Queensland Competition Authority

Queensland Rail 2025 Draft Access Undertaking

Draft decision

June 2024

We wish to acknowledge the contribution of the following staff to this report:

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Contents

Draft decision

On 10 November 2023, Queensland Rail submitted a voluntary draft access undertaking (2025 DAU) to us for approval in accordance with section 136 of the *Queensland Competition Authority Act 1997* (QCA Act).

We assessed the appropriateness of all aspects of 2025 DAU, and considered all submissions received in accordance with the statutory requirements, including having regard to the approval criteria in section 138(2) of the QCA Act.

Our draft decision is to refuse to approve Queensland Rail's 2025 DAU, having regard to the statutory criteria and the stakeholder submissions we received.

While we have identified a number of potential amendments to the DAU, there are some provisions where our preliminary position is that they are appropriate to approve. For the most part, these are unchanged from the 2020 undertaking. Matters that may be appropriate to approve include:

- the negotiation provisions in Part 2
- the pricing rules in Part 3
- the dispute resolution provisions in Part 6.

However, what stands out in this draft decision is the number of matters that Queensland Rail and its customers have not resolved. A key concern of stakeholders has been that Queensland Rail has not engaged in genuine consultation but has rather proposed changes from the 2020 undertaking on a take it or leave it basis. Stakeholders have suggested a number of specific amendments to the regulatory arrangements proposed by Queensland Rail in the 2025 DAU. We encourage Queensland Rail to work with its customers to resolve such matters and find agreed approaches for us to consider.

We would be inclined to approve the provisions in any pending undertaking where the parties have reached agreement, subject to our statutory obligations and having regard to the interests of those not party to negotiations. Amendments settled through negotiation are preferable as stakeholders are best placed to manage and allocate risks among themselves.

Non-tariff matters that remain unresolved or where we consider it is appropriate to amend the 2025 DAU include:

- several aspects of the standard access agreement (SAA) (Schedule H)
- notification times and treatment of the master train plan (MTP) in the network management principles in Part 4 and Schedule F
- reporting on ad hoc planned possessions in Part 5.

A significant unresolved matter is the West Moreton reference tariff and the related provisions in Schedules D and E of the 2025 DAU. Stakeholders said Queensland Rail gave insufficient details of its proposed costs, pricing and risk mitigation measures, and provided the information only shortly before the DAU was lodged.

This late consultation means the tariff proposal does not appear to reflect feedback from customers on their preferences. It is also uncertain whether Queensland Rail's proposed volumes will be required and whether, if they are contracted, they can be delivered. We have suggested a potential way forward – that is to escalate existing tariffs by the consumer price index (CPI) – but our preference is that the parties negotiate a reference tariff that has regard to the legitimate interests of both Queensland Rail and its customers, and promotes efficient investment in, and operation and use of, the West Moreton system.

Our preliminary assessment of the 2025 DAU against the relevant criteria is set out in detail throughout this draft decision, including reasons for our draft decision, ways in which we consider the DAU should be amended, and matters where we consider the parties should pursue agreed positions. Where we have suggested it is best that Queensland Rail and its stakeholders find agreed positions, we have in most cases provided an indication of what we think might be an appropriate approach.

The draft decision does not represent any final views and has no force as such.

Next steps

Our final decision will be informed by submissions on this draft decision – our analysis and application of statutory assessment criteria may change before the final decision.

We invite submissions from interested parties regarding the draft decision by **Tuesday 23 July 2024.** We encourage stakeholders, particularly Queensland Rail, to engage with other parties and to present agreed positions as fully as possible, including suggested drafting of proposed amendments to the 2025 DAU. Parties may also justify proposals in terms of the approval criteria in section 138(2) of the QCA Act. We will take account of all submissions received within the stated timeframe. Please refer to the 'Submissions' section below for additional information.

We encourage stakeholders to use the period for initial submissions as an opportunity to find common ground and bring forward agreed positions. We ask that parties have regard to the benefits of early involvement in the process. As we said in our statement of regulatory intent in November, should a stakeholder raise a significant issue, or propose a major policy change, early engagement will afford other stakeholders natural justice by giving them sufficient opportunity to consider and comment on matters that affect them.

We also intend to provide a period for collaborative submissions. This final round of submissions will give Queensland Rail and its customers an opportunity to identify any further areas of consensus. We anticipate the due date for collaborative submissions will be in September 2024.

As part of the consultation after this draft decision, we may release targeted position papers or discussion papers where we consider it is appropriate for parties to have an opportunity to comment on particular matters.

Submissions

Closing date for submissions: 23 July 2024

The role of the QCA

The Queensland Competition Authority (QCA) is Queensland's economic regulator. We are an independent statutory body[1] that promotes competition as the basis for enhancing efficiency and growth in the Queensland economy. One of our primary roles is to help prevent monopoly businesses operating in Queensland, particularly in the provision of key infrastructure, from inappropriately using their market power through unfair pricing or restrictive access arrangements.

The draft decision outlines our preliminary assessment of Queensland Rail's 2025 DAU in accordance with the relevant statutory criteria and the reasons why we do not consider it is appropriate to approve the undertaking. The draft decision represents our preliminary view and is intended to give stakeholders insight into that view and to encourage further contributions. Our final decision will be informed by submissions on the draft decision, and our analysis and application of statutory assessment criteria may change prior to the final decision. The draft decision does not represent any final views and has no force *per se*.

Submissions

Public involvement is an important element of our decision-making processes. Therefore, we invite submissions from interested parties regarding the draft decision.

We will take account of all submissions received within the stated timeframes.

Submissions, comments or inquiries regarding the draft decision should be directed to:

Queensland Competition Authority

GPO Box 2257, Brisbane QLD 4001

Tel 07 3222 0555

www.qca.org.au/submissions

Confidentiality

In the interests of transparency, and to promote informed consultation, we intend to make all submissions publicly available. However, if a person making a submission believes information in it is confidential, they should claim confidentiality over the relevant information and state the basis for that claim. We will assess confidentiality claims in accordance with the *Queensland Competition Authority Act 1997*.[2]

[1] Established under the *Queensland Competition Authority Act 1997*.
[2] Considering particularly the public interest and if disclosure of the relevant information is likely to damage a person's commercial activities.

Claims for confidentiality should be clearly noted on the front page of a submission, and relevant sections of the submission marked as confidential. The submission should also be provided in both redacted and unredacted versions. In the redacted version, all information claimed as confidential should be removed or hidden. In the unredacted version, all information should be exposed and visible. These measures will make it easier for us to make the remainder of the document publicly available. A confidentiality claim template is available at **www.qca.org.au/submission-policy.**

The template gives guidance on the type of information that may help us to assess a confidentiality claim. We encourage stakeholders to use this template when making confidentiality claims.

Public access to submissions

Subject to any confidentiality constraints, submissions will be available for public inspection at our Brisbane office, or on our website at **www.qca.org.au**. If you experience any difficulty gaining access to documents, please contact us on **07 3222 0555**.

1 Our investigation

1.1 Background

Queensland Rail owns and operates a 6,600 kilometre rail network, including the commuter lines in south-east Queensland, and the West Moreton, Mount Isa and North Coast systems. Queensland Rail provides access to declared services for the purposes of Queensland's third-party access regime established under Part 5 of the QCA Act. Appendix A provides an outline of this access regime and Queensland Rail's declared services.

Queensland Rail's 2020 access undertaking (AU2) came into effect on 1 July 2020 and sets out the terms and conditions under which Queensland Rail provides access to the declared service on its rail infrastructure. It also outlines the process required for an access seeker to negotiate access to the services, and the way disputes in relation to access are to be resolved. AU2 will expire on 30 June 2025.[3]

On 10 November 2023, Queensland Rail submitted the 2025 DAU to us for approval in accordance with section 136 of the QCA Act. It is intended that the undertaking will take effect immediately, as the 2025 access undertaking (AU3), after the 2020 undertaking (AU2) expires.

1.2 Queensland Rail's 2025 DAU

An access undertaking for a service means a written undertaking that sets out details of the terms on which an owner or operator of the service undertakes to provide access to the service.[4]

Queensland Rail's 2025 DAU sets out the proposed terms and conditions under which Queensland Rail will provide access to the services covered by the undertaking during its term. The term of the DAU commences on the DAU's approval date until its expiry on 30 June 2030, unless an earlier terminating date arises.

An overview of the arrangements proposed in the 2025 DAU is outlined in Figure 1. Queensland Rail's proposed regulatory arrangements largely reflect the current regulatory arrangements, set out in the 2020 undertaking.

In this regard, Queensland Rail submitted that it was only seeking changes from the 2020 undertaking on an exceptions basis, where it considered improvements could be made. Queensland Rail said the 2020 undertaking provisions had been tried and tested and it had proposed only minor changes to provide business certainty to its customers.[5]

As part of these arrangements, a reference tariff is to apply to coal handling services on the West Moreton Route service.[6] Queensland Rail has recalculated the reference tariff and proposed a price 24% higher than customers have been paying under the 2020 undertaking.

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[3] Unless an earlier terminating date is triggered under AU2.
[4] QCA Act, Sch. 2.
[5] Queensland Rail, sub. 1, p. 3.
[6] The West Moreton Route service means the use of the West Moreton system and the Metropolitan system (see Appendix A for further explanation of the parts (or route services) of the Queensland Rail service that have been declared under s. 84(1)(b) of the QCA Act).

Figure 1: Overview of the proposed arrangements included in the 2025 DAU

Application of the undertaking

Part 1 defines the duration and scope of the access undertaking, the non-discriminatory treatment of access seekers and access holders, as well as outlining Queensland Rail's obligations for extending the network where an access seeker is willing to fund an extension.

Part 6 outlines transitional arrangements for matters undertaken as part of the previous regulatory period.

Framework for negotiating access

Part 2 sets out the framework for negotiating access rights. To support the negotiation process:

- **Schedule A** outlines obligations for Queensland Rail to provide preliminary and capacity information
- **Schedule B** specifies information to be provided by access seekers as part of an access application
- **Schedule I** identifies principles of negotiation if an access seeker or access holder wants to build a rail connection to its private infrastructure.

Part 6 outlines a dispute resolution mechanism to address instances where disputes between the parties arise.

Standard access agreement

Schedule H provides a standard access agreement to facilitate the negotiation of access that sets out the standard terms and conditions of access to Queensland Rail's network.

Operating and reporting requirements

Part 4 establishes the operating requirements that govern how Queensland Rail is to deliver train service entitlements. The operating requirements and expectations are further detailed in:

- **Schedule F** outlines the network management principles
- **Schedule G** outlines operating requirements manual.

Part 5 sets out Queensland Rail's reporting responsibilities throughout the regulatory period.

Pricing rules for negotiating access

Part 3 prescribes pricing rules that are to apply in negotiating access charges.

Schedule J outlines how annual regulatory fees are to be allocated between train services.

Reference tariffs for the Metropolitan and West Moreton systems

Schedule D reports the reference tariffs that are to apply to those train services that accord with the description of a reference train service in the Metropolitan and West Moreton systems.

Schedule E outlines the process for rolling-forward the regulatory asset base (including the process for approving capital expenditure) throughout the regulatory period for the purpose of calculating the relevant reference tariffs.

1.3 Our regulatory task

Submissions

In accordance with section 136 of the QCA Act, we are required to consider the 2025 DAU and either approve, or refuse to approve, it.[7] As part of our assessment, we must publish the 2025 DAU and consider relevant submissions on it (ss. 138(3)(c) and (d)).

On 13 November 2023, we published the 2025 DAU, a notice of investigation (that invited interested parties to make submissions by 2 February 2024),[8,9] and a Statement of Regulatory

[7] If we refuse to approve the 2025 DAU, we must provide a written notice stating the reasons for the refusal and the way in which we consider it is appropriate to amend the 2025 DAU (s. 136(5)). In this circumstance, notification would occur when we release the final decision on the 2025 DAU.

[8] Section 146 of the QCA Act provides for us to issue a notice of investigation to commence an investigation for deciding whether to approve the DAU. A notice of investigation states our intention to conduct the investigation and invites interested parties to make written submissions on the proposed DAU.

[9] On 23 November 2023, we published a list of topics to assist stakeholders in preparing their submissions.

Intent.[10] In response to our initial invitation for comment, we received submissions on the 2025 DAU from the following parties:

- Aurizon Coal and Bulk
- Aurizon Network Pty Ltd
- Centrex Limited
- GrainCorp Operations Limited
- New Hope Group
- Pacific National
- Phosphate International Ltd t/a North West Phosphate
- Qube Logistics
- Yancoal Australia Limited.

On 22 February 2024, we provided stakeholders, including Queensland Rail, a further three weeks to comment on the new matters raised in the submissions received. In response to our follow-up invitation, we received further submissions from the following parties:

- Glencore
- Mount Isa Line Users
- New Hope Group
- Pacific National
- Queensland Rail
- Rail Operator Group
- Yancoal.

Appendix D lists the submissions we received on the 2025 DAU and provides the submission numbers used in footnotes.

Factors affecting approval

Section 138 of the QCA Act outlines the factors affecting the approval of a DAU. In particular, we may approve the 2025 DAU only if we consider it appropriate to do so having regard to each of the matters set out in section 138(2) of the QCA Act (Box 1).

[10] The Statement of Regulatory Intent outlines our intended approach to managing information-gathering processes, stakeholder consultation and assessment timeframes throughout our investigation.

Box 1: Section 138(2) of the QCA Act

The authority may approve a DAU only if it considers it appropriate to do so having regard to each of the following:

a. the object of this part;
b. the legitimate business interests of the owner or operator of the service;
c. if the owner and operator of the service are different entities – the legitimate business interests of the operator of the service are protected;
d. the public interest, including the public interest in having competition in markets (whether or not in Australia);
e. the interests of persons who may seek access to the service, including whether adequate provision has been made for compensation if the rights of users of the service are adversely affected;
f. the effect of excluding existing assets for pricing purposes;
g. the pricing principles mentioned in section 168A;
h. any other issues the authority considers relevant.

The 'object of this part' as referred to in section 138(2)(a) is set out in section 69E:

> The object of this part is to promote the economically efficient operation of, use of and investment in, significant infrastructure by which services are provided, with the effect of promoting effective competition in upstream and downstream markets.

The pricing principles set out under section 168A are:

> The pricing principles in relation to the price of access to a service are that the price should:
>
> a. generate expected revenue for the service that is at least enough to meet the efficient costs of providing access to the service and include a return on investment commensurate with the regulatory and commercial risks involved; and
> b. allow for multi-part pricing and price discrimination when it aids efficiency; and
> c. not allow a related access provider to set terms and conditions that discriminate in favour of the downstream operations of the access provider or a related body corporate of the access provider, except to the extent the cost of providing access to other operators is higher; and
> d. provide incentives to reduce costs or otherwise improve productivity.

This draft decision outlines our preliminary assessment of the 2025 DAU, having regard to the matters in section 138(2) of the QCA Act and all stakeholders' submissions that were received within the consultation periods.

In assessing the 2025 DAU, we have considered all aspects of the undertaking afresh and had regard to the section 138(2) factors in every aspect of this draft decision. In some cases, the assessment of whether it is appropriate to approve the 2025 DAU, having regard to the factors affecting approval, gives rise to competing considerations. In such cases, we weighed up the competing considerations as appropriate.

Agreed outcomes

As outlined in Appendix A, the access regime in Queensland is based on a negotiate–arbitrate framework, which envisages that, in the first instance, access to a declared service should be procured on the basis of terms and conditions that are commercially agreed between the access seeker and the provider of the declared service.[11]

We have repeatedly emphasised our desire for consultation and consensus, including in our decision on Queensland Rail's 2020 DAU, and in our communication about the 2025 DAU. Such approaches have been demonstrated to deliver superior outcomes for Aurizon Network and Dalrymple Bay Infrastructure (DBI) and their respective customers and we see no reason why similar outcomes cannot be achieved by Queensland Rail and its customers if there is focused consultation on the issues raised in this draft decision.

Consistent with the negotiate-arbitrate framework, we place weight on agreed outcomes and consider it highly beneficial for parties to engage with each other, to the extent possible, to explore salient issues and potential areas of consensus in relation to the 2025 DAU. In respect of all aspects of the access undertaking, we still, in accordance with our statutory role, undertake an independent review to confirm that they comply with the criteria in section 138(2) of the QCA Act, including the interests of potential entrants and the public.

Draft decision structure

Our draft decision is structured in two parts (Figure 2):

- Part A – our assessment of the 2025 DAU provisions
- Part B – our assessment of the proposed reference tariffs and related provisions for the West Moreton and Metropolitan systems.

Figure 2: Structure of the draft decision

Part A – Our assessment of the 2025 DAU provisions	
Chapter	**Topic**
2	Preamble, application and scope of the undertaking
3	Framework for negotiating access
4	Standard access agreement
5	Pricing rules for negotiating access
6	Operating requirements
7	Reporting requirements

[11] QCA, *Summary guide: Access disputes under the QCA Act*, June 2019, p. 1.

Part B – Our assessment of the proposed reference tariffs	
Chapter	**Topic**
8	Reference tariff approach
9	Tariff building blocks

1.4 Human rights considerations

Although we do not consider this draft decision to be a decision for the purposes of the *Human Rights Act 2019* (HR Act), pursuant to section 58(1)(b) of the HR Act, the following human rights may potentially be relevant to our final decision:

- rights potentially related to climate change (right to life, equality and non-discrimination and right of children to protection of their best interests)
- the right to freedom of movement (for passengers in Queensland).

It is not envisaged that the final decision will limit any of the rights mentioned above, particularly as:

- rights potentially related to climate change – these rights are unlikely to be limited by a decision concerning approval of an access undertaking, as any such decision would likely not have a material effect on the volume of coal exported and consumed overseas. This will primarily depend on market factors such as demand and price
- right of freedom of movement – the effect of the final decision is likely to be positive or neutral.

It is therefore envisaged that a final decision (that is consistent with the approach taken in this preliminary assessment) is likely to be compatible with human rights under section 8(a) of the HR Act.

2 Preamble, application and scope

The preamble of the 2025 DAU is an introductory section that provides background and high-level context for the undertaking.

Part 1 of the 2025 DAU outlines the application and scope of the undertaking. It includes provisions relating to consistency and fairness in the treatment of users;[12] requirements in negotiating, developing and funding network extensions in circumstances where an access seeker notifies Queensland Rail that it is willing to fund an extension;[13] and master planning and extension coordination, applicable to situations where Queensland Rail receives a request to prepare a 'system master plan' relating to its proposed expansion projects.[14]

Part 6 of the 2025 DAU includes various administrative provisions, including transitional provisions that set out how matters undertaken or established under AU2 will continue during the AU3 regulatory period.[15]

Part 7 of the 2025 DAU provides definitions of key terms[16] and outlines rules for interpreting the undertaking.[17]

Overview of the draft decision

Our draft decision is that it is appropriate to approve the preamble and transitional provisions in Part 6 of the 2025 DAU and that it may be appropriate to approve Part 1 of the 2025 DAU.

Preamble, application and scope – summary

Proposal	Clause	QCA draft decision
Preamble		
Queensland Rail did not propose changes to the preamble.[18]	n/a	It is appropriate to approve the preamble. See section 2.1.
Stakeholders proposed further incentivising road-to-rail modal shift[19]	n/a	It is not necessary to require amendments to the preamble regarding a road to rail modal shift. See section 2.1.
Scope		
Stakeholders proposed requiring greater consistency and harmonisation with other rail infrastructure managers.[20]	n/a	It is not appropriate to amend the scope of the 2025 DAU to require greater harmonisation. See section 2.2.2.

[12] 2025 DAU, cl. 1.3.
[13] 2025 DAU, cl. 1.4.
[14] 2025 DAU, cl. 1.5.
[15] 2025 DAU, cl. 6.5. These transitional arrangements include rules relating to matters and access applications established under AU2, reporting periods and approval dates.
[16] 2025 DAU, cl. 7.1.
[17] 2025 DAU, cl. 7.2.
[18] Queensland Rail, sub. 1.
[19] Aurizon Coal and Bulk, sub. 2, p. 26-27; Mount Isa Line Users, sub. 17, p. 2; Rail Operators Group, sub. 15, pp. 1–4; Pacific National, sub. 13, pp. 2, 3-6.
[20] Aurizon Coal and Bulk, sub. 2, pp. 10–12; GrainCorp, sub. 4, p. 3; Pacific National, sub. 7, pp. 14–15; Rail Operators Group, sub. 15, pp. 11–12; Qube, sub. 8, pp. 2–5.

Stakeholders proposed including interstate services using the dual gauge link between Acacia Ridge and the Port of Brisbane in the 2025 DAU.[21]	cl. 1.2	These services are likely not a declared service under the Treasurer's declaration of 2020. We invite submissions on this issue. See section 2.2.
Other matters		
Queensland Rail proposed maintaining transitional provisions[22]	cl. 6.5	It is appropriate to approve this. See section 2.3.

2.1 Preamble

The preamble provides high-level context for Queensland Rail's 2025 DAU. Queensland Rail did not propose any changes to the preamble of the 2020 access undertaking.

We do not consider that it is appropriate to require any amendments to the preamble. Importantly, the high-level context provided by Queensland Rail is factually correct. Moreover, we do not consider that making minor amendments to the preamble will affect the operation of the 2025 DAU.

In their submissions, stakeholders raised issues broadly concerning the extent to which the 2025 DAU incentivises a modal shift of freight from road transport to rail transport.

Incentivising a road-to-rail modal shift

We do not consider it necessary to require that amendments to the preamble include a commitment by Queensland Rail to support road-to-rail conversion and grow rail volumes.

