coal access tariff – such that it was no longer appropriate to retain the high proportionate allocation. That concern remains – and has only further increased where Yancoal would be paying the vast bulk (and potentially all) of that QCA levy in a low volume scenario, and the costs of the QCA's regulated services in reviewing the pricing aspects of QR's 2020 DAU are being increased as a result of QR's proposals to protect their own risk such as loss capitalisation.

10.4 Renewals

Yancoal remains strongly opposed to both the QR proposal and the Draft Decision in respect of the approach to renewals.

It is evident from QR's own submission that Yancoal's long term commitment to the West Moreton line is currently being considered as the only long term commitment that is keeping the West Moreton network viable under a low volume scenario. There is no evident rationale for why that long term commitment should not deliver long term security for a mine that has more than 50 years' worth of coal resources remaining.

As discussed in the 3rd Yancoal submission, the rationale QR provides for wanting to remove renewal rights due to a renewing access holding theoretically foreclosing more efficient new entry or encouraging capacity hoarding is not credible or reasonable in the current environment where there is material surplus capacity on the system for any new efficient access seeker. No access holder is incentivised to contract above anticipated production given the take or pay costs of doing so (as has been seen in the way that New Hope has reduced its contracted capacity). Similarly, it cannot be about a new entrant being willing to pay more – where at a policy level it is clear that a reference tariff which is consistent for all coal users is appropriate.

Yet the rationale for keeping renewal rights is currently stronger than ever. The development of mine extensions or expansions (or greenfield projects) involves significant sunk costs to produce a long life investment that extends beyond the initial term of a rail agreement – such that certainty of future access is a critical element of facilitating future investment and development in the West Moreton network. That is the case not just for existing contracted entitlements for Cameby Downs, but also for future mines or expansions.

It is also completely counterproductive when the system's future prospects are dependent on such developments to amend the renewal network now in a way that creates uncertainty as to whether a future extension of rail access rights will be possible, and thereby has a chilling impact on the likelihood of such investment. Accordingly, Yancoal cannot understand how that can be appropriate in the current environment in respect of the West Moreton network.

11 Standard Access Agreement

To the extent not covered by the agreed drafting referred to earlier in this submission, Yancoal position on the SAA issues raised in the Latest QR Submission remains as set out in the 3rd Yancoal submission.

12 Conclusions

While Yancoal acknowledges that QR has consulted on both a range of drafting issues and the low volume tariffs, it is clear to Yancoal that the 2020 DAU pricing proposals provided by QR remain inappropriate and consequently the 2020 DAU is not appropriate to approve having regard to the matters in section 138(2) QCA Act.

Yancoal generally supports the Draft Decision on pricing matters other than the 'low volume' scenario – while still feeling that the QCA has been generous to QR in relation to elements of the WACC parameters and cost allocations involved in the bottom-up analysis.

In relation to the 'low volume' scenario, Yancoal specifically asks that the QCA carefully consider the actual data presented in this submission regarding Yancoal's ability to pay and seek to determine a methodology which:

(a) will set the West Moreton reference tariff at an appropriate level that will allow Cameby Downs to continue to profitably operate in the period for which low volumes apply, taking into account the lower coal price outlook across that period; and

(b) does not involve unlimited loss capitalisation and high loss recovery premiums which will disincentive future investments of the type which are necessary in order to return coal volumes.

If Yancoal can be of any further assistance prior to the QCA making a final decision in this matter, please do not hesitate to contact Mike Dodd.