Aurizon Coal and Bulk considered that the preamble should include a clear commitment by Queensland Rail to:

- promote competition in the rail haulage market
- promote the economically efficient investment, use and operation of the network
- grow rail volumes including by supporting and incentivising emerging demand, retaining volumes on rail and supporting 'road to rail' modal conversion.[23]

The Mount Isa Line Users submitted that there was no mechanism in the 2025 DAU that could be used to hold Queensland Rail to account in acting in a way that supported this objective.[24] The Rail Operators Group considered that the 2025 DAU should provide stronger obligations on Queensland Rail to offer access arrangements that effectively encouraged a modal shift of freight from road to rail. The Rail Operators Group considered that there must be a strong price incentive to offset the unreliability of the North Coast line and Mount Isa line.[25]

Pacific National considered that Queensland Rail had not sufficiently justified its 2025 DAU having regard to the matters in section 138(2) of the QCA Act, primarily because it provided neither incentives to encourage modal shift from road to rail nor support to grow competition with road transport.[26] Pacific National and the Rail Operators Group also submitted that additional mechanisms should be incorporated into the 2025 DAU to encourage a modal shift of freight from

[21] Aurizon Coal and Bulk, sub. 2, pp. 30–33; Rail Operators Group, sub. 15, p. 12.
[22] Queensland Rail, sub. 1, cl. 6.5.
[23] Aurizon Coal and Bulk, sub. 2, p. 26; Mount Isa Line Users (sub. 17, p. 2) supported Aurizon Coal and Bulk's submission.
[24] Mount Isa Line Users, sub. 17, p. 2.
[25] Rail Operators Group, sub. 15, pp. 1, 4.
[26] Pacific National, sub. 13, pp. 2, 3–6.

road to rail. The Rail Operators Group considered this would promote the economically efficient operation and use of the network.[27]

Queensland Rail considered that the assumption that there was a misalignment between Queensland Rail's objective of being a champion of rail freight and its commercial positions was unfounded. Queensland Rail submitted that it inherently pursued growth and sustainability, discrediting any perceived conflict between these objectives.[28]

We consider it appropriate for the overarching regulatory framework to restrict Queensland Rail from exercising market power to the extent that it prevents or hinders access seekers from accessing Queensland Rail’s network on reasonable terms and conditions. This includes enabling access seekers to obtain access to Queensland Rail’s network, where they are willing to pay access charges that recover the efficient costs incurred in providing that access (and where sufficient capacity is available). We consider constraining market power in this manner promotes the economically efficient use and operation of Queensland Rail’s network, and appropriately balances the legitimate business interests of Queensland Rail and access seekers.

In making this draft decision, we have outlined those regulatory arrangements that we consider are required as part of an approved access undertaking for the AU3 regulatory period (within Queensland Rail’s overarching regulatory framework) to provide for this.

As such, we do not consider it is necessary to require amendments to the preamble to include a commitment by Queensland Rail to support road to rail conversion. In any case, we do not consider that amending the preamble in this manner would affect the operation of the undertaking.

We have set out in the relevant chapters of this draft decision whether it is appropriate to require further amendments to the 2025 DAU to encourage more freight from road to rail.

In making this draft decision, we have had regard to the public interest in accordance with section 138(2)(d) of the QCA Act.

The Rail Operators Group considered that moving more freight by rail would serve the public interest through improvements to road safety, less congestion on the roads and environmental benefits.[29] Pacific National considered that the 2025 DAU did not meet the public interest objective of shifting traffic from road to rail.[30] Pacific National considered the preamble should be expanded to acknowledge the positive benefits rail freight provides relative to road.[31]

Queensland Rail submitted that while safety and environmental benefits associated with moving more freight by rail were crucial, a balance with economic viability was imperative.[32]

We consider that it is important to have regard to any positive externalities associated with increasing rail haulage in assessing whether it is appropriate to approve the 2025 DAU. This is recognised by approving regulatory arrangements that prevent Queensland Rail from exercising market power to the extent that it prevents or hinders access seekers from accessing Queensland Rail’s network on reasonable terms and conditions.

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[27] Pacific National, sub. 7, p. 9; Rail Operators Group, sub. 15, p. 3.
[28] Queensland Rail, sub. 14, p. 43.
[29] Rail Operators Group, sub. 15, pp. 3–4.
[30] Pacific National, sub. 13, p. 5. Pacific National (sub. 7. p. 4) also considered that pricing of the North Coast line should prioritise growth of rail freight, reflecting the positive economic externalities rail provides compared to road freight and the reduced costs to government and communities in terms of accidents, congestion, and emissions. Centrex (sub. 10, p. 3) submitted that the aspect of community service is currently not being adequately considered in relation to Queensland’s mineral wealth.
[31] Pacific National, sub. 7, p. 29.
[32] Queensland Rail, sub. 14, pp. 43–44.

We do not consider it is appropriate to require Queensland Rail to include in the 2025 DAU further commitments or support for particular customers or industry groups (including through subsidised access charges) beyond this. In particular:

- pricing policies that do not enable Queensland Rail to generate expected revenue for the service that is at least enough to meet the efficient costs of providing access to its network[33] may reduce incentives to invest in the network and have adverse consequences for parties seeking to access the rail infrastructure[34]
- favourable terms and conditions to particular customers or industry groups to promote one mode of freight transport over another may distort competitive outcomes in related markets.

In this regard, Queensland Rail submitted that ultimately pricing structures must consider factors like maintenance costs, infrastructure development and financial sustainability.[35]

We consider that measures to directly assist industry or to encourage more freight from road to rail are better considered and provided through means other than access regulation, within the context of wider transport policy and industry assistance objectives.

Summary 2.1

It is appropriate to approve Queensland Rail's proposed preamble to the 2025 DAU.

It is not necessary to require amendments to the preamble to include a commitment by Queensland Rail support road to rail conversion and grow rail volumes.

2.2 Scope of the 2025 DAU

Queensland Rail's proposed scope of the 2025 DAU is substantially consistent with the scope that was approved as part of its 2020 access undertaking.[36]

Queensland Rail considered that, similar to the 2020 undertaking, a five-year term – 1 July 2025 to 30 June 2030 – was appropriate. In defining the terminating date, the 2025 DAU also removes a reference from AU2 to a circumstance in which the Minister had not declared Queensland Rail's services.[37] Stakeholders did not express any concerns regarding the proposed duration of the 2025 DAU.

We consider that a five-year term appropriately balances the benefits of providing certainty to stakeholders about the terms and conditions of access for a reasonable period of time and flexibility to deal with changing circumstances. In addition, removing the reference to a circumstance

[33] Including a return on investment commensurate with the regulatory and commercial risks involved.
[34] We do not consider that this will promote economically efficient investment in Queensland Rail's network. Neither does it appropriately balance the legitimate business interests of Queensland Rail and access seekers.
[35] Queensland Rail submitted that in considering the issues around rail access pricing, there is a tension between the objective to enable rail operators to effectively compete with road, while also setting a charge that enables sufficient ongoing maintenance and renewal of the rail infrastructure.
[36] New Hope (sub. 5, p. 28) and Yancoal (sub. 9, p. 24) submitted that definition of 'network' needs to refer to infrastructure the use of which forms part of the declared service. We consider that the definition of 'network' does refer to infrastructure the use of which forms part of the declared service, consistent with the definition of 'network' in the 2020 access undertaking.
[37] 2025 DAU, cl. 7.1, 'Terminating Date'.

involving no ministerial declaration is appropriate as this contingency is no longer relevant following the Minister's declaration of Queensland Rail's below-rail services in 2020.

We did not receive any stakeholder submissions in relation to Queensland Rail's proposed provisions relating to the scope of the 2025 DAU, other than essentially seeking to expand the scope and effect of the DAU to address certain concerns. These concerns are considered below.

2.2.1 Dual gauge track from Acacia Ridge to the Port of Brisbane

Some stakeholders raised concerns in their submissions regarding the status of interstate (standard gauge) services that use Queensland Rail's dual gauge link between Acacia Ridge and the Port of Brisbane and submitted that these services should be included within the scope of the 2025 DAU.[38] Aurizon Coal and Bulk suggested that there was some ambiguity regarding whether or not interstate services on the Acacia Ridge-Port of Brisbane corridor were included under AU2 and the Minister's declaration of Queensland Rail's services.[39]

The Rail Operators Group and Aurizon Coal and Bulk submitted that this corridor had critical commercial and economic significance because of the containerised rail freight services it provided.[40] They also noted concerns in dealing with Queensland Rail regarding dual gauge access to this corridor[41] which, in their view, demonstrated Queensland Rail's market power in relation to this corridor[42] and its failure to consider integration with the national rail network, contrary to government policy and strategic objectives.[43]

In its responding submission, Queensland Rail submitted that:

- the Metropolitan system was not a declared service and should not be within the scope of the 2025 DAU[44]
- its services were declared by reference to defined routes, each of which traversed a combination of network systems, and that the Metropolitan system was not declared, except insofar as it was used in combination with another rail system, in accordance with the definitions contained in the Minister's declaration of Queensland Rail's services[45]
- we could not require an amendment to include the dual gauge corridor in the 2025 DAU
- the QCA Act did not require Queensland Rail to provide an access undertaking for services that were not subject to declaration
- any change to the declared services would require a further application for declaration[46]
- with respect to its interactions with users (notably Aurizon Coal and Bulk) concerning access for interstate containerised freight service through the corridor, Queensland Rail submitted that it fulfilled its obligations in access applications and negotiations.[47]

We acknowledge the issues raised respectively by stakeholders and Queensland Rail concerning the status of interstate services that use Queensland Rail's dual gauge link between Acacia Ridge

[38] Aurizon Coal and Bulk, sub. 2, pp. 30–33; Rail Operators Group, sub. 15, p. 12.
[39] Aurizon Coal and Bulk, sub. 2, pp. 30–33.
[40] Rail Operators Group noted that the corridor connects the national standard gauge rail network with Brisbane's only open access container rail terminal, and it also provides a narrow gauge rail network link between Queensland's largest container rail terminal at Acacia Ridge and the state's largest container port, and provides narrow gauge rail access to export coal and grain terminals (sub. 15, p. 10).
[41] Rail Operators Group, sub. 15, p. 11; Aurizon Coal and Bulk, sub. 2, pp. 32–33.
[42] Aurizon Coal and Bulk, sub. 2, pp. 32–33.
[43] Rail Operators Group, sub. 15, p. 11.
[44] Queensland Rail, sub. 13, p. 53.
[45] Queensland Rail, sub. 13, pp. 53-54.
[46] Queensland Rail, sub. 13, p. 54.
[47] Queensland Rail, sub. 13, pp. 27–28.

and the Port of Brisbane and whether these services should be included within the scope of the 2025 DAU.

In forming our preliminary views on this matter, we note that there are 6 route services covered under the Queensland Treasurer's June 2020 decision to declare services pursuant to section 84 of the QCA Act, as outlined in Appendix A. The Metropolitan system is not a declared route service in and of itself. However, this system is declared in circumstances where its use 'is referred to *as part* of the relevant [declared] service' [emphasis added].[48] As a result, we consider that use of the Metropolitan system for traffic that is not related to a relevant declared service, such as trains travelling to or from Acacia Ridge via the Australian Rail Track Corporation (ARTC) interstate line, likely does not constitute use of a relevant declared service.

With respect to traffic that runs only on the Metropolitan system, each declared route service is comprised of a primary system and at least one secondary system. Our initial view is that use of a declared service must entail use of a primary system, but not necessarily a secondary system. We consider that the Metropolitan system is a secondary system for most of the declared route services, noting that it is described 'as part of the relevant service'.

Based on the foregoing considerations and the submissions to date, our preliminary view is that interstate services using the dual gauge link between Acacia Ridge and the Port of Brisbane are likely not a declared service under the Treasurer's declaration of 2020. We invite parties' submissions on this issue for further consideration following which we will finalise our position in the final decision.

Any changes to the declared services sought by an interested party would need to be separately addressed in accordance with the declaration process in Part 5 of the QCA Act.[49]

2.2.2 Harmonisation with other rail networks

We do not consider that it is appropriate to amend the scope of the 2025 DAU to require Queensland Rail commit to greater consistency and harmonisation with other rail infrastructure managers.

A number of stakeholders called for amendments to the 2025 DAU to provide for greater consistency in network standards and operating requirements across rail networks.[50] Pacific National submitted that the 2025 DAU should include a requirement for Queensland Rail to use best endeavours to align processes and systems with other jurisdictions.[51] Aurizon Coal and Bulk considered that Queensland Rail should pursue increased consistency in access negotiation frameworks, the standard contracting terms for access and applied access management methods, wherever possible.[52] Qube and the Rail Operators Group also considered that the 2025 DAU should commit to measurable actions to deliver government policy and strategy objectives.[53]

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[48] Queensland Government, Gazette (Extraordinary), vol. 384, no. 31, 1 June 2020, *Notice of a decision to declare parts of a service that are themselves a service under sections 84-87*, para 3(c).
[49] Under this process, any person may apply to us for a recommendation to the relevant Minister that a service provided by a facility be declared for third party access under the Queensland access regime.
[50] Aurizon Coal and Bulk, sub. 2, pp. 10-12; GrainCorp, sub. 4, p. 3; Pacific National, sub. 7, pp. 14–15; Rail Operators Group, sub. 15, pp. 11–12.
[51] Pacific National, sub. 7, pp. 13–14.
[52] Aurizon Coal and Bulk, sub. 2, p. 3. The Rail Operators Group (sub. 15, p. 11) also considered that the complexity of an interstate train path moving across multiple networks was clearly demonstrated by requirements to comply with different access agreements, rolling-stock standards, network rules, operating conditions and pricing principles.
[53] Qube, sub. 8, pp. 2–5; Rail Operator Group, sub. 15, p. 2, 11. In this regard, Qube submitted that improvements to the national freight network, including streamlined regulation and improved inter-operability across networks, were identified as key deliverables in the National Freight and Supply Chain Strategy and the National Rail Action Plan.

Queensland Rail's access regime provides for access seekers to obtain access to Queensland Rail's network on reasonable terms and conditions. Within this regulatory framework, an approved access undertaking is to facilitate the negotiation of access on reasonable terms and conditions.

We have assessed whether it is appropriate to approve the terms and conditions proposed by Queensland Rail in its 2025 DAU.

We do not consider it is appropriate to require Queensland Rail to amend the processes or arrangements in the 2025 DAU primarily to achieve improved alignment with those arrangements applied in other jurisdictions. From the information available, we do not consider that amending arrangements in the 2025 DAU to align with those applied in another jurisdiction would provide for improvements to the provision of access to Queensland Rail's network. In assessing whether the arrangements in the 2025 DAU are appropriate to approve, we have given consideration to the specific characteristics of Queensland Rail's network and its customers.

Moreover, we do not consider that our 2025 DAU investigation is the right forum to attempt to establish consistent processes and standards across jurisdictions. Amongst other things, this would require engagement between all the relevant parties (across jurisdictions) to identify and consider opportunities for reform. We understand there are working groups and organisations that have been established to do just this.[54] Queensland Rail considered that it would be counterproductive to attempt to achieve national consistency based on submissions from individual operators, cutting across ongoing industry-wide initiatives to achieve a national rail market.[55]

We acknowledge that greater operational harmonisation between rail infrastructure managers may reduce complexity and have benefits for rail operators and end users. Pacific National submitted that a transition to harmonised safeworking, licencing and rolling-stock conditions, amongst others, would aid the efficiency of rail freight, reduce operational complexity and support future opportunities for investment.[56] Aurizon Coal and Bulk and the Rail Operator Group also considered that there was benefit from improved harmonisation of the performance metrics used by Australia's freight rail networks.[57]

However, it is not clear that amending specific arrangements in the 2025 DAU to better align with those applied in another jurisdiction will necessarily realise these benefits. As yet, no nationally consistent approach has been agreed to, or adopted, by rail infrastructure managers with respect to these operational or reporting arrangements. Queensland Rail considered that benefits arising from more consistent and harmonised performance reporting would only arise if all other rail infrastructure managers adopted the same measures.[58]

Furthermore, making amendments to the 2025 DAU does not prevent alternative regulatory arrangements being considered and applied in other jurisdictions in future. Therefore, any attempt to align arrangements does not guarantee consistency between jurisdictions over time.

While we do not consider that amendments to the 2025 DAU are an effective way to achieving greater operational harmonisation with other rail infrastructure managers, we encourage Queensland Rail to work toward this objective in consultation with industry. Queensland Rail submitted that it supported the Australian Railway Association (ARA) priorities, including moving towards a national rail market and national interoperability, and that it was participating in the

[54] For example, Queensland Rail (sub. 14, p. 6) submitted that the ARA's strategy for national interoperability was the responsibility of an expanded interoperability Working Group including operators, rail infrastructure managers and relevant supply chain members.
[55] Queensland Rail, sub. 14, pp. 5–6.
[56] Pacific National, sub. 7, p. 14.
[57] Aurizon Coal and Bulk, sub. 2, p. 40; Rail Operators Group, sub. 15, p. 14.
[58] Queensland Rail, sub. 14, pp. 5–8.

initiatives supporting ARA's Rail Freight Strategy 2023–2025.[59] We recognise that both Queensland Rail and Aurizon Coal and Bulk supported the case for a more harmonised approach to rail access regulation within Australia.[60] In the event that future harmonisation efforts are hampered by Queensland Rail's access undertaking then it can be amended.

Summary 2.2

It is appropriate to approve Queensland Rail's proposed scope of the 2025 DAU.

The interstate services on the Acacia Ridge – Port of Brisbane dual gauge link are likely not a declared service under the Treasurer's declaration of 2020.

It is not appropriate to amend the scope of the 2025 DAU to require Queensland Rail commit to greater consistency and harmonisation with other rail infrastructure managers.

2.3 Other administrative matters

The 2025 DAU establishes transitional provisions (cl. 6.5), which provide for matters that have begun or have been settled under AU2 to be considered under the AU2 regulatory arrangements or continue to apply once the AU3 regulatory period begins.

Queensland Rail's proposed transitional arrangements in the 2025 DAU reflect those approved as part of its 2020 access undertaking.

These transitional provisions provide for processes and agreements that are completed under the regulatory framework to continue following the expiry of the 2020 access undertaking, giving regulatory certainty to access seekers and access holders. Such certainty promotes the efficient use of Queensland Rail's network and appropriately balances the legitimate business interests of Queensland Rail, access seekers and access holders.

We did not receive any stakeholder submissions in relation to Queensland Rail's proposed transitional arrangements.

The definitions of key terms in Part 7 of the 2025 DAU are, to the extent relevant, discussed in other sections of this draft decision, where those terms relate to individual sections of Queensland Rail's 2025 DAU.

[59] Queensland Rail, sub. 14, pp. 5–6.
[60] Aurizon Coal and Bulk, sub. 2, p. 10–11; Queensland Rail, sub. 14, p. 5.

Summary 2.3

It is appropriate to approve Queensland Rail’s proposed transitional arrangements (cl. 6.5 of the 2025 DAU).

3 Negotiation framework

Queensland Rail's 2025 DAU provides that the terms of access to the declared infrastructure be negotiated between Queensland Rail and access seekers. The 2025 DAU also establishes a dispute resolution mechanism, which applies to disputes arising under the undertaking or in relation to the negotiation of access terms.[61]

Overview of the draft decision

Our draft decision is that it is appropriate to approve Queensland Rail's proposed negotiation framework.[62]

Negotiation framework (Part 2 and Part 6) – summary

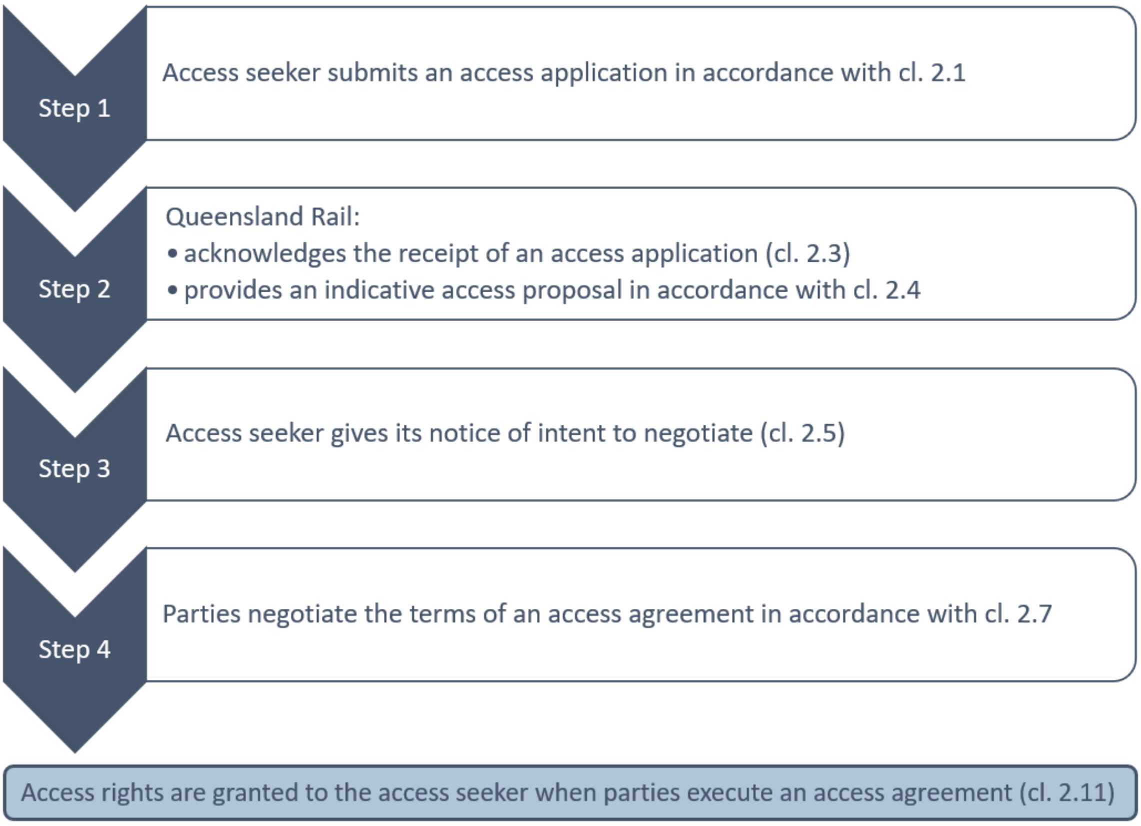
Proposal	Clause	QCA draft decision
Negotiation process		
Queensland Rail proposed terms and conditions for the negotiation process.[63]	Part 2	Appropriate to approve. See section 3.2.
Queensland Rail proposed a process for prioritising access applications (the 'queueing mechanism').[64]	cl. 2.9	Appropriate to approve. See section 3.3.
Dispute resolution process		
Queensland Rail proposed a dispute resolution mechanism.[65]	cls. 6.1, 6.2	Appropriate to approve. See section 3.4.

[61] Disputes about rights or obligations under agreements are to be dealt with in accordance with the provisions in those agreements, rather than the dispute resolution mechanism in the 2025 DAU (2025 DAU, cl. 6.1.2(c)).
[62] However, we identified minor typological errors in the drafting of cls. 2.9.2 and 2.9.4(d), and a minor referencing error in cl. 2.9.1(c).
[63] Queensland Rail, sub. 1, part 2.
[64] Queensland Rail, sub. 1, cl. 2.9.
[65] Queensland Rail, sub. 1, cls. 6.1 and 6.2.

3.1 Overview of the negotiation framework

Part 2 of the 2025 DAU sets out the framework for negotiating access rights. It outlines key steps to be undertaken as part of the negotiation process (see Figure 3) and the information parties may be required to provide to as part of this process.[66]

Figure 3: Key steps in the negotiation process



The negotiation framework also outlines principles and procedures for:

- the disclosure and use of confidential information during negotiations[67]
- dealing with multiple access seekers that are seeking access rights relating to the same traffic task[68]
- determining how access applications will be prioritised if there are multiple access applications from access seekers competing for limited available capacity[69]
- the treatment of an access application for renewing existing access rights.[70]

Part 6 of the 2025 DAU outlines a dispute resolution mechanism, which applies a staged approach to resolving disputes (see Figure 4).[71]

[66] These steps include Queensland Rail's obligations to provide preliminary and capacity information (in conjunction with schedule A of the 2025 DAU) and access seekers' obligations to provide certain information in access applications (in conjunction with schedule B of the 2025 DAU).
[67] 2025 DAU, cl. 2.2.
[68] 2025 DAU, cl. 2.6.
[69] 2025 DAU, cl. 2.9.
[70] 2025 DAU, cl. 2.10.
[71] 2025 DAU, cl. 6.1. The SAA contains a separate dispute resolutions mechanism that applies where disputes arise in relation to an access agreement (see chapter 4).

Figure 4: Staged approach to resolving disputes in the 2025 DAU

Representatives of the parties must first meet and use reasonable endeavours to resolve the dispute

If unresolved, the dispute is escalated and senior representatives of the parties are to use reasonable endeavours to resolve it

If the parties are unable to resolve the dispute, either party may refer the dispute to the QCA to make a determination

Source: 2025 DAU, cls. 6.1.3 and 6.1.4.

Part 6 also sets out our obligations and procedures for making a determination in relation to a dispute.[72] Under the 2025 DAU, Queensland Rail is bound by any determination we make to resolve a dispute.[73]

3.2 Facilitating the negotiation of access terms

We consider that Queensland Rail's proposed negotiation framework in the 2025 DAU adequately facilitates access seekers and Queensland Rail's negotiation of the terms and conditions for access to Queensland Rail's network.

The negotiation framework provides access seekers with clear guidance on what is required to apply for access, and a level of certainty about the timeframes associated with negotiating access. In this regard, the framework clearly outlines the steps of the negotiation process, the timeframes associated with each of these steps, and the obligations for parties in negotiating access.[74] For instance, the framework specifies the information that parties are required to provide throughout the negotiation process.

Furthermore, we consider that Queensland Rail's proposed negotiation framework provides for Queensland Rail and access seekers to enter negotiations from an appropriately informed position. The framework establishes the arrangements for parties to exchange information required to assess the access rights sought and, ultimately, negotiate the terms of access.[75] Amongst other things, the 2025 DAU specifies:

- preliminary and capacity information Queensland Rail is to provide access seekers (as outlined in Schedule A of the 2025 DAU)[76]
- information that access seekers should provide as part of an access application (as outlined in Schedule B of the 2025 DAU)[77]

[72] 2025 DAU, cl. 6.1.4 and cl. 6.2.
[73] 2025 DAU, cl. 6.1.4(b).
[74] Aurizon Coal and Bulk considered that the relevant clauses could be presented more sequentially, in line with the negotiation process (see sub. 2, pp. 51–52). We do not consider that rearranging the order in which the relevant clauses are presented is necessary, or beneficial to access seekers.
[75] Additionally, the 2025 DAU (cl. 2.2) establishes obligations for parties in relation to the treatment of confidential information to support the provision of commercially sensitive information throughout the negotiation process.
[76] 2025 DAU, cl. 2.1.
[77] 2025 DAU, cl. 7.1 and Sch. B.

- information to be provided by Queensland Rail as part of an indicative access proposal, relating to the relevant operating characteristics, estimated access charges and associated costs and asset values[78]
- Queensland Rail's obligations to provide information that is reasonably required by the access seeker during negotiations, consistent with its obligations for negotiating access under the QCA Act.[79]

Aurizon Coal and Bulk considered that Queensland Rail's standard response timeframes were not compatible with the market demand for these services. Aurizon Coal and Bulk submitted that many of its haulage opportunities required a rapid response, with timeframes for tender preparation measured in weeks.[80] It considered the following amendments would improve the timeliness of information provided to access seekers:

- no requirement for an access application for timetabled MTP services to include advice on specific train schedules, which would allow an indicative access proposal to be provided based on the assumption that the path will be scheduled using existing available capacity[81]
- shorter indicative access proposal response times where it was assumed that the path will be scheduled using existing available capacity, given Queensland Rail would not be required to undertake capacity analysis at this stage of the process.[82]

Separately, Aurizon Coal and Bulk also considered that the 2025 DAU should be amended to not require access seekers to finalise the operating plan before developing the interface risk management plan.[83] Aurizon Coal and Bulk considered that finalising the operating plan while the interface risk management plan was being developed better reflected the iterative process involved.[84]

In response, Queensland Rail considered that it was fair and reasonable to require an access seeker to provide a complete access application to allow Queensland Rail to complete its assessment of available capacity. Queensland Rail submitted that the availability of capacity was a key element of an indicative access proposal and was important in determining if a future access agreement would be feasible and able to be implemented by the access seeker's target start-up date.[85]

We consider that Queensland Rail's proposed negotiation framework provides for parties to be appropriately informed at each stage of the negotiation process. The benefits are that:

- negotiating parties can decide whether to progress to the next stage of negotiations
- the correct information can be used in finalising access terms and policy documents.

We consider that this is in the legitimate interests of Queensland Rail and access seekers.

Nonetheless, we acknowledge the importance of the timely provision of information for access seekers. Importantly, the negotiation framework provides for Queensland Rail to be responsive to the requests and timeframes of specific access seekers, where this is possible. Queensland Rail submitted that an indicative access proposal can be qualified with various assumptions where required, with the intent of those being resolved during the negotiation period should the operator

78 2025 DAU, cl. 2.4.2.
79 2025 DAU, cl. 2.7.2 (a).
80 Aurizon Coal and Bulk, sub. 2, p. 34. Furthermore, Aurizon Coal and Bulk considered that uncertainty around the specific scheduled paths to be applied means that information on access pricing is often not available prior to the requirement for it to propose rail haulage commercial terms to customers.
81 In these circumstances, the specific path would need to be confirmed through the negotiation period.
82 Aurizon Coal and Bulk, sub. 2, pp. 4, 34.
83 2025 DAU, cl. 2.7.2 (a)(iii)(B).
84 Aurizon Coal and Bulk, sub. 2, p. 51.
85 Queensland Rail, sub. 14, pp. 30–31.

wish to progress on this basis. Queensland Rail submitted that it has provided preliminary information to access seekers on numerous occasions.[86]

The 2025 DAU also provides for Queensland Rail to cease negotiations where certain circumstances exist, which we consider appropriately balances the legitimate interests of Queensland Rail and access seekers.[87] Queensland Rail may cease negotiations with an access seeker where:

- an access seeker fails to comply with provisions of the undertaking
- an access seeker has concurrent requests for access that Queensland Rail reasonably believes to be duplicate requests for access
- an access seeker does not satisfy prudential requirements
- Queensland Rail considers an access seeker has no reasonable likelihood of using the requested access rights or complying with an access agreement
- Queensland Rail considers the proposed access rights sought may adversely affect the safety of passenger train services.[88]

We note that Queensland Rail's proposed negotiation process is, except for proposed amendments to the queuing mechanism, unchanged from the framework in its 2020 AU.

Queensland Rail submitted that no disputes have been lodged in relation to the negotiation process. This indicates to Queensland Rail that the majority of access seekers are reasonably satisfied with the information and process that Queensland Rail provides.[89]

Supporting negotiations and constraining Queensland Rail's market power

We do not consider that amendments to the negotiation framework in the 2025 DAU are required to further support negotiations between Queensland Rail and access seekers.

Aurizon Coal and Bulk considered that the 2020 access undertaking had not been effective in supporting genuine negotiations for access – with Queensland Rail continuing to exercise market power in its access negotiations for services where no reference tariffs applied.[90] In support of this, Aurizon Coal and Bulk, Glencore and Centrex submitted that the costs of operating and maintaining the Mount Isa line were comparably higher than other rail corridors for transporting containerised products and have increased significantly in recent years.[91] Moreover, stakeholders submitted there had been a decline in operational performance. For instance, Aurizon Coal and Bulk submitted that corridor velocity[92] and availability[93] had declined.[94] The Rail Operators Group also submitted that its members observed there had been a deterioration in transit times.[95]

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[86] Queensland Rail, sub. 14, pp. 30–31.
[87] Aurizon Coal and Bulk (sub. 2, p. 52) questioned whether a clause that explicitly provided for Queensland Rail to cease negotiation if it believed the proposed operation might adversely affect a passenger service was necessary. Aurizon Coal and Bulk considered that should Queensland Rail assess the risk of an operation to be above the level it was willing to accept and identified no adequate controls as part of a standard interface risk assessment, the effect would be the same. While it may be argued that the 2025 DAU already provides for Queensland Rail to cease negotiations in these circumstances, we consider that it is reasonable and provides regulatory certainty, if Queensland Rail clearly specifies those circumstances where it may cease negotiations with an access seeker.
[88] 2025 DAU, cl. 2.8.
[89] Queensland Rail, sub. 14, p. 29.
[90] Aurizon Coal and Bulk, sub. 2, pp. 12–13.
[91] Aurizon Coal and Bulk, sub. 2, pp 16–18; Centrex, sub. 10, pp. 3-4; Glencore, sub. 11, pp. 3–5.
[92] Aurizon Coal and Bulk submitted that in recent years there had been an increase in the distance of the Mount Isa line that was subject to speed restrictions and sectional run times.
[93] Aurizon Coal and Bulk submitted that Queensland Rail had restricted access to the corridor for 4 weeks a year in a recent access agreement renewal (reducing the provision of pathing from 52 weeks to 48 weeks per annum).
[94] Aurizon Coal and Bulk, sub. 2, pp. 18–19.
[95] Rail Operators Group, sub. 15, p. 4.

Pacific National considered that access charges on the North Coast line were not commensurate with the condition of the lines nor the performance levels required to operate an effective rail freight market.[96]

In response, Queensland Rail considered that the cost comparisons presented by stakeholders did not account for characteristics such as geographical location, traffic density and the types of containerised freight being transported. Furthermore, the cost information did not account for inflation or the effects of changing volumes on the network. In relation to operational performance, Queensland Rail submitted that the largest portion of transit time delays and train cancellations over the past five quarters were due to above-rail rather than below-rail causes. Queensland Rail also submitted that there had been a negligible change in the total distance of temporary speed restrictions over the last five years.[97]

We consider that Queensland Rail has an incentive to attract, and negotiate access with, access seekers that are willing to pay access charges that recover at least the incremental costs incurred by Queensland Rail in providing access to its network. Any revenue generated from a customer above this level will contribute to the recovery of the substantial fixed costs associated with operating and investing in the network.

For those systems that do not have a reference tariff, overall we do not consider that Queensland Rail is able to generate expected revenue for the provision of access that is in excess of the efficient costs it incurs in providing access to access holders.[98] The Department of Transport and Main Roads provides transport service contract payments to support Queensland Rail's provision of rail infrastructure for the majority of its systems, as they are not financially viable based solely on access revenue.[99] While access revenues on the Mount Isa line largely cover incremental operating costs, it does not generate sufficient access revenues to cover the total economic cost of providing the service.[100]

Where this is the case, we consider that Queensland Rail has an incentive to reduce inefficiencies on the network, given it may not be able to pass on all of the costs it incurs to access holders when negotiating the terms of access. For instance, Queensland Rail submitted that access charges on the Mount Isa line had not increased in real terms for several years.[101] Queensland Rail submitted that even where costs had increased (for instance, due to rising materials prices and labour shortages) there had been no transfer of cost increases to users on the Mount Isa line.[102]

Moreover, the 2025 DAU provides for access seekers to refer a dispute that arises in negotiating the terms of access to us to make a determination. As outlined in section 3.4, Queensland Rail's

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[96] Pacific National, sub. 13, p. 5.
[97] Queensland Rail, sub. 14, pp. 19–20, 23.
[98] Including a return on investment commensurate with the regulatory and commercial risks involved.
[99] Queensland Rail, sub. 14, p. 16. In 2022–23, Queensland Rail reported $190 million in total access revenue, against operating expenses of over $409 million for its regional network.
[100] Queensland Rail, sub. 14, pp. 17-18. The return on assets is calculated on an assets value of up to $331 million (as at 30 June 2023) as compared to an economic value of more than $1.4 billion as estimated by a DORC valuation methodology conducted by Queensland Rail. While we have not conducted a valuation of the Mount Isa line, we note it is approximately three times as long as the West Moreton system, which has a regulatory asset base of more than $500 million (see section 9.3.1 of this draft decision). The Mount Isa line is rated at a 20-tonne axle load, while the West Moreton axle load is 15.75 tonnes.
[101] Queensland Rail submitted that standard access charges for bulk mineral concentrates and intermodal freight on the Mount Isa line had only increased by CPI since FY18, except for in July 2019, where intermodal access charges were reduced by 5.2% in real terms.
[102] Queensland Rail, sub. 14, pp. 20, 22.

proposed dispute resolution mechanism provides for disputes to be resolved in a fair and timely manner.[103]

Centrex and North West Phosphate considered that Queensland Rail should be required to publish floor and price ceiling prices to improve transparency and aid the price differentiation process.[104] In this regard, North West Phosphate submitted that junior miners currently suffered from information asymmetry and were thus at a distinct resource disadvantage in contract and price negotiations. Glencore also considered that Queensland Rail should be obliged to publish details of how it had calculated the efficient incremental cost of providing their service, as well as the ceiling price.[105]

We consider that Queensland Rail's proposed negotiation framework provides for Queensland Rail and access seekers to enter negotiations from an appropriately informed position. As part of an indicative access proposal, Queensland Rail is to outline:

- the cost of providing the access, including the capital, operating and maintenance costs (consistent with s. 101(2)(b) of the QCA Act)
- asset value including the valuation methodology (consistent with s. 101(2)(c) of the QCA Act).[106]

Summary 3.1

It is appropriate to approve Queensland Rail's proposed negotiation process (Part 2 of the 2025 DAU).

3.3 Arrangements for prioritising access applications

Queensland Rail's proposed negotiation process includes the following arrangements for prioritising the negotiation of access applications:

- a queuing mechanism that establishes how access applications are to be prioritised where it is not possible for Queensland Rail to fulfil requests for access rights from multiple access seekers[107]
- provisions that prioritise access holders looking to renew access rights over new access seekers, when negotiating access.

[103] Glencore (sub. 11, pp. 3-5) submitted that there was currently no opportunity to challenge Queensland Rail's assumed WACC for non-reference services. Glencore also considered that Queensland Rail had sought to recover costs for capital projects where either Glencore had doubted the efficiency of; or which had never realised the asserted efficiency benefits of; or had not actually been developed. We consider that access seekers are able to challenge such matters as part of negotiating the level of access charges and have the ability to refer a dispute to us to make a determination where such matters cannot be resolved.
[104] Centrex, sub. 10, p. 4; North West Phosphate, sub. 6, p. 2. Mount Isa Line Users (sub. 17, p. 2) supported Centrex's and North West Phosphate's submissions on these matters.
[105] Glencore, sub. 11, pp. 4–5. Glencore submitted that past attempts to use the legislative rights to information under the QCA Act have failed to produce any material additional transparency.
[106] Where a reference tariff does not apply (2025 DAU, cl. 2.4.2 (e)).
[107] 2025 DAU, cl. 2.9.

Queensland Rail proposed changes to the queuing mechanism provisions that it considered simplified the drafting but retained the principles outlined in the 2020 access undertaking.[108]

We consider that Queensland Rail's proposed queuing mechanism provides a consistent, non-discriminatory and transparent framework for prioritising access applications where capacity constraints exist.

The principles and procedures for establishing a queue remain consistent with those outlined in Queensland Rail's 2020 access undertaking. Queensland Rail is to:

- identify whether an access application is to be placed in a queue
- notify the access seeker that its application is a queued access application and identify its position in the queue
- establish the order of the queue based on the date that Queensland Rail receives the applications.[109]

The 2025 DAU provides for Queensland Rail to change the order of the queue in certain circumstances.[110]

The 2025 DAU queuing mechanism does not apply to access holders who are seeking to renew access rights that are about to expire.[111] Instead, access holders who are renewing access rights will be given priority over a new access seeker in negotiating an access agreement, where they are competing for the same access rights.[112]

Aurizon Coal and Bulk and Pacific National considered that the proposed queuing mechanism may affect the ability of existing access holders to renegotiate contracted paths in order to maintain the continuity of their business. Aurizon Coal and Bulk submitted that the queuing mechanism may give an access seeker priority over an access holder looking to renew its access entitlement, simply because of the order that the applications are received.[113]

To address this, Aurizon Coal and Bulk considered that the 2025 DAU should also provide for Queensland Rail to place an access holder at the start of the queue, where an access holder provides notification that it wishes to renew its access entitlement within 120 days of its access agreement expiring.[114] Aurizon Coal and Bulk considered that this approach:

- provides for Queensland Rail to continue to have the right to re-order the queue
- provides additional confidence to access holders around their ability to negotiate for renewal of their access rights
- does not detract from Queensland Rail's legitimate business interests in renegotiating access charges in accordance with an approved access undertaking, or in preferencing allocation of the capacity to a different access seeker who places a higher value on the capacity.[115]

[108] Queensland Rail, sub. 1, p. 60. Queensland Rail proposed simplified drafting amendments to make clear that where there are multiple applications for the same traffic task, those applications will be regarded as a single access application for the purpose of the queue (see 2025 DAU, cl. 2.9.2). Queensland Rail is to assign the same position in any applicable queue where the customer has not yet nominated an alternate access seeker.
[109] 2025 DAU, cl. 2.9.3 (a), (b).
[110] 2025 DAU, cl. 2.9.4(b). These circumstances include where the parties end the negotiation of access rights, in accordance with the 2025 DAU; the change is required for compliance with the 2025 DAU; Queensland Rail prioritises an application from a coal-carrying train services (using West Moreton) for an access agreement of at least 10 years ahead of an application seeking a term less than 10 years; Queensland Rail prioritises an application from other train services based on the present value of contribution to common costs.
[111] 2025 DAU, cl. 2.9.1(c).
[112] 2025 DAU, cl. 2.10.
[113] Aurizon Coal and Bulk, sub. 2, p. 35; Pacific National, sub. 13, p. 7.
[114] Pacific National (sub. 13, p. 7) supported Aurizon Coal and Bulk's submission.
[115] Aurizon Coal and Bulk, sub. 2, pp. 4, 35–36.

We consider that the renewal provisions outlined in the 2025 DAU provide sufficient certainty, by applying a non-discriminatory, transparent and balanced approach for users to manage contractual positions over time. As such, we consider that Queensland Rail's proposed renewal arrangements promote the efficient use of the network (s. 138(2)(a)).

However, we encourage Queensland Rail and other stakeholders to further consider and, if possible, reach consensus on amendments to the renewal provisions that provide for an access holder to be placed at the start of the queue, if that access holder provides notification that it wishes to renew its access agreement within 120 days of it expiring. We will have regard to consensus positions reached amongst stakeholders as part of our assessment of Queensland Rail's 2025 DAU.

New Hope and Yancoal considered that existing users in the West Moreton system should have stronger renewal rights than those proposed in the 2025 DAU.[116] We discuss this matter in section 8.5.4 as part of our consideration of an appropriate reference tariff for the West Moreton system.

Summary 3.2

It is appropriate to approve Queensland Rail's proposed arrangements for prioritising access applications (clause 2.9 of the 2025 DAU).

3.4 Dispute resolution mechanism

While the 2025 DAU facilitates negotiation between access seekers and Queensland Rail, disputes between the parties may still arise. An effective dispute resolution mechanism is an important element of the negotiation framework.

We consider that Queensland Rail's proposed dispute resolution mechanism in the 2025 DAU promotes successful negotiations and makes parties accountable for their conduct under the access undertaking.

The mechanism outlines procedures for a dispute to be raised and then resolved between the parties. Where a dispute remains unresolved, the relevant parties may refer that dispute to us for a determination, providing for the dispute to be resolved in a timely manner.[117] When disputes are resolved in a fair and timely way, parties can be confident that negotiations will proceed in a meaningful manner in accordance with the intent, obligations and processes of the undertaking.

Queensland Rail's proposed dispute resolution mechanism provides certainty as to the binding nature of our determinations, including orders as to the payment of costs.[118] This will increase stakeholder confidence that disputes will be resolved in a fair and timely manner. This is in the interests of all potential disputing parties and will promote the efficient use of the declared service (ss. 138(2)(a), (b), (e) and (h)).

We note that Queensland Rail's proposed dispute resolution mechanism is unchanged from the mechanism contained in its 2020 AU.

[116] New Hope, sub. 5, p. 26; Yancoal sub. 9, p. 21.
[117] A dispute may also be referred directly to us if a party fails to comply with the requirements to use reasonable endeavours to resolve the dispute according to the resolution by escalation procedures in cl. 6.1.3.
[118] The 2025 DAU requires that before a QCA determination commences, all parties agree in a legally binding way to be bound by the determination.

Pacific National considered that the following amendments to Queensland Rail's proposed dispute resolution mechanism would facilitate a more efficient and less costly dispute resolution process:

- a reduction in the timeframes for dispute escalation
- the inclusion of a mediation or conciliation step prior to a dispute being referred to us for a determination
- setting an expectation around the timing around our determination on a dispute, such as outlining a timeframe for making a determination.[119]

We consider Queensland Rail's proposed timeframes applying to each stage of the dispute resolution process[120] provide parties with sufficient opportunity to attempt to resolve a dispute in a timely manner, before being able to refer that dispute to us for a determination. A reduction in these timeframes may limit opportunities for parties to resolve the dispute before it is escalated or referred to us for a determination.

Queensland Rail's proposed dispute resolution mechanism provides sufficient opportunity for parties to resolve a dispute, with parties to use reasonable endeavours to resolve a dispute as it is escalated to senior representatives. The ability to then refer that dispute to us for a determination provides further incentive for parties to resolve a dispute.

Within the dispute resolution process, it is always open for the parties to voluntarily engage in mediation. However, requiring that an additional step of mediation be included in the dispute resolution mechanism may simply increase the costs and timeframes associated with resolving a dispute.

We also do not consider it appropriate to restrict our decision-making process to resolve a dispute. While we seek to resolve disputes in a timely manner, restricting our decision-making process may have implications for our ability to effectively resolve a dispute – which is not in the interests of the relevant parties.

Summary 3.3

It is appropriate to approve Queensland Rail's proposed dispute resolution mechanism (cls. 6.1 and 6.2 of the 2025 DAU).

[119] Pacific National, sub. 7, pp. 19–21.
[120] In accordance with cl. 6.1.3 of the 2025 DAU, following a dispute notice, the relevant parties have 5 days to meet and use reasonable endeavours to resolve the dispute before the matter is escalated to senior representatives of the parties. The senior representatives then have 10 days to use reasonable endeavours to resolve the dispute before the matter is escalated to each party's chief executive officer. If the matter is not resolved within 10 days from the date it is referred to each party's chief executive officer, the parties may refer that dispute to us for a determination.

4 Standard access agreement (Schedule H)

An access agreement must be consistent with the terms of the SAA, unless the parties agree otherwise.[121] Queensland Rail's proposed SAA is schedule H of the 2025 DAU (the proposed SAA). The proposed SAA sets out the standard terms and conditions for access to Queensland Rail's network.[122]

Overview of the draft decision

Our view is that Queensland Rail's SAA should maximise efficiency in use and operation of the network.[123] It should also allocate risks to the party best able to manage those risks.

Our draft decision is that it is appropriate for Queensland Rail to make some amendments to the proposed SAA to provide a more balanced allocation of risks. We also encourage further engagement between the parties and invite submissions, preferably on a consensus basis, including proposed drafting, on a number of issues, as outlined below. On all these issues, we consider that it is in the interests of all parties that the proposed SAA is clearly drafted and workable (ss. 138(2)(b), (d), (e) and (h)).

Standard access agreement (Schedule H) – summary

Proposal	Clause	QCA draft decision
Train path optimisation		
Train path rescheduling: Allow Queensland Rail to reschedule train paths where an operator consistently has poor reliability performance.[124]	n/a	It may be appropriate to amend the treatment of train path rescheduling. See section 4.2.1.
Train service levels: Specify train service levels in a way that allows flexibility in train scheduling.[125]	Sch. 2, att. 1	It may be appropriate to amend the treatment of train service level requirements. See section 4.2.2.
Ad hoc train service: Specify timeframes for Queensland Rail to respond to access holders' requests for ad hoc train services.[126]	cl. 8.3	It is appropriate to specify timeframes for responding to ad hoc train service requests. See section 4.2.3.
Path resumption: Amendments involving resumption utilisation threshold, resumption trigger, access holder entitlements and ability to resume or reschedule paths.[127]	cl. 21.1	It may be appropriate to amend the path resumption requirements. See section 4.2.4.

[121] 2025 DAU, cl. 2.11.2(a).
[122] References to clauses and schedules in this chapter are to the proposed SAA in Schedule H of the 2025 DAU, unless otherwise specified.
[123] These goals are consistent with s. 138(2)(a) and the object of Part 5 of the QCA Act under s. 69E of the QCA Act.
[124] Aurizon Coal and Bulk, sub. 2, pp. 47–48.
[125] Aurizon Coal and Bulk, sub. 2, pp. 47–48.
[126] Pacific National, sub. 7, pp. 23–24.
[127] Aurizon Coal and Bulk, sub. 2, pp. 48–50.

Proposal	Clause	QCA draft decision
Insurance		
Limitation on claims: Remove requirement for claimants' provision of 'full details of the Claim'.[128]	cl. 13.2	It is appropriate to specify that details are required only 'to the extent known'. See section 4.3.1.
Operator's obligation to obtain and maintain insurance		
Responsibility for coverage: Change responsibility for coverage of operator's associates, agents, consultants, contractors and their subcontractors.[129]	cl. 16.1	It may be appropriate to amend the coverage requirements under cl. 16.1. See section 4.3.2.
Coverage and deductible levels: Amend coverage and deductible levels.[130]	cl. 16.1	It may be appropriate to amend certain coverage and deductible levels of insurances held under cl. 16.3. See section 4.3.2.
Insurer		
Financial strength rating: Change insurer's minimum financial strength rating to 'A–'.[131]	cl. 16.3	It may be appropriate to amend the minimum strength rating requirement in cl. 16.3. See section 4.3.3.
Captive insurance companies: Recognise wholly owned captive insurance companies as suitable insurers.[132]	cl. 16.3	It is not appropriate to amend the captive insurance provisions as proposed. See section 4.3.3.
Essential terms and conditions: Remove disallowance of exclusions, endorsements or alterations that adversely amend coverage without Queensland Rail's written consent.[133]	cl. 16.4(b)	It is not appropriate to amend the essential terms and conditions as proposed. See section 4.3.4.
Insurance claims: Change requirements regarding disclosure of occurrence, details and progress of other insurance claims.[134]	cl. 16.9	It may be appropriate to amend the notification requirements to allow certain exceptions. See section 4.3.5.
Dispute resolution escalation		
Escalation process: Adopt escalation timeframes and processes outlined in the dispute and complaint resolution process (cl. 6.1 of the 2025 DAU).[135]	cl. 19.2	It may be appropriate to amend the dispute resolution process under the proposed SAA. See section 4.4.

[128] Pacific National, sub. 7, p. 24.
[129] Queensland Rail, sub. 1, p. 66.
[130] Aurizon Coal and Bulk, sub. 2, p. 52; Pacific National, sub. 7, p. 24–25.
[131] Pacific National, sub. 7, pp. 25–26.
[132] Aurizon Coal and Bulk, sub. 2, p. 52.
[133] Pacific National, sub. 7, pp. 25–26.
[134] Pacific National, sub. 7, p. 26.
[135] Pacific National, sub. 7, p. 26.

Proposal	Clause	QCA draft decision
Assignment of Queensland Rail's rights under SAA		
Assignment: Allow assignments by Queensland Rail where it ceases or no longer expects to have a right to operate all or part of the network.[136]	cl. 22.1(a)	It is not appropriate to approve the proposal in its current form. See section 4.5.
Performance indicators		
New performance indicators: Change performance indicators to others associated with aggregate system performance reporting.[137]	Sch. 5, cl. 1	It may be appropriate to amend the performance indicators. See section 4.6.

4.1 Consistency

Queensland Rail has not proposed to significantly change the existing SAA under AU2, other than changes to the scope of operators' insurance obligations and the circumstances in which Queensland Rail may assign its rights to another party. Stakeholders have also proposed changes to other areas involving train path optimisation, insurance requirements, dispute resolution escalation and performance indicators.

In assessing these issues, having regard to all the relevant factors (as outlined in chapter 1), we consider that it is appropriate to retain consistency between the existing SAA under AU2 and the proposed SAA as far as possible, subject to material changes in circumstances. In particular, in our view, it is appropriate to place weight on whether:

- the proposed SAA appropriately allocates existing responsibilities and obligations under the new arrangements between the rail operator and the end user
- the risk that each party bears remains unchanged or, if the risk profile does change, it is justifiable and appropriate.

Having regard to the criteria in section 138(2) of the QCA Act, we consider this approach to be appropriate because:

- we have previously accepted the existing SAA under AU2 as being appropriate
- it is in all parties' interests to have a substantial degree of consistency and continuity in the rights and obligations under the various forms of access arrangements, especially as Queensland Rail is currently a party to other access agreements based on the existing SAA
- Queensland Rail and users are each best placed to identify relevant material changes in their respective circumstances, including risk profiles, that may merit divergence from the existing SAA.

4.2 Train path optimisation

Stakeholders proposed amendments to improve train path optimisation in the following areas:

- train path rescheduling
- train service levels

[136] Queensland Rail, sub. 1, pp. 66-67.
[137] Aurizon Coal and Bulk, sub. 2, pp. 44–46.

- ad hoc train service
- path resumption.

These proposed amendments are considered in turn in this section.

4.2.1 Train path rescheduling

Aurizon Coal and Bulk proposed that the proposed SAA be amended to allow Queensland Rail to reschedule train paths where an operator had consistent poor reliability performance and to require an operator to use its best endeavours to negotiate variations to agreements defining network entry and exit times to accommodate the varied schedule.[138] It noted that, unlike Queensland Rail's proposed SAA, most Australian access frameworks included a limited entitlement to reschedule services in circumstances where an operator or access holder had consistent poor reliability performance, which could help enable schedule optimisation through the introduction of a new efficient scheduled path.

Aurizon Coal and Bulk also proposed requiring operators to use their best endeavours to negotiate a varied entry or exit time that aligned with the revised schedule offered by Queensland Rail (and more closely resembled actual network usage), saying this would also support schedule optimisation.

Our view is that Aurizon Coal and Bulk's proposal may support schedule optimisation and network utilisation by enabling Queensland Rail to reschedule train paths in response to consistent poor reliability performance of an operator or access holder. The requirement for operators to negotiate network entry or exit times that reflect actual practice also provides greater flexibility for the parties and supports Queensland Rail's ability to optimise the schedule.

Our view is that it may be appropriate to approve Aurizon Coal and Bulk's proposal because schedule optimisation is consistent with the objective of economically efficient operation under Part 5 of the QCA Act (s. 138(2)(a)) and is in the interests of Queensland Rail, rail operators and access holders, and in the public interest (ss. 138(2)(b), (d), (e) and (h)). Schedule optimisation also may incentivise the transfer of freight from road transport to rail transport, with consequent environmental and public interest benefits through the reduction of vehicle emissions associated with climate change (ss. 138(2)(d) and (h)).

We invite stakeholders' submissions, preferably on a consensus basis, on Aurizon Coal and Bulk's proposal regarding train path rescheduling, including proposed drafting. With respect to the parties' ability to provide joint submissions, we note that the Australian Competition and Consumer Commission (ACCC) on 1 February 2024 granted authorisation with conditions for rail operators to collectively negotiate with Queensland Rail and other rail network owners regarding the terms and conditions on which the operators acquire below-rail access to the owners' respective below-rail networks.[139]

4.2.2 Train service levels

Aurizon Coal and Bulk proposed that train service levels in Schedule 2, Attachment 1 be specified in a way that allows some flexibility for train scheduling in accordance with the train service level, rather than including fixed network entry or exit times.[140] It submitted that this proposed

[138] Aurizon Coal and Bulk, sub. 2, pp. 47–48.
[139] ACCC, *Application for revocation of AA1000425 and the substitution of authorisation AA1000644*, determination, 1 February 2024.
[140] Aurizon Coal and Bulk, sub. 2, pp. 47–48.

amendment would provide Queensland Rail with additional opportunities to modify existing schedules to facilitate the inclusion of new train services, or to otherwise optimise the train schedule.

We consider that providing a higher degree of flexibility for train scheduling would support schedule optimisation, improve network utilisation and be beneficial to all parties (ss. 138(2)(b), (d) and (e)). As noted in section 4.2.1, schedule optimisation is also consistent with the objective of economically efficient operation under Part 5 of the QCA Act, and it may incentivise the transfer of freight from road transport to rail transport, with consequent environmental and public interest benefits (ss. 138(2)(a) and (h)). Our view is that it may be appropriate to approve the proposed amendment, and we invite submissions from Queensland Rail and stakeholders on proposed drafting for Schedule 2, Attachment 1.

4.2.3 Ad hoc train service

Pacific National proposed adding a provision to the proposed SAA that specified timeframes for Queensland Rail within which to respond to an access holder's request for ad hoc train services. It proposed that Queensland Rail should respond either within 48 hours or 7 days (non-business days inclusive), depending on whether the request was for ad hoc service within 2 weeks or exceeding 2 weeks from the request date. Pacific National submitted that these timeframes would provide more clarity and certainty and mitigate concerns with variability of Queensland Rail's response times.[141]

In our view, it is in the interests of all parties to enhance timeliness, predictability and certainty in pathing request outcomes (ss. 138(2)(b), (d), (e) and (h)). These improvements in ad hoc train service delivery may also incentivise the transfer of freight from road transport to rail transport, with consequent environmental and public interest benefits (ss. 138(2)(a) and (h)). We acknowledge Pacific National's suggestion that the proposed timeframes should be based on calendar days, and not business days.

However, we consider that business days remains an appropriate metric to avoid onerously short response times, such as where a request is received by Queensland Rail on a Friday, and a response is due by Sunday, contrary to the legitimate business interest of Queensland Rail (s. 138(2)(b)). The use of business days is also consistent with other timeframes in Queensland Rail's DAU.

It is appropriate to amend clause 8.3(a) to add the proposed timeframes (in business days) for Queensland Rail's response to an access holder's request for ad hoc train services.

4.2.4 Path resumption

Aurizon Coal and Bulk proposed that the path resumption provisions in clause 21.1 be amended to:

- modify the resumption utilisation threshold to be either at least 50% utilisation over 3 months or at least 75% utilisation over 6 months, with a path only measured as 'utilised' where it is used for a train service of at least 50% of its usual length or weight
- add a new resumption trigger, namely the loss of a connecting path on an adjoining network, except where the operator has continued to operate a modified train service not reliant on that connecting path
- remove the provisions that enable an access holder to contest the resumption once the underutilisation trigger has been met

[141] Pacific National, sub. 7, pp. 23–24.

- allow Queensland Rail the option of either resuming a path or rescheduling it to the nearest otherwise available time.

Aurizon Coal and Bulk submitted that these amendments would improve Queensland Rail's ability to effectively address path hoarding, if this occurs. In Aurizon Coal and Bulk's view:

- the existing provisions provide a comparatively low utilisation threshold of 50%
- the proposed resumption trigger would allow a more efficient path resumption process where services operate over multiple networks
- path resumption decisions should be based only on a factual utilisation test and that the existing allowance for path resumption disputes by access holders is no longer necessary, and creates uncertainty and the potential for delay
- enabling Queensland Rail, where the underutilisation threshold is triggered, to either resume or reschedule a path to the nearest available time mitigates the risk that it may be disincentivised to use its path resumption powers in certain instances.[142]

We consider that it may be appropriate to approve Aurizon Coal and Bulk's proposal because strengthening Queensland Rail's ability to address network underutilisation is consistent with the object of economically efficient operation under Part 5 of the QCA Act (s. 138(2)(a)) and is in the interests of Queensland Rail, rail operators, access holders and in the public interest (ss. 138(2)(b), (d), (e) and (h)).

We invite submissions on this issue, including proposed drafting, preferably on a consensus basis.

Summary 4.1

1. **Train path rescheduling:** it may be appropriate to approve the proposed amendment.
2. **Train service levels:** it may be appropriate to approve the proposed amendment.
3. **Ad hoc train service:** it is appropriate to amend clause 8.3(a) to add the proposed timeframes (in business days) for Queensland Rail's response to an access holder's request for ad hoc train services.
4. **Path resumption:** it may be appropriate to approve the proposed amendment.

We invite submissions, including proposed drafting, from stakeholders on points 1, 2 and 4 and would be minded to approve proposals agreed by Queensland Rail and its customers.

4.3 Insurance

Queensland Rail and stakeholders proposed amendments to insurance requirements in the SAA involving the following areas that we consider in turn in this section:

- limitation on claims

[142] Aurizon Coal and Bulk, sub. 2, pp. 48–50.

- operator's obligation to obtain and maintain insurance
- insurer
- essential terms and conditions of insurance
- insurance claims.

4.3.1 Limitation on claims

Pacific National proposed removing a requirement in clause 13.2(a) that prevented claims between parties to the SAA unless 'full details of the Claim' were provided to the other party within one year after the occurrence from which the claim arose. Pacific National submitted that the term 'full details' was vague and could be interpreted as including quantum or a final amount, which may take longer than one year to determine.[143] 'Claim' is a defined term under clause 28.1 and essentially involves any claim, cause of action, proceeding, liability, suit or demand.

Clause 13.2(a) bars claims between parties unless notice and full details of the claim are provided within the prescribed one-year period. In our view, timely provision of these elements is consistent with ensuring that contentious matters are expeditiously brought forward for formal resolution. Expeditious resolution of claims is in the interests of all parties (ss. 138(2)(b), (d) and (e)). Accordingly, we consider it is not appropriate to remove the requirement for provision of full details of claims.

However, Pacific National's concern — that the term 'full details' could be construed as requiring indication of a quantum or final amount that may not be determinable within one year from the occurrence — can be addressed by limiting the details required, such as by adding the term 'to the extent known' to clause 13.2(a). The clause then reads 'notice and full details, to the extent known, of the Claim have been given to the other Party…'

We consider that our proposed amendment appropriately meets the parties' and public interests in promoting timely awareness and improving the resolution of claims and the clarity and workability of access agreements by omitting vague or impracticable requirements (ss. 138(2)(b), (d) and (e)).

4.3.2 Operator's obligation to obtain and maintain insurance

Coverage of operator's associates, agents and other parties

Queensland Rail proposed changing clause 16.1 of the existing SAA in AU2 to replace the requirement that an operator's public liability policy cover its associates, agents, consultants, contractors and their subcontractors with a requirement that the operator must ensure that those parties take out their own insurance.[144] Stakeholders generally did not oppose this proposal in principle.[145] However, several stakeholders expressed concern that the proposal, as currently drafted, was unduly burdensome and unfeasible,[146] uneconomical and inefficient for operators to fulfill,[147] vague in regard to certain terminology,[148] and excessive in scope.[149]

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[143] Pacific National, sub. 7, p. 24.
[144] Queensland Rail, sub. 1, p. 66.
[145] Aurizon Coal and Bulk, sub. 2, p. 52; New Hope Group, sub. 5, pp. 29–30, Yancoal, sub. 9, p. 30.
[146] Pacific National, sub. 7, pp. 24–25.
[147] New Hope Group, sub. 5, pp. 29–30; Yancoal, sub. 9, p. 30
[148] Pacific National, sub. 7, pp. 24–25 (regarding the term 'ensure'); Yancoal, sub. 9, p. 30 (regarding the term 'sufficient insurance').
[149] New Hope Group, sub. 5, pp. 29–30; Yancoal, sub. 9, p. 30. New Hope and Yancoal each submitted that the proposed amendments appear to extend beyond the stated rationale and include additional types of insurance. Both parties suggested revisions to the proposed amendment to address these concerns.

We consider that it is in all parties' interests, including the public interest, that public liability insurance policies adequately cover an operator's associates, agents, consultants, contractors and their subcontractors. Given the scale and scope of Queensland Rail's operations, this helps to avoid critical gaps in coverage against public liability injury or damage claims (ss. 138(2)(b), (d), (e) and (h)). We also consider that appropriate allocation of responsibility for maintaining this coverage is consistent with the objective of economically efficient operation under Part 5 of the QCA Act (s. 138(2)(a)) and in the interests of Queensland Rail, rail operators, access holders and in the public interest (ss. 138(2)(b), (d), (e) and (h)).

We acknowledge the concerns expressed by stakeholders regarding the burden, workability, affordability, efficiency, clarity and scope of Queensland Rail's proposal. Given these concerns, our preliminary view is that it may not be appropriate to approve Queensland Rail's proposal as drafted. It may be appropriate for Queensland Rail to amend the proposed drafting to address the concerns raised consistent with the parties' interests.

We therefore invite submissions, preferably on a consensus basis, including proposed drafting, from stakeholders in this regard.

Coverage and deductible levels

Stakeholders proposed various amendments to the coverage and deductible levels of insurances held under clause 16.3, including the limit of liability in clause16.1(a)(iv)(B);[150] the scope of coverage described in clause 16.1(a)(iv)(C); the maximum deductible for operators' public liability insurance required under clause 16.1(a)(iv)(D);[151] the requirement for operators to hold carriers' liability insurance under clause 16.1(a)(v);[152] the maximum deductible in operators' carriers' liability policy of insurance under clause 16.1(a)(v)(C);[153] and removing references to 'without limitation' in clause 16.1(a).[154]

We consider that it is in all parties' interests, including the public interest, that public liability insurance policies adequately cover an operator's associates, agents, consultants, contractors and their subcontractors. Given the scale and scope of Queensland Rail's operations, this helps avoid critical gaps in coverage against public liability injury or damage claims (ss. 138(2)(b), (d), (e) and (h)). We also consider that requirements for appropriate insurance limits and deductibles are consistent with the objective of economically efficient operation under Part 5 of the QCA Act (s. 138(2)(a)) and in the interests of Queensland Rail, rail operators, access holders and in the public interest (ss. 138(2)(b), (d), (e) and (h)).

It may be appropriate to amend certain coverage and deductible levels of insurances held under clause 16.3. We invite submissions, preferably on a consensus basis, including proposed drafting, from stakeholders in this regard (ss. 138(2)(b), (d), (e) and (h)).

[150] Aurizon Coal and Bulk, sub. 2, p. 52.
[151] Aurizon Coal and Bulk, sub. 2, p. 52; Pacific National, sub. 7, pp. 24–25.
[152] Pacific National, sub. 7, pp. 24–25.
[153] Aurizon Coal and Bulk, sub. 2, p. 52.
[154] Aurizon Coal and Bulk, sub. 2, p. 52.

4.3.3 Insurer

Minimum financial strength rating

Pacific National proposed that the minimum Standard & Poor's financial strength rating held by access holders' and operators' insurers under clause 16.3 should be reduced from an A to an A−. Pacific National noted that this change would reflect common industry practice.[155]

We consider it is important that insurers' minimum strength rating is commensurate with the parties' needs and generally reflects industry standards. It may be appropriate to amend the minimum strength rating in clause 16.3, and we invite submissions from stakeholders, including Queensland Rail in this regard, preferably on a consensus basis.

Captive insurance companies

Aurizon Coal and Bulk submitted that Queensland Rail should recognise the use of captive insurance companies by operators in the coal industry and proposed that clause 16.3 should be amended to include 'any insurance policy required to be effected and maintained by the Access Holder and the operator pursuant to clause 16 may at any time, be placed in whole or in part with a wholly owned captive insurance company.'[156]

Captive insurance companies are insurers that provide insurance for and are owned by a parent company. Aurizon Coal and Bulk did not justify the need or identify the drivers behind its suggestion that the use of captive insurance companies should be recognised by Queensland Rail. Clause 16.3 protects the interests of access holders and the operator by requiring insurers based on a prescribed, independently determined financial strength rating. This standard aligns with the important objective that insurers are financially capable of covering claims and that liabilities are not inappropriately externalised. Allowing captive insurance companies to provide insurance without appropriate controls does not provide for these important safeguards and is not in the interests of access holders.

We consider that it is not appropriate to make the proposed amendment, having regard to the interests of access holders, operators, and the public (ss. 138(2)(b), (d) and (e)). However, we encourage the parties to consider this issue further and to propose drafting on reasonably acceptable controls that may be appropriate.

4.3.4 Essential terms and conditions of insurance

Pacific National proposed deleting the requirement under clause 16.4(b) that access holders and the operator must ensure that their insurances do not contain any exclusions, endorsements or alterations that adversely amend the cover provided, without the written consent of Queensland Rail.[157] Pacific National submitted that all insurance policies contained these types of retractions of cover, not all of which would impact relevant activities. As a result, it was unreasonable to expect rail operators to seek Queensland Rail's approval each time an insurance policy was renewed or amended.

In our view, the requirement under clause 16.4(b) to obtain Queensland Rail's written consent for insurance terms that adversely amend the cover provided supports the objective that acceptable insurance coverage remains in place, which is in the interests of all parties (ss. 138(2)(b), (d) and (e)).

[155] Pacific National, sub. 7, pp. 25–26.
[156] Aurizon Coal and Bulk, sub. 2, p. 52.
[157] Pacific National, sub. 7, pp. 25–26.

It is also not evident what types of irrelevant activities may be covered by this provision, as submitted by Pacific National. We also note that clause 16.4(b) requires that Queensland Rail's written consent not be unreasonably withheld or delayed. This requirement helps promote predictability and expediency in administering the provision.

Having regard to the factors in section 138(2), we consider it is not appropriate to amend clause 16.4(2) as proposed by Pacific National.

4.3.5 Insurance claims

Clause 16.9 of the proposed SAA requires that parties notify Queensland Rail of reasonable details of insurance claims related to the SAA and keep Queensland Rail informed of developments. Pacific National proposed that this should be replaced with a requirement to notify Queensland Rail of the existence of claims likely to vitiate required insurance, except in certain circumstances. These exceptional circumstances involved situations where notification could prejudice the insurance outcome, breach confidentiality obligations or circulate commercially sensitive information.[158] Pacific National submitted that the current requirements could prejudice the outcome of claims by Queensland Rail and that notification of claims unrelated to the SAA was unreasonable, except where the claim would vitiate required insurance.

As defined in clause 28.1, 'Insurance' means the insurances to be effected and maintained in accordance with clause 16. Clauses 16.1 and 16.2 set out the operator and access holder's respective obligations to obtain and maintain insurance in accordance with their activities, works, obligations and responsibilities under the SAA. As claims under the parties' insurance involves matters under the SAA, Queensland Rail presumably has a direct interest in the status and outcome of all claims, and not simply in circumstances where insurance is likely to be vitiated (s. 138(2)(b)). For instance, the timing and status of insurance payouts may have implications for the creditworthiness of the operator or access holder. In addition, clause 16.9 is similar to requirements in other railways' access agreements.[159]

As a result, we consider it is not appropriate to replace the requirement that parties notify Queensland Rail of reasonable details of insurance claims related to the SAA and keep Queensland Rail informed of developments.

We note Pacific National's suggestion that it is unreasonable to be required to notify of insurance claims not related to the subject matter of the SAA. In our view, this concern is addressed by clause 16.9(a)(i) of the proposed SAA, which provides for 'reasonable details of the claim *relevant to or arising out of the subject matter of this agreement*' [emphasis added].

We acknowledge Pacific National's concern that notifying Queensland Rail may be inappropriate and harmful to access holder's interests in certain other instances, namely where the information could prejudice the insurance outcome, breach confidentiality obligations or circulate commercially sensitive information. However, we note that the proposed SAA includes provisions that may relate to these concerns. Notably, clauses 24.1 and 24.2 of the proposed SAA outline obligations and exceptions in respect of parties' 'confidential information' as defined in clause 28.1.[160] It may be appropriate, and in the interests of access seekers and holders and Queensland Rail, to amend the

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[158] Pacific National, sub. 7, p. 26.
[159] For example, Aurizon Network Pty Ltd's SAA – Coal, cl. 23.8(b) and (c), 2017 AU, 19 December 2019.
[160] This definition includes reference to disclosure of information that 'would reasonably be expected to adversely affect the commercial interests' of the disclosing party. In addition, clause 9.6 of the proposed SAA limits access to 'commercially sensitive' information, albeit in the conduct of inspections and audits.

proposed SAA to except notification under clause 16.9 in certain limited instances (ss. 138(2)(b), (e) and (h)). We invite submissions from stakeholders in this regard, preferably on a consensus basis.

Summary 4.2

1. **Limitation on claims:** it is appropriate to amend clause 13.2(a) to specify details under this provision are required only 'to the extent known'.
2. **Coverage of operator's associates, agents and other parties:** it may be appropriate to amend Queensland Rail's proposal. We invite stakeholders' submissions, including proposed drafting.
3. **Coverage and deductible levels:** it may be appropriate to approve the proposal. We invite stakeholders' submissions, including proposed drafting.
4. **Insurers' minimum financial strength rating:** it may be appropriate to approve the proposed amendment. We invite submissions from stakeholders, including Queensland Rail.
5. **Captive insurance companies:** it is not appropriate to approve the proposed amendment.
6. **Essential terms and conditions of insurance:** it is not appropriate to approve the proposed amendment.
7. **Insurance claims:** it may be appropriate to amend clause 16.9 to exempt the requirements for notification or information in certain circumstances. We invite stakeholders' submissions.

4.4 Dispute resolution escalation

Consistent with the 2020 undertaking SAA, the proposed SAA includes a dispute resolution process in clause 19. This section considers a proposed amendment to this process.

Pacific National proposed that clause 19.2 mirror the escalation timeframes and processes outlined in clause 6.1 (Dispute and complaint resolution process) of the 2025 DAU, on the basis that this would improve clarity and understanding of requirements.[161]

We acknowledge Pacific National's interest in improving the dispute resolution process in the proposed SAA. We consider that an effective and efficient dispute resolution regime under the proposed SAA is in the interests of all parties, including the operator and access holders, and the public, and is consistent with the objective of efficient operations under Part 5 of the Act (ss. 138(2)(a), (b), (d), (e) and (h)). Notably, enabling alternate dispute resolution processes, such as mediation, may facilitate an expedient resolution of disputes and avoid costs associated with court proceedings.

The existing dispute resolution regime has been in place for a substantial period, and there may be opportunities for Queensland Rail and stakeholders to engage with each other on whether any aspects of this process should be modified (including for reasons of modernisation).

[161] Pacific National, sub. 7, p. 26.

We have provided guidance to promote workable and effective dispute resolution processes in relation to other declared services, notably the Dalrymple Bay Coal Terminal (DBCT) service.[162] We consider that this guidance may be helpful to Queensland Rail and stakeholders in further engagement on this issue.

It may be appropriate to amend the dispute resolution process under the proposed SAA, and we therefore encourage Queensland Rail and other stakeholders to consider whether Pacific National's proposal is appropriate and to engage with each other on whether there are other aspects of the dispute resolution process in the proposed SAA that could operate more effectively with appropriate amendments.

Summary 4.3

It may be appropriate to amend the dispute resolution process under the proposed SAA. We encourage Queensland Rail and stakeholders to consider the proposed amendment to the dispute resolution escalation process and to engage with each other on whether other aspects of this process should be modified.

4.5 Assignment of Queensland Rail's rights under SAA

This section considers Queensland Rail's proposal regarding the circumstances in which it may assign its rights under the proposed SAA.

In the proposed SAA, Queensland Rail proposed adding a new clause (cl. 22.1(a)) to provide for the assignment of its rights under the SAA in circumstances where it ceases (or no longer expects) to have a right to operate all or part of the network.[163]

Stakeholders were generally not supportive of the proposed change from the 2020 undertaking, and they proposed revised drafting. In particular, Pacific National submitted that, to ensure a reasonable balance between the parties on matters that may significantly impact their operations, assignments under clauses 22.1(a) and (b) should require other parties' prior consent, which would not be unreasonably withheld.[164] New Hope and Yancoal each submitted that they did not have concerns with Queensland Rail's rationale for assignment in circumstances where it ceased to have a right to operate the network; however, in their view, the proposed amendment, as drafted, appeared to go beyond that and inadvertently included certain inappropriate circumstances.[165]

We acknowledge the importance of enabling Queensland Rail to assign its rights under a SAA to another party in appropriate circumstances, including where it ceases to have a right to operate all or part of the network (s. 138(2)(b)). We note that there is a difference in the eligibility standards of assignees under clauses 22.1(a) and (b) of the proposed SAA in terms of their necessary expertise and resourcing such that assignees under clause 22.1(a) must be able to provide the relevant access rights whereas assignees under clause 22.1(b) more broadly need to be able to meet Queensland

[162] QCA, *Arbitration of disputes in relation to the DBCT service*, version 3, guideline, December 2021.
[163] Queensland Rail, sub. 1, pp. 66–67.
[164] Pacific National, sub. 7, pp. 26–27.
[165] New Hope Group, sub. 5, pp. 30–31; Yancoal, sub. 9, pp. 30–31. These parties submitted that inappropriate circumstances permitted under the proposal included situations where the parts of the network for which operatorship had changed were not relevant to the access rights under the agreement, or it was merely expected or not actually certain that operatorship had changed.

Rail's obligations under the access agreement. As Pacific National noted, assignments can significantly impact the operations of access holders and seekers (s. 138(2)(e), (h)).

We consider it important, and in the interests of all parties, that assignees who take on responsibilities under clause 22.1 should be capable of fulfilling Queensland Rail's obligations and provide the service on the same or substantially similar terms as Queensland Rail, failing which, contractual arrangements between the parties may essentially be voided.

Given these considerations and the concerns raised by stakeholders regarding the potential impact and scope of Queensland Rail's proposal, we consider that it is not appropriate to approve the proposal in its current form. We encourage Queensland Rail and stakeholders to discuss these issues further with a view to proposing a revised treatment.

Summary 4.4

Whilst acknowledging the legitimacy of the issue Queensland Rail is seeking to address, Queensland Rail's proposed treatment of assignment of its rights under the SAA is not appropriate to approve in its current form. We encourage Queensland Rail and stakeholders to discuss these issues further with a view to proposing a revised amendment.

4.6 Performance indicators

In this section, we consider a stakeholder's proposal to amend performance indicators in the proposed SAA.

Aurizon Coal and Bulk and the Rail Operators Group proposed that the list of performance indicators in Schedule 5, clause 1 be replaced with indicators that are consistent with reporting on aggregate system performance.[166] Aurizon Coal and Bulk submitted that the minimum list of key performance indicators (KPIs) in the existing SAA do not provide the most useful information for assessing performance under an access agreement for regularly scheduled train services. It also submitted that information similar to the aggregate system performance indicators, but specific to each train service specified in an individual access agreement, would improve consistency in assessing performance and enable an operator to understand the performance of its train service, relative to that of the entire system.

The Rail Operators Group submitted that clear, accountable obligations on rail infrastructure managers and objective key performance indicators supported market outcomes and modal shift. In the Rail Operators Group's view, individual operators lack the commercial leverage to require Queensland Rail's inclusion of performance obligations in individual access agreements. The Rail Operators Group submitted that although it is beyond the scope of our current process, adopting a consistent suite of key performance indicators across all rail infrastructure managers concerning adjacent networks would support standardisation of one aspect of access, provide a useful source of comparative data and assist in identifying constraints and areas for investment.[167]

[166] Aurizon Coal and Bulk, sub. 2, pp. 44–45; Rail Operators Group, sub. 15, pp. 5-6.
[167] Rail Operators Group, sub. 15, pp. 5-6.

Clause 6.7 of the proposed SAA provides that Queensland Rail will provide monthly reports to each party, documenting Queensland Rail's performance regarding the performance levels set out in Schedule 1. This clause also allows for parties, upon request, to negotiate in good faith for agreement on additional performance levels and an associated reporting regime within 12 months (or as otherwise agreed) of the SAA's commencement date.

Clause 6.7 also provides for resolution of performance level-related disputes. We consider that clause 6.7 provides adequate flexibility, in the interests of all parties, to agree on additional performance indicators beyond the indicators in Schedule 5, clause 1 or, in the absence of an agreement, to seek resolution thereof (ss. 138(2)(b), (d), (e) and (h)). However, we note the concern raised by the Rail Operators Group that individual rail operators do not have commercial leverage to require Queensland Rail to include performance obligations in individual access agreements. The benefits of at least some degree of standardisation and comparability of key performance indicators are also consistent with the parties' interests and the goal of economic efficiency in Queensland Rail's operations (ss. 138(2)(a), (c), (e) and (h)).

Our preliminary view is that it may be appropriate to amend the list of performance indicators in Schedule 5, clause 1. We encourage the parties to engage further with each other on appropriate revisions to this list, and we invite stakeholders' further submissions in this regard .

Summary 4.5

It may be appropriate to approve amendment of the list of performance indicators in Schedule 5, clause 1 of the proposed SAA. We encourage the parties to engage further with each other on this issue, and we invite stakeholders' further submissions, including proposed drafting.

5 Pricing rules

Queensland Rail proposed that charges for access to the declared service be determined in accordance with the pricing rules outlined in Part 3 of the 2025 DAU.

Overview of the draft decision

Our draft decision is that it is appropriate to approve Queensland Rail's proposed pricing rules.

Pricing rules (Part 3) – summary

Proposal	Clause	QCA draft decision
Pricing rules		
Queensland Rail proposed pricing rules unchanged from those in the 2020 undertaking.	Part 3	It is appropriate to approve Queensland Rail's proposed pricing rules. See section 5.2.
Price differentiation		
Stakeholders proposed enabling greater price differentiation between access holders.[168]	Part 3	It is not appropriate, at this time, to require amendments to the pricing rules to provide for greater price differentiation. See section 5.3.
Mount Isa criteria		
Stakeholders proposed including service-specific criteria for the Mount Isa line.[169]	n/a	It is not appropriate to require amendments obliging Queensland Rail to develop service-specific criteria for the Mount Isa line. See section 5.4.

5.1 Overview of pricing rules in the 2025 DAU

The pricing rules specify that for those train services that accord with the description of a reference train service (i.e. coal trains using the West Moreton route service), the relevant reference tariff applies. We have separately assessed Queensland Rail's proposed West Moreton reference tariffs (see chapters 8 and 9).

For all other train services, the 2025 DAU prescribes pricing rules that apply in negotiating access charges (see Figure 5).[170]

[168] Aurizon Coal and Bulk, sub. 2, pp. 27–28; Glencore, sub. 11, p. 3; Centrex, sub. 10, pp. 2–3; North West Phosphate, sub. 6, p. 2.
[169] Aurizon Coal and Bulk, sub. 2, p. 29; Mount Isa Line Users, sub. 17, pp. 2–3.
[170] The rules will apply in the order listed in Figure 5, to address any conflicts that may arise between the pricing rules (2025 DAU, cl. 3.5).

Figure 5: Pricing rules prescribed in the 2025 DAU

Price differentiation – Establishes the extent access charges can vary among customers. Queensland Rail will not differentiate between access seekers where the characteristics of the train service are alike and the access seekers operate in the same end market. (cl. 3.3)

Pricing limits – Establishes an upper and lower bound for price negotiations. The expected revenue from access charges must fall between the incremental cost and standalone cost of providing access. (cl. 3.2)

Network utilisation – Provides for Queensland Rail to determine access charges above the price ceiling in certain circumstances where capacity is insufficient to meet the requests of all access seekers. (cl. 3.1.2)

Revenue adequacy – Provides for Queensland Rail to recover at least enough expected revenue to meet the efficient costs of providing access, including a return on investment commensurate with the regulatory and commercial risks involved. (cl. 3.1.1)

The pricing rules also outline that:

- Queensland Rail or an access seeker may require reasonable and balanced rate review provisions in an access agreement to enable access charges to be adjusted to account for changes over time[171]
- access charges may include a QCA levy component to account for our annual regulatory fees, which is to be allocated between train services in accordance with Schedule J of the 2025 DAU.[172]

5.2 Guiding the negotiation of access charges

We consider that the pricing rules establish appropriate bounds to guide the negotiation of access charges.

The pricing rules require that negotiated access charges be set such that expected revenue from that access seeker does not:

- exceed a ceiling revenue limit – the standalone cost of providing access to any train service (or group of train services)
- fall below the floor revenue limit – the incremental cost of providing access to any train service (or group of train services).

These pricing limits result in access charges (and transport service payments) for each part of the network being at least sufficient to meet the incremental cost of providing access and establish an upper bound for price negotiations that reflects the efficient costs of providing access.[173]

Furthermore, within these bounds, the pricing limits provide flexibility to differentiate access charges, to reflect the differing characteristics of the various markets that use Queensland Rail's network. However, Queensland Rail's proposed pricing rules apply restrictions on the extent that it can differentiate access charges between users. In particular, Queensland Rail must not differentiate

[171] 2025 DAU, cl. 3.6.
[172] 2025 DAU, cl. 3.7.
[173] The formula for calculating the ceiling revenue limit is consistent with a building block approach, whereby the revenue a firm is allowed to earn reflects the estimated efficient costs of providing the relevant service, including an appropriate return on investment.

between users where the characteristics of the train service are alike and the access seekers are competing in the same end market.[174,175]

We consider that together the pricing limits and price differentiation rules provide an appropriate balance between:

- promoting the efficient use of the declared service
- limiting the risk of distorting competition in dependent markets for the service.[176]

Some stakeholders submitted that enabling further price differentiation amongst users was appropriate. We consider those submissions below.

The pricing rules also provide for Queensland Rail to generate expected revenue from access charges and transport service contract payments (if applicable) that is at least enough to meet the efficient costs of providing access.[177] We consider this promotes efficient operation of and investment in the declared service (s. 138(2)(a)). Furthermore, these arrangements are consistent with pricing principles in section 168A of the QCA Act (s. 138(2)(g)).

In certain circumstances where capacity is insufficient to meet the requests of all access seekers, the ceiling revenue limit for a train service may be revised to reflect an access seeker's willingness to pay. Enabling access charges to reflect access seekers' willingness to pay promotes both the efficient use of, and investment in, the network, especially in circumstances where available capacity is constrained. We consider that these arrangements appropriately balance the legitimate interests of Queensland Rail and users of the network (ss. 138(2)(b), (e) and (h)).

We note that the pricing rules proposed in the 2025 DAU are the same as the pricing rules applied in the 2020 undertaking.

Summary 5.1

It is appropriate to approve Queensland Rail's proposed pricing rules (Part 3 of the 2025 DAU).

5.3 Enabling greater price differentiation

We do not consider it necessary to require amendments to the pricing rules to include a commitment by Queensland Rail to provide for greater price differentiation between access holders.

A number of stakeholders considered that the regulatory arrangements needed to provide for more opportunities to price-differentiate between users.

[174] 2025 DAU, cl. 3.3(d).
[175] The 2025 DAU provides for us to direct Queensland Rail to offer an access holder an access charge that is charged to another access holder whose train service characteristics are alike and are competing in the same end market (2025 DAU, cl. 3.9).
[176] Queensland Rail is not vertically integrated into above-rail freight operations.
[177] Including a return on investment commensurate with the regulatory and commercial risks involved (2025 DAU, cl. 3.1.1). The pricing rules also enable Queensland Rail to require reasonable rate review provisions in negotiated access agreements to adjust access charges to reflect changes over time (see 2025 DAU, cl. 3.6); and to charge users a levy to recover the annual fees it pays to us (2025 DAU, cl. 3.7).

Aurizon Coal and Bulk submitted that Queensland Rail adopted a rigid approach to the specification of access proposals and was unwilling to negotiate around these proposals, instead applying a 'take it or leave it' approach to the access terms offered.[178] Moreover, Aurizon Coal and Bulk considered that Queensland Rail used its regulatory obligation to not unfairly discriminate between access seekers and access holders as a shield against attempts to negotiate greater price differentiation and achieve more flexible access terms.[179] Glencore also submitted that in its experience prices were provided on a take it or leave it basis.[180]

Aurizon Coal and Bulk submitted that Queensland Rail's inflexible and high-cost access arrangements significantly hindered Aurizon Coal and Bulk's ability to respond to opportunities to attract freight from road on the Mount Isa line.[181] Aurizon Coal and Bulk considered it important that the 2025 DAU did not enable Queensland Rail to simply set access charges on a 'take it or leave it' basis, further entrenching Queensland Rail's ability to impose pricing outcomes and limit effective negotiation with access seekers.[182]

We consider that pricing flexibility promotes the efficient use of rail infrastructure, enabling Queensland Rail to adjust prices in response to competition from alternative modes of transport and expand the demand for its service by targeting customers that are more price-sensitive.

Queensland Rail's pricing rules provide scope for Queensland Rail to differentiate access charges, to reflect the differing characteristics of the various markets that utilise the network.

We also consider that Queensland Rail has an incentive to increase the revenue it recovers from access charges. Queensland Rail is not vertically integrated into above-rail freight operations. As such, within the bounds of the pricing rules, we consider that Queensland Rail has an incentive to:

- negotiate access to the declared service at a price above the price floor, where there is available capacity
- differentiate prices to reflect the willingness to pay of different users that are competing in different end markets.

The benefits associated with further price differentiation need to be balanced with the objective of having negotiated access charges that:

- enable Queensland Rail to generate expected revenue that is at least enough to meet the efficient cost of providing access to its network[183]
- do not discriminate between access holders to the extent that has implications for competition in downstream markets.

The 2025 DAU does not allow Queensland Rail to differentiate between users where the characteristics of the train service are alike and the access seekers are competing in the same end market.

We have considered stakeholders' submissions calling for specific amendments to the 2025 DAU to provide for additional price differentiation in the negotiation of access charges. For the reasons outlined below, we do not consider that it is appropriate to require amendments to the pricing rules to provide for greater price differentiation between access holders.

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[178] Aurizon Coal and Bulk was concerned that such an approach imposes commercial risks on access holders regardless of their ability to manage these risks with customers, with Queensland Rail accepting limited accountability in the provision of access.
[179] Aurizon Coal and Bulk, sub. 2, pp. 12, 23.
[180] Glencore, sub. 11, p. 3.
[181] Aurizon Coal and Bulk, sub. 2, pp. 12–13.
[182] Aurizon Coal and Bulk, sub. 2, p. 28.
[183] We consider that this appropriately balances the legitimate business interests of Queensland Rail, access holders and access seekers, as well as promotes the economically efficient investment in the network.

5.3.1 Differentiation for multi-product trains

We do not consider it is appropriate to amend the 2025 DAU to require Queensland Rail to differentiate access charges for different products on multi-product trains, as part of negotiations with access holders.

Aurizon Coal and Bulk considered that the pricing rules should clearly permit differentiation for different products on multi-product trains to grow rail volumes, through supporting and incentivising emerging demand.[184] It said this increased sophistication in applying access charges would likely be necessary to enable operators to compete effectively for mode contestable freight. Aurizon Coal and Bulk considered that the current regulatory arrangement created sufficient flexibility to allow this form of price differentiation, but Queensland Rail's risk aversion meant it was unwilling to apply this pricing flexibility.[185]

Queensland Rail considered that such an approach could lead to sub-optimal outcomes for both Queensland Rail and access seekers. Amongst other things, Queensland Rail considered that multi-commodity pricing significantly increased the complexity of negotiations and contract agreements, which might lead to prolonged negotiation processes, encourage disputes and hinder market efficiency. Queensland Rail also said the practical implementation of differentiation within multi-commodity services posed administrative burdens and challenges in accurately managing, tracking, reporting and billing different commodities.[186]

We consider price differentiation may promote the efficient use of rail infrastructure. However, in practice, differentiating access charges between products on a multi-product train based on their differing market characteristics to achieve more efficient outcomes can be challenging.

For Queensland Rail to efficiently price-differentiate between different products, it requires sufficient information on the customers' willingness to pay for the various products being carried on a multi-product train. In this regard, HoustonKemp (in a report commissioned by Queensland Rail) stated that Queensland Rail:

- had limited knowledge of its end customers and the goods that were carried within each container
- did not have oversight of the contents of containers that were carried on its network, which meant it would not be able to verify the charge that should be applied to each train.[187]

Adding to these complexities, a customer's willingness to pay will continue to change to reflect market conditions related to the respective products. Glencore considered it was 'very dangerous' to provide a different pricing outcome for different anticipated values of products where pricing for minerals can be quite cyclical and vary significantly during an undertaking term.[188]

We consider that solutions for these matters need further consideration from the affected parties before such an access pricing approach can be implemented in practice for a multi-product train.

[184] Aurizon Coal and Bulk, sub. 2, pp. 26–27. Mount Isa Line Users (sub. 17, p. 2) supported Aurizon Coal and Bulk's submission.
[185] Aurizon Coal and Bulk, sub. 2, pp. 26–27.
[186] Queensland Rail, sub. 14, pp. 47–48.
[187] Queensland Rail, sub. 14, pp. 109–110.
[188] Glencore, sub. 11, p. 7.

5.3.2 Differentiation for premium pathways

Aurizon Coal and Bulk submitted that the pricing rules should also clearly permit differentiation to reflect the different market value of non-premium paths compared to premium paths within a given market.

In response, Queensland Rail considered that this approach was worth further consideration, as in theory it could promote allocative efficiency given:

- train paths and priority would be allocated to customers who valued them the most
- it potentially allowed Queensland Rail to recover additional revenue, through price differentiation.[189]

While certain stakeholders may support adopting this pricing approach, implementing price differentiation to reflect the different market value of non-premium paths is likely to require revisions to current contractual arrangements between Queensland Rail and access holders. For instance, Queensland Rail may need to renegotiate access charges to reflect the extent to which the relevant train services are considered to be either premium or non-premium.

In this regard, Queensland Rail submitted that consideration of how such an approach affected contractual relationships governing access and service would need to be evaluated and any issues addressed. Queensland Rail acknowledged that this would represent a significant and material change to how it operated its network and could have a material effect on other stakeholders.[190]

We encourage stakeholders to discuss this matter, and collaborate and, where possible, reach consensus on it. We will have regard to consensus positions reached amongst stakeholders as part of our assessment of Queensland Rail's 2025 DAU.

5.3.3 Price differentiation to support emerging demand

We do not consider it is appropriate to amend the 2025 DAU to require Queensland Rail to further differentiate access charges for junior miners, as part of negotiations with access holders.

Aurizon Coal and Bulk considered that the pricing rules should further clarify the circumstances in which Queensland Rail may apply price differentiation in order to achieve the following negotiation objectives:

- promoting the economically efficient investment in, and use and operation of, the network
- growing rail volumes including by supporting and incentivising emerging demand, retaining volumes on rail and supporting 'road to rail' modal conversion.[191]

Glencore considered that it would assist in increasing rail volumes, thereby driving greater economies of scale in the medium term[192], if the price ceiling was set at the lower of:

- the cost at which road transport would be economic
- the stand-alone efficient cost
- the cost that is a 10% margin above the floor price.[193]

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[189] Queensland Rail, sub. 14, p. 54.
[190] Queensland Rail, sub. 14, pp. 54–55.
[191] Aurizon Coal and Bulk, sub. 2, pp. 27–28.
[192] Glencore (sub. 11, p. 2) considered that Queensland Rail's unwillingness to price rail access in a manner that made it viable for end users to invest in greenfield projects and expansions of operations using the line had now reached the point of creating challenges for the ongoing sustainability of the Mount Isa line.
[193] Glencore, sub. 11, pp. 5-6.

Centrex considered that there were valid reasons to consider price differentiation for junior mining companies or for those with a lower commodity value requiring bulk and economies of scale in order for them to be competitive. Centrex considered that imposing higher fees acted as a deterrent to innovation, especially for mines that heavily relied on rail transport due to geographic location.[194]

We consider that Queensland Rail has an incentive to increase the revenue it recovers from access charges. As outlined by Centrex, if access charges at the ceiling exceed customers' willingness to pay, it is in the interests of all parties to negotiate access charges below the ceiling.[195]

However, where access charges are set below the price floor, Queensland Rail does not recover the efficient costs associated with providing that train service access to its network. Implementing pricing policies as part of the regulatory framework to provide for such outcomes may reduce incentives to invest in the network[196] or require other train services to cross-subsidise the provision of access.

Furthermore, policies to enable price differentiation for junior miners have the potential to result in price discrimination between customers that compete in the same end market, which may affect competition in these markets. Aurizon Coal and Bulk considered it was critical that the limits on price differentiation continued to be applied in a way that protected the environment for competition.[197]

Further changes to the regulatory arrangements would also be needed to provide for Queensland Rail to revisit access charges as the circumstances of the firm changed.

For these reasons, we consider that measures to encourage more freight from road to rail, which result in subsidised access prices, are better considered and provided through means other than access regulation, within the context of wider transport policy and industry assistance objectives.

5.3.4 Other pricing arrangements

We do not consider it is appropriate to require amendments to the 2025 DAU to require Queensland Rail to offer alternative pricing arrangements besides a two-part tariff, with take-or-pay and relinquishment fee obligations, as part of negotiations with access holders.

Stakeholders submitted that features of Queensland Rail's standard access proposals may deter use of the Mount Isa line by smaller miners. For instance:

- North West Phosphate and Centrex submitted that access charges with a high proportion of fixed charges and take-or-pay obligations introduced significant risk (particularly to smaller mining operations in a start-up situation[198]), which undermined new project developments and incentivised short-term contracts.[199]

[194] Centrex, sub. 10, pp. 2–3. North West Phosphate (sub. 6, p. 2) considered that further price differentiation would enable smaller, less profitable junior miners to scale production and better access new markets.
[195] Centrex, sub. 10, p. 2.
[196] We do not consider that this will promote economically efficient investment in Queensland Rail's network, nor do we consider this appropriately balances the legitimate business interests of Queensland Rail and access seekers.
[197] Aurizon Coal and Bulk, sub. 2, p. 27.
[198] Centrex considered that these types of operations can encounter irregular production issues, which in turn introduces a risk of filling regular train services.
[199] Centrex, sub. 10, p. 4; North West Phosphate, sub. 6, p. 1. Aurizon Coal and Bulk (sub. 2, p. 21) also considered that the materiality of take-or-pay obligation exceeds the opportunity costs to Queensland Rail of providing the service, given there is no capacity constraint on the Mount Isa line and the associated avoidable costs of services not operating are low.

- Aurizon Coal and Bulk considered that long-term contracts with high path relinquishment fees presented a high risk for freighter services where demand was variable and uncertain (and not underpinned by long-term take-or-pay contracts).[200]

While these pricing arrangements may allocate the risk of contracted volumes not materialising to access holders, we consider that those access holders are best placed to manage such risk. They are in the best position to forecast the volumes that they require. Furthermore, they are also able to manage these risks by entering into short-term contractual arrangements.

We consider that these pricing arrangements are consistent with promoting the efficient use of the network by access holders. For instance, take-or-pay and relinquishment fee obligations incentivise access holders to only contract capacity that they require. Queensland Rail considered that without effective take-or-pay agreements, less commercially viable traffics could consume substantial capacity at the commercial expense of Queensland Rail.[201]

This is particularly important where network capacity is constrained. Aurizon Coal and Bulk questioned the need for the level of take-or-pay obligations, submitting that it seemed there was more than sufficient capacity available for all users on the Mount Isa line.[202] However, Queensland Rail submitted that as traffic grew on the Mount Isa line, take-or-pay would become vital for efficient path utilisation.[203]

We also consider that access pricing arrangements that include a two-part tariff, with take-or-pay and relinquishment fee obligations, promote efficient investment in, and operation and use of, the network. These arrangements establish a clear incentive for access seekers and access holders to only enter into contracts for capacity they need, providing a more accurate signal to Queensland Rail as to how much capacity needs to be delivered on its network. This enables Queensland Rail to plan and undertake maintenance and capital activities to efficiently deliver the required capacity.

Moreover, these arrangements provide certainty that Queensland Rail is able to recover the associated fixed costs from those access seekers and access holders.[204] Queensland Rail considered it was only fair that parties entering into capacity contracts committed to using that capacity, given Queensland Rail invested in the network to reflect future contracted capacity.[205]

Therefore, we consider that specific commercial initiatives, rather than changes to the regulatory framework, provide a more targeted option for limiting the extent that Queensland Rail's standard access proposals may deter use of the Mount Isa line by smaller miners. Queensland Rail submitted that it had introduced multiple commercial initiatives for its Mount Isa line customers during the AU2 regulatory period, including:

- providing a variable charge only (for a limited period) for new operations on the Mount Isa line where the short-term demand or train profile was uncertain, with a view to transfer services to a traditional fixed and variable charge when the operation stabilised
- special pricing arrangements for trial shipments of new products (e.g. rock phosphate) so that end customers could test the products in end markets
- an upfront discount for intermodal logistics on the Mount Isa line

[200] Aurizon Coal and Bulk, sub. 2, p. 22. Aurizon Coal and Bulk also considered that while the standard relinquishment fee can be reasonable and efficient in circumstances to provide an access provider with certainty that it is able to recover investments required to provide a service, these circumstances do not apply on the Mount Isa line.
[201] Queensland Rail, sub. 14, p. 39.
[202] Aurizon Coal and Bulk, sub. 2, p. 21. Glencore (sub. 11, p. 5) also considered that given the Mount Isa line is underutilised there is no purpose of ensuring access seekers pay a fixed take-or-pay charge for the purposes of 'reserving' capacity'.
[203] Queensland Rail, sub. 14, pp. 39–40.
[204] A significant proportion of the costs incurred by Queensland Rail to provide access are fixed.
[205] Queensland Rail, sub. 14, p. 39.

- developing take-or-pay provisions to proportionally recognise credits from secondary agreements, to reduce some of the downside financial risk in contracting additional paths as businesses grew.[206]

Summary 5.2

It is not appropriate, at this time, to require amendments to the pricing rules to provide for greater price differentiation between access holders.

5.4 Service-specific criteria for the Mount Isa line

Aurizon Coal and Bulk considered that the 2025 DAU should be amended to include service-specific negotiation criteria for multi-commodity freighter services on the Mount Isa line.[207] The elements that Aurizon Coal and Bulk considered should be addressed by specific negotiation criteria for the Mount Isa line are outlined in Table 1.

Aurizon Coal and Bulk considered that these negotiation criteria would provide greater structure around access negotiations, particularly for junior miners or other road contestable freight, where demand was more uncertain. Aurizon Coal and Bulk considered that this would also facilitate a fast and efficient contract renegotiation process at term expiry.[208]

Mount Isa Line Users supported Aurizon Coal and Bulk's submission that specific negotiation criteria should be developed to apply to multi-commodity freighter services on the Mt Isa line. Mount Isa Line Users considered that Queensland Rail's current approach to negotiations was not well aligned to the needs of its customers, particularly for multi-user freighter type services, which needed to continually attract customers to maximise utilisation.[209]

For the reasons outlined in Table 1, we do not consider it appropriate to require amendments to the 2025 DAU to oblige Queensland Rail to develop service-specific criteria for the Mount Isa line.

Table 1: Consideration of matters to be addressed by specific criteria for the Mount Isa line

Matters raised by Aurizon Coal and Bulk[210]	QCA preliminary position
Negotiation criteria should set out circumstances in which the access price differentiation will be applied to aid efficiency, including varying the standard access price to provide incentives for emerging demand or freight that is highly contestable with road.	For the reasons outlined in section 5.3.3, we do not consider it is appropriate to require Queensland Rail to further differentiate access charges for emerging demand, as part of negotiations with access holders.

[206] Queensland Rail, sub. 14, p. 34.
[207] Aurizon Coal and Bulk, sub. 2, pp. 28–30.
[208] Aurizon Coal and Bulk, sub. 2, p. 29.
[209] Mount Isa Line Users, sub. 17, pp. 2–3.
[210] Aurizon Coal and Bulk, sub. 2, p. 29.

Matters raised by Aurizon Coal and Bulk[210]	QCA preliminary position
The definition of products that may be carried on train services should be specified broadly to promote an operator's ability to run an efficient train service and attract additional products to its train, and to facilitate price differentiation for different products on those trains where relevant.	For the reasons outlined in section 5.3.1, we do not consider it is appropriate to amend the 2025 DAU to require Queensland Rail to differentiate access charges for different products on multi-product trains, as part of negotiations with access holders.
Negotiation criteria should address price structure, including the weighting between fixed and variable charges, and consider applying multi-part tariffs where this will aid efficiency.	For the reasons outlined in section 5.3.4, we do not consider it is appropriate to amend the 2025 DAU to require Queensland Rail to offer alternative pricing arrangements besides a two-part tariff, with take-or-pay and relinquishment fee obligations, as part of negotiations with access holders.
Take-or-pay and relinquishment fee arrangements should be set to promote efficiency, having regard to issues such as the incremental investment required to provide the required capacity (if any), the level of corridor utilisation, amount of required capacity, and the ability to impose take-or-pay commitments to freight customers.	
Negotiation criteria should address quality of rail access service, potentially including performance-based KPIs, to ensure that service quality is maintained.	Chapter 7 outlines the reporting obligations that we consider should be incorporated in the 2025 undertaking to provide interested parties with adequate information on how efficiently Queensland Rail has been performing.

Summary 5.3

It is not appropriate to require amendments to the 2025 DAU to oblige Queensland Rail to develop service-specific criteria for the Mount Isa line.

6 Operating requirements

Queensland Rail's 2025 DAU outlines operational requirements for Queensland Rail in providing below-rail services to access holders, as well as obligations for train operators to use the network.

Part 4 of the 2025 DAU establishes the operating requirements that govern how Queensland Rail delivers train service entitlements. These include:

- **network management principles**, which outline how Queensland Rail will, amongst other things, coordinate maintenance and other track restrictions, and schedule and manage train services on the network (Schedule F of the 2025 DAU)
- **an operating requirements manual**, which prescribes rules and procedures for operating trains on the network and addressing matters such as safety and emergency responses (Schedule G of the 2025 DAU).

The proposed operating requirements also include a commitment from Queensland Rail to convene and support regional network user groups – to facilitate discussion and consensus amongst stakeholders, with an aim to promote productivity and operational improvements.[211]

Overview of the draft decision

We consider it is appropriate for Queensland Rail to make certain amendments to the operating requirements in the 2025 DAU.

Operating requirements (Part 4) – summary

Queensland Rail proposal	Clause	QCA draft decision
Network management principles		
Queensland Rail proposed that the MTP be changed in response to a request from an access holder.[212]	Sch. F, cls. 2.1(e) and (f)	It is appropriate to amend the 2025 DAU to provide for Queensland Rail to be more responsive to requests from operators to change the MTP. See section 6.1.
Operating requirements manual		
Queensland Rail proposed amendments to the operating requirements manual[213]	cl. 4.3 and Sch. G	It is appropriate to approve Queensland Rail's proposed operating requirements manual. See section 6.2.
User groups		
Queensland Rail proposed obligations regarding productivity and operational improvements.[214]	cl. 4.4	It is appropriate to approve Queensland Rail's proposed obligations regarding productivity and operational improvements. See section 6.3.

[211] 2025 DAU, cl. 4.4.
[212] Queensland Rail, sub. 1, Sch. F, cl. 2.1.
[213] Queensland Rail, sub. 1, cl. 4.3 and Sch. G.
[214] Queensland Rail, sub. 1, cl. 4.4.

6.1 Network management principles

In general, we consider that Queensland Rail's proposed network management principles appropriately balance the need to provide access holders with certainty about the scheduling of train services with the need to provide sufficient flexibility for Queensland Rail to address network constraints and to be responsive to requests of customers.

The proposed network management principles are unchanged from the principles contained in the 2020 AU, with the exception of proposed amendments to Queensland Rail's obligations following a dispute on a planned possession.

The network management principles in the 2025 DAU establish a predictable and transparent process that outlines how Queensland Rail is to schedule train services and undertake maintenance activities on its network. As part of this process, Queensland Rail is to first develop and publish:

- a MTP, which details the scheduled times as advised by Queensland Rail for all train services and any regular planned possessions where scheduled times are unchanged from week to week[215]
- a supply chain calendar (SCC), which lists upcoming regular and ad hoc planned possessions, urgent possessions (to the extent known) and special events on the network.[216]

Queensland Rail is to then develop the daily train plan (DTP)[217] to provide the actual expected schedule on the day of operation, which is derived from the MTP and SCC.[218]

The network management principles also provide flexibility for Queensland Rail to manage scheduling of trains services to address network constraints as they arise, and to be responsive to requests of customers. In this regard, Queensland Rail may modify an MTP or schedule an ad hoc possession, but must notify all affected parties at least three months prior to the commencement of a modification.[219] The MTP may also be changed in response to a request from an access holder, where an access holder gives Queensland Rail notice to consider and implement the requested change. Notice must be given no less than:

- six months prior to a change relating to a passenger service
- three months prior to a change relating to a non-passenger service.[220]

Queensland Rail may then only schedule a DTP in variation to a MTP in certain circumstances, including:

- to accommodate operational constraints (see Box 2) and special events, as defined in Part 7 of the 2025 DAU
- to accommodate requests from access holders to change the schedule of its train services or run an ad hoc train service
- where all affected access holders agree to the modification.[221]

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[215] Queensland Rail may modify an MTP or schedule an ad hoc possession but is to notify all affected parties of any modifications to an MTP.
[216] 2025 DAU, Sch. F, cl. 2.1(a).
[217] The DTP details the scheduled times for all train services and regular and ad hoc planned possessions, urgent possessions and emergency possessions for a particular day on a specified part of the network (2025 DAU, Part 7).
[218] Aurizon Coal and Bulk (sub. 2, pp. 37–38) submitted that in practice the process for scheduling train services in the West Moreton line involves Queensland Rail developing a western corridor alignment calendar and a forecast plan.[218] While additional deliverables may assist with Queensland Rail's task to efficiently schedule train services and maintenance activities in certain systems, we do not consider it is necessary to require additional obligations be included in the 2025 DAU.
[219] 2025 DAU, Sch. F, cl. 2.1(d).
[220] 2025 DAU, Sch. F, cl. 2.1(e),(f).
[221] 2025 DAU, Sch. F, cl. 2.2(e)–(h).

Box 2: Operational constraints

Operational constraints may include track closures for maintenance and construction activities, or restrictions on train weights or speeds. The four types of operational constraints for maintenance and construction are:

- emergency possessions – closures to correct 'dangerous or potentially dangerous' faults or 'severe speed restrictions' within five days after they are detected
- urgent possessions – closures to correct 'potentially dangerous' problems less than three months after they are detected (other than emergency possessions)
- regular planned possessions – closures that occur at regular intervals that are entered into the MTP and DTP
- ad hoc planned possessions – closures (other than emergency and urgent possessions) that are not entered into the MTP because they are not regular planned possessions.

The 2025 DAU requires access holders to make any request to change the schedule of its train services or run an ad hoc train service at least two business days prior to the day of operation and prior to the DTP being scheduled.[222]

Certain stakeholders suggested amendments to the network management principles that they considered would enable Queensland Rail to be more responsive to the requests of customers (see Table 2). For the reasons outlined in Table 2, we consider it is appropriate to amend the 2025 DAU to provide for Queensland Rail to be more responsive to requests from operators to change the MTP.

Table 2: Consideration of suggested amendments to the network management principles

Stakeholder submission	QCA position
Aurizon Coal and Bulk and Pacific National both considered that a requirement to give three months' notice to Queensland Rail for requesting a change to the MTP was too long, particularly where a request had no impact on any other service. To facilitate more responsive outcomes for end customers, Pacific National submitted that it would be reasonable to reduce the MTP modification timeframe to one month for requests that would not impact other operators.[223]	Changes to scheduling can have implications for end users' logistics and can impose material costs on those users. The 2025 DAU requires Queensland Rail to provide affected parties with 3 months' notice of any modifications to an MTP.[224] However, where a request to modify an MTP or a planned possession does not impact other access holders, we consider it is appropriate that Queensland Rail reduce the notification timeframes associated with modifying the MTP to one month.

[222] 2025 DAU, Sch. F, cl. 2.2(j).
[223] Aurizon Coal and Bulk, sub. 2, pp. 36–37; Pacific National, sub. 7, p. 21.
[224] Planned possession are part of a long-term planning schedule. The requirement to give three months' notice was introduced as part of AU1 in response to concerns from certain access holders that the 20-day notice period proposed by Queensland Rail was insufficient.

Stakeholder submission	QCA position
Aurizon Coal and Bulk submitted that in practice Queensland Rail appeared to adopt a process whereby it revised the MTP periodically and only on fixed dates.[225] Aurizon Coal and Bulk considered that if such a process was adopted by Queensland Rail, then: • a process for incorporating new or changed contracted paths in the MTP in between review periods should be included in the network management principles[226] • there should be no need for notification and consultation processes with other access holders and other parties unless their services or activities were affected by the new or changed path.[227]	The 2025 DAU does not prescribe a process whereby Queensland Rail is to periodically revise the MTP on set dates. However, where this approach is applied in practice, it has the potential to unnecessarily prolong the timeframes associated with responding to stakeholder requests. As such, we consider it is appropriate to include a process in the network management principles to incorporate changes to contracted paths in between periodic revisions of the MTP.
Pacific National considered that the requirement for access holders to request an ad hoc service at least two business days in advance could impact a rail operator's ability to flexibly deliver for customers. Pacific National suggested that time frames be capped at a maximum of 24 hours for Queensland Rail to respond to rail operator requests for short-term path variations or an ad hoc path.[228]	We consider that providing access holders with opportunities to request short-term path variations or ad hoc paths needs to be balanced with any potential implications for other end users that may be affected by those changes to the scheduling. The 2025 DAU provides for Queensland Rail to amend the DTP after it has been scheduled, at the request of an access holder – provided the change does not affect another access holder's train service entitlement.[229]
Pacific National submitted that the network management principles should be amended to recognise maximum corridor lengths that trains could run to.[230] Pacific National considered that this would allow rail operators to be more responsive for customers, as well as aligning with processes on other networks.[231]	Amending the network management principles to recognise maximum corridor lengths may affect how Queensland Rail would be able to schedule new train services and possessions on its network. This may have implications for Queensland Rail's ability to, amongst other things, respond to requests from access holders to amend their scheduled paths, and schedule maintenance activities on its network. We encourage stakeholders to discuss this matter, collaborate, and where possible, reach consensus on it. We will have regard to consensus

[225] As an example, Aurizon Coal and Bulk submitted that MTP revisions may be set in some systems to align with summer and winter timetable dates.
[226] The Rail Operator Group (sub. 15, pp. 2, 7–8) supported amending the 2025 DAU to include a mechanism for more quickly including new and varied paths in the MTP, particularly where these did not impact any other parties.
[227] Aurizon Coal and Bulk, sub. 2, pp. 36–37. The Rail Operators Group (sub. 15, pp. 7–8) also considered that it was reasonable to reduce the MTP modification timeframe to one month or consider whether there was even a need for notification and consultation with other access holders and parties unless their services were affected by the new or changed path.
[228] Pacific National, sub. 7, pp. 21–22.
[229] 2025 DAU, Sch. F, cl. 2.2(j).
[230] When a network corridor is confirmed as having the capacity to run to that longer train length, that length train would be available to any path or service on that track. Requests to run longer trains would be addressed in the DTP.
[231] Pacific National, sub. 7, p. 22.

Stakeholder submission	QCA position
	positions reached amongst stakeholders as part of our assessment of Queensland Rail's 2025 DAU.
GrainCorp considered that the inflexibility of the MTP was at odds with the inherent daily variability needs of grain trains.[232] GrainCorp submitted that Queensland Rail and train operators were instead applying the principles of preserved pathing, making a number of non-coal paths available per week and scheduling grain traffic within the DTP (rather than the MTP).	We consider that the network management principles appropriately balance the need to provide access holders with certainty, with providing sufficient flexibility for Queensland Rail to be responsive to requests of certain customers. Moreover, the 2025 DAU recognises preserved train path obligations where these have been established.
GrainCorp considered that these arrangements failed to protect grain users at times when only a portion of the network capacity was available, as coal trains were programmed in the MTP and Queensland Rail prioritised trains scheduled in the MTP.[233]	Providing additional flexibility to grain users in the 2025 DAU at times of congestion on the network may impact the certainty and flexibility provided to other access holders, including coal users. While preserved pathing arrangements have the potential to provide grain users with greater certainty and flexibility, such arrangements are established under the *Transport Infrastructure Act 1994*.[234]

6.1.1 Network control

Network control facilitates the safe running of train services, and the commencement and completion of possessions, as scheduled in the DTPs. To execute this task, the network control principles provide network control officers with some discretion to give a train service priority over other train services if it is reasonably necessary to do so:

- due to, or to avoid, an accident, emergency or incident
- to remedy, mitigate or avoid congestion on the network
- to remedy, mitigate or avoid emergency and urgent possessions
- to ensure the safe operation of any part of the network.[235]

In relation to network controllers' ability to give priority to a train service to address congestion on the network, Aurizon Coal and Bulk considered it was unclear in what circumstances Queensland Rail used this provision to vary from the network management principles (and how effective it had been in addressing potential congestion). Aurizon Coal and Bulk said this provision gave Queensland Rail broad discretion, which it could use as an excuse for decisions that contravened other criteria.[236]

[232] GrainCorp submitted that grain trains must operate at different times of the day due to the geographically variable origins across the grain supply chain, combined with the impacts of network limitations like summer heat restrictions during peak grain export demand.
[233] GrainCorp, sub. 4, p. 5.
[234] See section 266A.
[235] 2025 DAU, Sch. F, cl. 3(i)(i).
[236] Aurizon Coal and Bulk, sub. 2, p. 39.

More broadly, Aurizon Coal and Bulk and the Rail Operator Group considered that the 2025 DAU did not always provide transparent guidance on how network controllers were expected to make their decisions.[237]

In this regard, the Rail Operator Group submitted that it was not evident how much consideration Queensland Rail was giving freight rail services in managing deviations from the DTP.[238] The Rail Operator Group considered that enhancing Queensland Rail's train control decision matrix would set consistent and objective rules, as well as give the train controllers and rail operators certainty over their operations.[239] Pacific National also considered that the 2025 DAU should establish a priority matrix that set out passenger and freight services at different times of the day and on weekends.[240]

The train control principles rightly prescribe balanced and transparent decision-making rules and principles that network controllers are to apply to facilitate the safe and efficient running of train services. However, we consider it necessary that train control principles also provide network train controllers with sufficient discretion to exercise judgement in performing this task. Prescribing additional rules or removing the ability of network controllers to exercise discretion may limit the effectiveness of network control to address network constraints as they arise.

We consider that providing network controllers with the ability to give priority to a train service in circumstances that remedy, mitigate or avoid congestion on the network is reasonable. This will help to avoid, or reduce, delays to the running of train services, which is in the interests of access holders. Importantly, in performing the task of network control, we do not consider that Queensland Rail has an incentive to favour any particular freight access holder over another.[241]

We also consider that outcomes of decisions made by network control are sufficiently transparent for access holders. The 2025 DAU requires Queensland Rail to provide an access holder with real-time network control information that indicates actual running of the access holder's train services against the relevant DTP.[242] Moreover, Queensland Rail is required to report various measures relating to the operational management of the network (see chapter 7).

In relation to passenger services, processes for allocating capacity to passenger services and for passenger priority obligations are prescribed by the *Transport Infrastructure Act 1994*.[243] The legislation includes an obligation for the railway manager to:

- bring delayed passenger train services back to their scheduled running time[244]
- allocate rail capacity that is available, or will become available, to meet the requirements for regularly scheduled passenger train services, as set out by the director-general of the Department of Transport and Main Roads (DTMR).[245]

We consider that prescribing further rules in the 2025 DAU network control principles could adversely affect Queensland Rail's ability to effectively manage its legislative obligations.

Queensland Rail submitted that all of Queensland Rail's passenger train services used either preserved train paths or train paths that were the subject of the passenger train service requirements of the DTMR's director-general. Queensland Rail considered that it was not

[237] Aurizon Coal and Bulk, sub. 2, p. 39; Rail Operator Group, sub. 15, pp. 8–9.
[238] The Rail Operator Group considered that rail operators were significantly impacted by Queensland Rail's operating choices to prioritise passenger operations in pathing decisions.
[239] Rail Operator Group, sub. 15, pp. 8–9.
[240] Pacific National, sub. 7, p. 13.
[241] Queensland Rail is not vertically integrated into above-rail freight operations and therefore cannot favour a related party.
[242] 2025 DAU, Sch. F, cl. 3(e).
[243] Queensland Rail, sub. 14, p. 51.
[244] Transport Infrastructure Act, s. 265.
[245] Transport Infrastructure Act, s. 266A.

responsible for identifying passenger service requirements, nor for the effects of the preserved train path obligations.[246]

6.1.2 Obligations following a dispute on a planned possession

Queensland Rail proposed not to include in the 2025 DAU a requirement that any planned possession subject to a dispute raised by an access holder is to be delayed until the dispute is resolved. The 2020 AU includes that requirement.[247]

Aurizon Coal and Bulk, Glencore, GrainCorp, New Hope, Pacific National, the Rail Operator Group and Yancoal opposed Queensland Rail's proposal to not include such a provision in the 2025 DAU.[248] A number of stakeholders said they had experienced an increase in possessions in recent years.[249]

We do not consider it necessary for the 2025 DAU to include a requirement for Queensland Rail to delay implementing any planned possession that is subject to a dispute.

Including such a requirement has the potential to lead to inefficiencies and disruptions to the running of the network in circumstances where an access holder raises a dispute just before the start of a planned possession.

Queensland Rail considered that the 2025 DAU had a dispute mechanism that applied equally to all relevant matters covered by an approved undertaking, and it is this mechanism that should apply to prevent overregulation.[250]

In contrast, Aurizon Coal and Bulk and the Rail Operator Group considered that delaying a possession until a related dispute was resolved assisted in promoting disciplined operation of the network, and accountability on Queensland Rail to comply with its obligations to the access holder. Aurizon Coal and Bulk also considered that the requirement to delay any disputed possession ensured there was no incentive for Queensland Rail to delay resolution of a dispute in order to allow the possession to proceed.[251] Pacific National and the Rail Operators Group considered that the removal of this requirement would appear to be an erosion of access holders' rights when a bona fide dispute took place.[252]

Importantly, the 2025 DAU does not prevent access holders from raising a dispute in relation to Queensland Rail complying with the network management principles. As outlined in section 3.4, we consider that the proposed dispute resolution mechanism in the 2025 DAU is sufficient to hold Queensland Rail accountable for its conduct under the access undertaking.

In scheduling train services, the 2025 DAU requires Queensland Rail to use reasonable endeavours to minimise any material adverse effects on train services caused from scheduling an ad hoc possession, or any modification or variation to an MTP.[253] Queensland Rail must also use its

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[246] Queensland Rail, sub. 14, pp. 51–53.
[247] 2020 AU, sch. F, cl. 2.4.
[248] Aurizon Coal and Bulk, sub. 2, p. 38; Glencore, sub. 11, p. 7; GrainCorp, sub. 4, p. 3; New Hope, sub. 5, pp. 28–29; Pacific National, sub. 7, pp. 23–24; Rail Operator Group, sub. 15, p. 2; Yancoal, sub. 9, pp. 24–25.
[249] Pacific National also submitted that it had experienced an increase in possessions and full system closures on the North Coast line, as well as longer closure durations (Pacific National, sub. 7, pp. 23–24). New Hope and Yancoal submitted that the West Moreton system had been beset by possessions in recent times (New Hope, sub. 5, pp. 28–29; Yancoal, sub. 9, pp. 24–25).
[250] Queensland Rail, sub. 1, p. 64. Queensland Rail submitted that no other rail infrastructure provider in Australia was subject to this requirement.
[251] Aurizon Coal and Bulk, sub. 2, p. 38; Rail Operators Group, sub. 15, pp. 9–10.
[252] Pacific National, sub. 7, p. 23; Rail Operators Group, sub. 15, pp. 9–10.
[253] 2025 DAU, Sch. F, cl. 2.3(a).

reasonable endeavours to offer any access holder that is affected by a modification or variation an alternative schedule time.[254]

To date, there have been no disputes in relation to the way that Queensland Rail has scheduled planned possessions. We consider that the provisions in the 2025 DAU will provide sufficient incentives for Queensland Rail to comply with its obligations outlined in the network management principles.[255]

However, we will continue to monitor whether the regulatory arrangements affect Queensland Rail's performance in implementing planned possessions throughout the AU3 regulatory period. Should Queensland Rail not comply with its obligations outlined in the network management principles and this has implications for access holders, further amendments to the regulatory arrangements may be necessary in future. As such, we consider it important that the reporting obligations in the 2025 DAU provide sufficient transparency in relation to Queensland Rail's performance in implementing planned possessions. The appropriateness of Queensland Rail's proposed reporting obligations is discussed in chapter 7.

In scheduling planned possessions, Queensland Rail should be responsive to the needs of customers where possible.[256] We consider that effective engagement with access holders prior to scheduling a planned possession will promote the efficient operation of the Queensland Rail's network.

Pacific National considered that the 2025 DAU would reduce Queensland Rail's consultation with access holders and operators. Pacific National considered that there should be more transparency and incentives around consultative procedures before the network owner takes possession of the railway.[257]

The 2025 DAU requires Queensland Rail to consult with affected parties where Queensland Rail schedules a DTP in variation to a MTP or makes a modification to a scheduled DTP.[258] This provides for cooperation between parties, where possible, to realise the most suitable and efficient scheduling outcomes for those affected.

The 2025 DAU also establishes processes that provide for Queensland Rail to effectively engage with the relevant parties as part of the planning process. In this regard, Queensland Rail must convene regional network user groups for the West Moreton system, North Coast line and Mount Isa line (see section 6.3).[259] It is not clear that not including a requirement to delay a planned possession subject to a dispute will affect these consultation processes. However, as outlined, we will continue to monitor this matter throughout the AU3 regulatory period.

[254] 2025 DAU, Sch. F, cl. 2.3(c).
[255] In our view, the dispute resolution mechanism in the 2025 DAU holds parties accountable for their conduct under the access undertaking.
[256] A planned possession has the potential to significantly disrupt train services and thereby negatively affect access holders and operators. In this regard, Pacific National (sub. 7, p. 23) submitted that where the MTP is changed without agreement, the financial and operational impact to a rail operator can be substantial and can cause significant impact to the end customer.
[257] Pacific National, sub. 7, p. 23. Pacific Rail considered that rail operators needed a level of protection and a consultation process with Queensland Rail to influence closures and suggest alternative timeframes to undertake works, particularly where they could be aligned with closures on other networks. Specifically, strong consultation was needed to ensure industry provided advice on seasonality to ensure possessions were not imposed during the sugar season and freight peaks.
[258] 2025 DAU, cls. 2.2(e)–(h).
[259] Subject to the continual support of the respective access holders and operators (2025 DAU, cl. 4.4(a)).

Summary 6.1

It is not appropriate to approve Queensland Rail's proposed network management principles (cls. 4.1 and 4.2, and Schedule F of the 2025 DAU).

It is appropriate for Queensland Rail to amend the 2025 DAU to provide for Queensland Rail to be more responsive to requests from operators to change the MTP by:

- reducing the timeframe within which an access holder must notify Queensland Rail of a request to change the MTP to one month, where a request to modify an MTP, or a planned possession, does not impact other access holders
- including a process in the network management principles to incorporate changes to contracted paths in between periodic revisions of the MTP, where Queensland Rail only periodically revises the MTP on set dates.

6.2 Operating requirements manual

The proposed operating requirements manual sets out the rules and procedures for use of the network by train operators to enable Queensland Rail to manage its network in a way that it considers safe and efficient.

The operating requirements manual includes practices, standards, systems, protocols and rules relating to network control and access to, and use of, the network by train operators.[260] The operation requirements outlined in Schedule G of the 2025 DAU are common across the network and are not subject to individual variation between different access agreements. They address, amongst other things:

- interface risk management, including environmental risk management
- safe working procedures and safety standards
- incident and emergency response procedures
- various technical requirements for train control and network planning.

In general, Queensland Rail's proposed operating requirements manual reflects the operating requirements manual approved as part of its 2020 access undertaking. Queensland Rail has proposed a number of amendments that we consider are administrative in nature, including updated references to legislation, standards, terminology, external documents and contact details. Queensland Rail also proposed minor amendments to the process for investigating Category A and Category B rail safety incidents.

We consider that Queensland Rail's proposed amendments do not have material adverse implications for access holders.

We did not receive any stakeholder submissions in relation to the operating requirements manual.

[260] GrainCorp (sub. 4, p. 2) submitted that it was concerned that the 2025 DAU did not recognise access seekers that were not accredited operators under the Rail Safety National Law. We consider it appropriate for rail operators that use the network to be accredited rail transport operators (as defined in the Rail Safety National Law). This means that rail operators are capable of performing their functions and obligations under a SAA, which provides for the safe and efficient operation of the network.

Summary 6.2

It is appropriate to approve Queensland Rail's proposed operating requirements manual (cl. 4.3 and Schedule G of the 2025 DAU).

6.3 User groups

The 2025 DAU requires that Queensland Rail convene regional network user groups for the West Moreton system, North Coast line and Mount Isa line, subject to the support of the respective access holders and operators.[261]

The regional user groups are to be cooperative groups, with emphasis on analysis of data, open and impartial discussion and consensus decision-making to improve the operation of the supply chain.[262] We consider that regional user groups provide for Queensland Rail to:

- effectively engage with access holders and operators to collectively identify and introduce improvements in system and supply chain performance
- be more responsive to requests of customers in scheduling train services, as well as investing in and undertaking maintenance activities on its network.

Furthermore, we consider that regional user groups have the potential to identify and implement productivity and operational improvements across the network. As such, we consider that a requirement to convene and support regional user groups is in the interests of access holders, access seekers and Queensland Rail.

A number of stakeholders supported arrangements that provided further consultation and collaboration with access holders and operators to identify opportunities for further improvement. Qube considered that Queensland Rail needed to work with rail operators to understand the opportunities for broader industry improvement.[263] Specifically, Centrex and Mount Isa Line Users supported establishing user groups to drive operational and capital improvements.[264]

6.3.1 Specific measures to promote productivity

Certain stakeholders raised concerns that the 2025 DAU did not include specific measures to promote productivity and operational improvements.[265]

Moreover, a number of stakeholders identified specific measures that they considered should be included in the 2025 DAU in order to promote productivity and operational improvements.

- Pacific National considered that the 2025 DAU should include a commitment to publish an updated North Coast Rail Line Capacity Improvement plan and an agreement to consult on

[261] 2025 DAU, cl. 4.4(a).
[262] 2025 DAU, cl. 4.4(b).
[263] Qube, sub. 8, p. 6.
[264] Centrex, sub. 10, pp. 3-4; Mount Isa Line Users, sub. 17, p. 3.
[265] Pacific National (sub. 7, p. 3) considered that the 2025 DAU was locking in a system of complacency, rather than embracing the continual improvement and commitment needed to address change and critical issues of resilience and efficiency. North West Phosphate (sub. 6, p. 1) considered that limited innovation and improvement on the Mount Isa line translated to poor quality of service and performance. GrainCorp (sub. 4, p. 3) submitted that investment in, reliability and productivity of the rail infrastructure needed to be brought to the fore more prominently than it currently was.

investment plans with access holders. In relation to the North Coast line, Pacific National and the Rail Operator Group submitted that Queensland Rail needed an action plan that took a long-term view on investment, demand, capacity, and resilience.[266]

- Pacific National considered that the 2025 DAU should incorporate mechanisms to drive data accuracy, efficiency and improved transparency, including providing accurate, real-time data.[267]
- GrainCorp considered that the 2025 DAU could provide a stronger incentive for Queensland Rail to make its track detection equipment used to enforce compliance with asset protection standards fit for purpose and appropriately accurate.[268] GrainCorp submitted that users significantly underloaded all grain train services to avoid the delays and costs caused by false positive detections, given installing load-site weigh systems at every grain loading site was economically unviable. Furthermore, GrainCorp considered that there was no urgency or requirement for Queensland Rail to install an appropriately precise and accurate weighbridge.[269]
- Aurizon Coal and Bulk considered that the 2025 DAU should enable access seekers to register their interest in acquiring a new or varied train path if it became available as a result of path rescheduling or resumption. Aurizon Coal and Bulk considered that the 2025 DAU should also require Queensland Rail to provide interested access seekers with capacity information to allow the access seeker to assess opportunities for path resumption or rescheduling.[270]

We encourage identifying and implementing measures that will realise productivity and operational improvements across Queensland Rail's network.

However, it is important to consider and understand the costs and benefits of any proposed investments or operational improvements to provide for the efficient operation of, and investment in, the network.

Queensland Rail will incur costs from investing in operational improvements, or from having additional planning, reporting or monitoring obligations because of measures that are introduced within the regulatory framework. We consider it is in Queensland Rail's legitimate business interests to generate expected revenue to meet the efficient costs of providing access to its network.

System-specific issues, such as developing an action plan for the North Coast line, require system-specific solutions rather than overarching obligations in an approved access undertaking. Relevantly, the network and customer characteristics for each system vary significantly.

While it is not clear to what extent the productivity and operational improvements proposed by certain stakeholders will benefit other access holders across the network, such measures have potential to impose additional costs on these access holders.[271] We also note that many of stakeholders raised concerns about the affordability of access to Queensland Rail's network.

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[266] Pacific National, sub. 8, pp. 8–9; Rail Operator Group, sub. 15, pp. 1, 4–5. The Rail Operator Group supported including commitments to developing long-term investment strategies for key freight and resource corridors, in consultation with users.
[267] Pacific National, sub. 13, p. 12.
[268] GrainCorp submitted that Queensland Rail used a number of devices to monitor train weights that were not designed or certified for accurate weighing of wagons.
[269] GrainCorp, sub. 4, p. 5.
[270] Aurizon Coal and Bulk, sub. 2, pp. 50-51.
[271] For example, New Hope (sub. 12, pp. 3–4) submitted that it already installed sufficiently accurate weighing devices at its own loading facility and was not in a position to support contributing costs to additional mainline devices. New Hope also considered that caution should be exercised when considering the installation and maintenance of more accurate mainline weighing devices, as the associated track outages could be significant.

We therefore consider that effective consultation with affected parties is an important part of the process in identifying, assessing and implementing efficient operational improvements to the network. We consider that regional user groups are well placed to provide for this.

To support regional user groups, the 2025 DAU requires Queensland Rail to, amongst other things:

- provide analysis of the root causes of ongoing or systematic issues being experienced
- identify resolutions to such issues and other productivity or efficiency initiatives
- provide evaluation and modelling of the outcomes of potential supply chain operational changes that the regional network user group supports investigating.[272]

Aurizon Coal and Bulk submitted that the 2025 DAU did not create any accountability on Queensland Rail's compliance with its commitment to support regional network user groups.[273] New Hope considered that from its observation, Queensland Rail was not providing adequate resources for data collection and analysis to meet the needs of the South West User Group.[274]

We consider the dispute resolution mechanism in the 2025 DAU holds parties accountable for their conduct under the access undertaking.

Furthermore, now that the regional user groups have been established in the various systems, we will continue to monitor whether Queensland Rail is fulfilling its obligations to support these groups. Should regional user groups not be effective in identifying and implementing measures that realise productivity and operational improvements across Queensland Rail's network, further amendments to the regulatory arrangements may be necessary in future. However, we note that the effective functioning of the regional user groups is dependent on the support of all relevant parties.

6.3.2 Further obligations to respond to operational requests

Pacific National considered that the 2025 DAU should include obligations for Queensland Rail to respond to rail operators in a more timely way. Pacific National submitted that there were no mandated timeframes in the 2025 DAU for Queensland Rail to respond to rail operator requests designed to improve efficiency.[275]

Pacific National submitted that it had a number of high impact operational requests outstanding with Queensland Rail as of March 2024, most of which required Queensland Rail engineering review. Pacific National provided two examples of requests that it considered had not been addressed in a timely manner by Queensland Rail:

- In July 2023, Pacific National requested to use Queensland Rail-owned equipment, which it offered to pay for. It considered that would significantly increase the efficiency of its operations. Pacific National submitted that this request had still not been implemented, despite Queensland Rail indicating that it was willing to enter into an agreement to facilitate use of the equipment.
- In September 2023, Pacific National approached Queensland Rail's engineering team to approve the use of wagons (currently in storage) for a specific shuttle service between Pacific National's Townsville terminal and the Townsville jetty. Pacific National submitted that

[272] 2025 DAU, cl. 4.4(c).
[273] Aurizon Coal and Bulk, sub. 2, p. 20.
[274] New Hope, sub. 12, p. 3. New Hope submitted that it supports Queensland Rail's revenue allowances providing sufficient resources for this critical function.
[275] Pacific National, sub. 13, pp. 5–6.

> Queensland Rail has been unable to engage on this issue in a meaningful way until very recently due to resourcing constraints.[276]

In contrast, Queensland Rail submitted that it strove to work with access seekers and end users to advance the use of the network.[277]

From the information available, it is not clear that the 2025 DAU should include further obligations that prescribe the time in which Queensland Rail should respond to rail operators in order to improve service and responsiveness for their end customers.

Importantly, Queensland Rail's regulatory framework provides for access seekers to obtain access to Queensland Rail's network on reasonable terms and conditions. Moreover, we consider that the negotiation framework in the 2025 DAU facilitates access seekers and Queensland Rail to negotiate the terms and conditions for access to Queensland Rail's network (see chapter 3).

Within this regulatory framework, we consider that Queensland Rail is incentivised to negotiate mutually beneficial terms of access. In this regard, Queensland Rail considered that it was incentivised to assist access seekers and users, as additional usage of the network contributed to cost recovery of largely fixed capital costs of the network. Queensland Rail provided a number of case studies to demonstrate its commitment to work with access seekers and users to achieve mutually beneficial outcomes.[278]

Imposing broad obligations in the 2025 DAU requiring Queensland Rail to respond to requests from operators may be problematic, because efficient response times depend on the specific request. Obligations to respond to operators' requests could also present resourcing challenges for Queensland Rail, given the infrequent nature of requests. Requests from operators my vary significantly, as noted in the examples provided by Pacific National. Furthermore, it is not clear that all requests are related to Queensland Rail's operation of the below-rail infrastructure.

In any event, it is not evident to us that there are systemic problems with Queensland Rail's existing response to specific requests.

Summary 6.3

It is appropriate to approve Queensland Rail's proposed obligations to provide for productivity and operational improvements (cl. 4.4 of the 2025 DAU).

[276] Pacific National, sub. 7, pp. 5–6.
[277] Queensland Rail, sub. 14, pp. 27–29.
[278] Queensland Rail, sub. 14, pp. 27–29.

7 Reporting requirements

Queensland Rail's 2025 DAU sets out how Queensland Rail is to report its performance in managing the network.

Overview of the draft decision

We consider it is appropriate for Queensland Rail to make some amendments to the reporting requirements in the 2025 DAU.

Reporting requirements (Part 5) – summary

Queensland Rail proposal	Clause	QCA draft decision
Performance reporting		
Queensland Rail proposed not to include some reporting, including on deviations from the DTP, and some performance indicators.	Part 5	Appropriate to approve. See section 7.2
Reporting on ad hoc planned possessions		
Queensland Rail proposed not requiring it to report on aspects of ad hoc planned possessions.	cl. 5.1	It is appropriate to require quarterly reporting on ad hoc planned possessions. See section 7.3.

7.1 Overview of reporting obligations in the 2025 DAU

Part 5 of the 2025 DAU outlines Queensland Rail's reporting responsibilities. Queensland Rail proposed reporting arrangements that require it to prepare quarterly and annual performance reports to inform parties about its performance in operating the network and negotiating access, as well as the costs associated with providing access to parts of the network (see Figure 6). Queensland Rail is also required to prepare annual financial statements, publishing the accounting records for its below-rail services.[279]

Part 5 also provides rules for auditing Queensland Rail's compliance with the provisions in the 2025 DAU. Acting reasonably, we may require an audit of compliance with any aspect of the undertaking, or request Queensland Rail to provide information required for the purpose of complying with the undertaking.[280]

[279] 2025 DAU, cl. 5.3.
[280] 2025 DAU, cl. 5.4.

Figure 6: Queensland Rail's quarterly and annual network performance reports

Quarterly network performance report	Annual network performance report
Reports various measures relating to Queensland Rail's operational management of the network, including: • on-time running of train services • transit time delays • train cancellations • possessions – planned, urgent and emergency • track under temporary speed restrictions • overall track condition index (OTCI) • major reportable safety incidents • verified written complaints by access holders.	Reports various measures across the access negotiation process, including: • capacity information requests • access applications • indicative access proposals • negotiation cessation notices • access agreements executed and timeframes for negotiation • disputes referred to the dispute resolution process • maintenance costs, operating expenditure and capital investment for each regional network • volumes of train services for each regional network.

Source: 2025 DAU, cls. 5.1 and 5.2.

7.2 Performance reporting

Queensland Rail's proposed reporting obligations provide interested parties with information on how efficiently Queensland Rail has been performing and confidence that it is complying with an approved access undertaking. As such, we consider that these reporting obligations will assist to promote the economically efficient operation of, use of and investment in the network.

The proposed quarterly reporting obligations in the 2025 DAU reflect the type of information produced in the quarterly reports during the AU2 regulatory period.[281] However, Queensland Rail's proposed minor changes to the quarterly reporting obligations in the 2020 AU. In this regard, the 2025 DAU does not require Queensland Rail to report:

- the number of times that the network control officer made a decision to deviate from a DTP to remedy, mitigate or avoid network congestion[282]
- aggregate information on temporary speed restrictions, overall track condition and possessions by train type for the various systems of the network[283]
- ad hoc planned possession start and end times, as well as the number and duration of these possessions for the quarter[284] (see section 7.3).

Aurizon Coal and Bulk, Glencore, New Hope, Pacific National and Yancoal all opposed Queensland Rail's proposal to remove the above reporting requirements. In particular, these stakeholders

[281] The 2025 DAU requires the quarterly report be published within 6 weeks of the end of the quarter, instead of within 4 weeks. Queensland Rail considered that a 4-week timeframe is not sufficient given the complexity of the current quarterly reporting requirements (Queensland Rail, sub. 1, pp. 60–62.). New Hope, Yancoal and Pacific National did not object to Queensland Rail's proposed amendments to the timeframes for delivering the quarterly report (New Hope, sub. 5, p. 27; Yancoal, sub. 9, p. 23; Pacific National, sub. 7, p. 15–16).

[282] Queensland Rail submitted that its Vizirail system did not have the ability to record this KPI. See Queensland Rail, sub. 1, pp. 62–63.

[283] Queensland Rail (sub. 1, p. 63) submitted that this information could not be reported by train type, and this requirement was an error in the 2020 AU.

[284] Queensland Rail (sub. 1, p. 63) submitted that its systems did not have the capacity to report on ad hoc possessions – and its Vizirail system would require expensive enhancements to record start and end times for these possessions. Queensland Rail also considered that ad hoc possessions only had a minor effect on delays.

considered that further accountability and transparency was important in relation to Queensland Rail's decision to implement ad hoc planned possessions and to deviate from a DTP.[285]

Pacific National considered there was a disappointing theme of information asymmetry and reduced transparency for rail operators.[286] GrainCorp was concerned there had been a backwards step in Queensland Rail's proposed standard of reporting.[287]

In contrast, Queensland Rail considered the existing reporting arrangements were robust and characterised by a notably high level of openness and transparency.[288]

Effective reporting and compliance monitoring underpin the integrity of the access regime, as they place accountability on Queensland Rail's performance and provide for greater levels of transparency. However, we consider the benefits obtained from reporting and compliance monitoring need to be balanced with the regulatory burden that reporting obligations may impose on Queensland Rail.

Queensland Rail submitted that further regulatory requirements to provide additional information may be an administrative burden on Queensland Rail and impede operational efficiency.[289]

While the proposed reporting obligations will provide interested parties with information to assess Queensland Rail's performance in delivering train services, we recognise that certain access holders may benefit from the reporting of additional information. In this regard, a number of stakeholders submitted that requiring Queensland Rail to provide the following information would enable further analysis of system performance or inform long-term network planning:

- the number of times that the network control officer deviated from a DTP[290]
- information on ad hoc planned possessions[291]
- modelling on future passenger service growth and the likely impacts for rail freight.[292]

A greater understanding of system performance may assist access holders to identify potential areas for investment or operational improvement, particularly as systems become more congested. However, at this time, we consider that providing further information to better analyse system performance or to inform long-term planning should be further considered at the respective regional user groups.

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[285] Aurizon Coal and Bulk, sub. 2, p. 43-44; New Hope, sub. 5, p. 27; Glencore, sub. 11, p. 7; Yancoal, sub. 9, pp. 23–24; Pacific National, sub. 7, p. 17–19.
[286] Pacific National, sub. 7, p. 3.
[287] GrainCorp, sub. 4, p. 7.
[288] Queensland Rail, sub. 14, pp. 48–50. Queensland Rail also submitted that regular reports on service performance and network operations were routinely disseminated to stakeholders, ensuring transparency and accountability. Moreover, Queensland Rail stated that it was also currently bound by obligations to provide detailed information on proposed access charges within the negotiation process and was mandated to disclose commercial access pricing to other operators.
[289] Queensland Rail, sub. 14, pp. 48–50.
[290] Pacific National (sub. 7, pp. 17–18) submitted that operators needed visibility of whole-of-network delays and cancellations in order to interrogate root causes and understand what it meant for network resilience and efficient use of the network. Moreover, Pacific National considered that with greater congestion on the network, deviations from the DTP were likely to increase. Pacific National submitted that removing this reporting requirement would increase the information asymmetry between rail operators and Queensland Rail.
[291] Pacific National (sub. 7, pp. 18–19) considered that such information assisted it to assess and understand whether Queensland Rail's maintenance planning process was efficient. Pacific National considered that any trend towards increased ad hoc planned possessions raised concerns about Queensland Rail's maintenance planning process. Pacific National also considered that this information enabled it to reconcile where a train had been cancelled due to ad hoc possessions or related impacts.
[292] Pacific National (sub. 7, p. 13) and the Rail Operator Group (sub. 15, p. 1) considered that the 2025 DAU should include a requirement for Queensland Rail to provide modelling on future passenger service growth and the likely impacts for rail freight, to inform long-term network planning. In this regard, Pacific National submitted that both the Queensland freight task and demand for passenger rail services were expected to increase significantly. Pacific National considered that increased transparency about how Queensland Rail would make capacity decisions would be required.

Queensland Rail will incur additional costs where additional reporting obligations are incorporated in the regulatory framework. For instance, Queensland Rail submitted that its Vizirail system did not have the ability to record the number of times that the network control officer made a decision to deviate from a DTP. Moreover, Queensland Rail considered that it was not appropriate to impose this administrative burden on train controllers, as they needed to be fully focused on the task of network control.[293] While there may be potential solutions for obtaining and reporting this information[294], obligations to report this information will impose costs on Queensland Rail.

Moreover, the extent that end users value additional performance information may vary, especially because network and customer characteristics for each system vary significantly. For instance, not all systems will suffer from increasing congestion during the upcoming regulatory period. We consider that regional user groups are better placed to identify and address system-specific issues than overarching obligations in an access undertaking.

This information was also not reported during the AU2 regulatory period. We consider that the reporting obligations in the 2025 DAU will provide interested parties with adequate information on how efficiently Queensland Rail has been performing, while balancing Queensland Rail's legitimate concerns about additional compliance costs.

New Hope submitted that its preference was to work with the regional user group so that the type of information needed to understand system performance and drive improvements was made available, rather than prescribe further reporting requirements in the 2025 DAU.[295]

7.3 Further reporting on ad hoc planned possessions

We do not consider it is necessary for the 2025 DAU to include a requirement for Queensland Rail to delay implementing any planned possession that is subject to a dispute (see section 6.1 of this draft decision). However, it is important that the reporting obligations in the 2025 DAU provide sufficient transparency in relation to Queensland Rail's performance in implementing planned possessions. This is necessary so to hold Queensland Rail accountable for its performance in scheduling possessions and to promote disciplined operation of the network.[296]

The proposed reporting obligations in the 2025 DAU do not require Queensland Rail to report ad hoc planned possessions. We consider it is appropriate for the 2025 DAU to require that Queensland Rail report on ad hoc planned possessions as part of its quarterly report.

A number of stakeholders considered that ad hoc planned possessions had implications for rail operators.[297] Aurizon Coal and Bulk considered that if Queensland Rail wanted to retain the right to

[293] Queensland Rail, sub. 1, pp. 62–63.
[294] For instance, Pacific National (sub. 7, pp. 17–18) considered that Queensland Rail could seek a solution that automates most of this work for train controllers; or allocate dedicated time at the end of each shift so train controllers could document reasons for any deviation.
[295] New Hope, sub. 12, pp. 2–3.
[296] Scheduling possessions for the purpose of undertaking regular maintenance and capital works should be planned in advance to provide access holders with certainty as to the upcoming scheduling of train services.
[297] Aurizon Coal and Bulk (sub. 2, p. 42), New Hope (sub. 5, p. 27), Pacific National (sub. 7, p. 18) and Yancoal (sub. 9, p. 24) all questioned Queensland Rail's assertion that ad hoc planned possessions only had a minor effect on delays for rail operators. Pacific National submitted that the downstream impacts of any delay could be significant in terms of supply chain management, and ultimately the end customer suffered the consequences of such repercussions. Pacific National considered that such delays could also have labour impacts and could potentially cause a cancellation in subsequent services in instances where the rail operator had exhausted all available crew. GrainCorp (sub. 4, p. 3) considered there could be a significantly increased reliance on ad hoc planned possessions, which would further erode train paths for grain in the DTP.

apply ad hoc planned possessions, it was important that it was transparent and accountable in the way it used this right.[298]

Queensland Rail submitted that its Vizirail system would require expensive enhancements to record start and end times for ad hoc planned possessions.[299]

We acknowledge that imposing further reporting obligations may result in additional costs for Queensland Rail. We encourage stakeholders to discuss, collaborate on and, where possible, reach consensus on feasible options for reporting ad hoc planned possessions during the regulatory period. In this regard, Aurizon Coal and Bulk submitted that adopting a simplified approach to reporting on compliance with possession timeframes may be satisfactory.[300]

If it is not feasible to report information on ad hoc planned possessions, then alternative amendments may need to be made to the regulatory framework. For instance, it may be appropriate for the 2025 DAU to include a requirement for Queensland Rail to delay implementing any planned possession that was subject to a dispute, in order to hold Queensland Rail accountable for its performance in scheduling possessions (see section 6.1).

We will have regard to consensus positions reached amongst stakeholders as part of our assessment of Queensland Rail's 2025 DAU.

Summary 7.1

It is not appropriate to approve Queensland Rail's proposed reporting requirements (Part 5 of the 2025 DAU). It is appropriate for the 2025 DAU to require that Queensland Rail to report on ad hoc possessions as part of its quarterly report.

[298] Aurizon Coal and Bulk, sub. 2, pp. 42–43.
[299] Queensland Rail, sub. 1, pp. 62–63.
[300] Aurizon Coal and Bulk, sub. 2, pp. 42–43.

8 West Moreton tariff approach

The 2025 DAU covers all of Queensland Rail's declared services but only includes a proposed reference tariff for coal haulage on the West Moreton route service (the West Moreton reference tariff). The two systems that comprise the declared route service (West Moreton and Metropolitan systems) connect mines in southern Queensland with the coal export terminal at the Port of Brisbane.

In the 2025 DAU, Queensland Rail proposed a West Moreton coal reference tariff of $32.63 per thousand gross tonne kilometres ('000 gtk), based on forecast volumes of 9.6 million tonnes a year (mtpa).

Overview of the draft decision

Our draft decision is that it is not appropriate to approve Queensland Rail's proposed reference tariff in Schedule D of the 2025 DAU. We are proposing some amendments that we consider may be appropriate to approve.

West Moreton tariff approach – summary

Queensland Rail proposal	Clause	QCA draft position
Reference tariff		
Queensland Rail has proposed a 24% tariff increase to $32.63 per '000 gtk.[301]	Schedule D	Not appropriate to approve. See sections 8.1 and 8.8.
Assessing the proposed reference tariff		
Queensland Rail said it aimed to meet the requirements of access holders.[302]		The best basis for an efficient tariff is a reasoned and prudent strategy for West Moreton that has preferably been agreed with customers. See section 8.2.
Capital spending: indicator and approval		
Queensland Rail has proposed a capital expenditure review and approval process that is unchanged from the process in the 2020 undertaking.[303]	Schedule E	It may be appropriate to amend the capital expenditure approval process to provide for more engagement with customers. See section 8.3.
Capacity assessment		
Queensland Rail said the West Moreton system had 97 weekly paths available to contract for coal-carrying services.[304]		It may be appropriate to amend the 2025 DAU to include an independent capacity review process. See section 8.4.

[301] Queensland Rail, sub. 1, p. 12. The increase is compared with the price customers have been paying under the 2020 undertaking. The 2020 undertaking also included a higher ceiling price that was used to calculate loss capitalisation amounts.
[302] Queensland Rail, sub. 1, pp. 9–10.
[303] Queensland Rail, sub. 1, p. 23.
[304] Queensland Rail, sub. 1, p. 7.

Risk mitigation		
Queensland Rail proposed accelerated depreciation for West Moreton assets.[305]		It may be appropriate to approve accelerated depreciation as part of a balanced risk-sharing approach. See sections 8.5.1 and 8.5.5.
Queensland Rail proposed investment triggers based on contract renewals.[306]	Sch. D, cl. 3.2	It may be appropriate to approve investment triggers as part of a balanced risk-sharing approach. See sections 8.5.2 and 8.5.5.
Stakeholders proposed capital expenditure reconciliation.[307]		It may be appropriate to approve capital expenditure reconciliation as part of a balanced risk-sharing approach. See sections 8.5.3 and 8.5.5.
Stakeholders proposed renewal rights.[308]		It may be appropriate to approve renewal rights as part of a balanced risk-sharing approach. See sections 8.5.4 and 8.5.5.
Tariff structure		
Queensland Rail proposed a two-part tariff, split between a train path charge and a weight and volume-based charge.	Schedule. D, cl. 3.1	Appropriate to approve. See section 8.6.
New Hope said its private balloon loop should be covered by a rebate mechanism.[309] Yancoal disagreed.[310]		It is appropriate to amend the 2025 DAU so that treatment of single-user infrastructure is equitable. See section 8.6.
Loss capitalisation and the 2020 undertaking		
Queensland Rail said it expected to detail its proposed loss capitalisation treatment in a DAAU to amend the 2020 undertaking tariff.[311]	Sch. D, cl. 8	The mechanism for addressing capitalised losses is best negotiated between Queensland Rail and its customers. See section 8.7.
Appropriate reference tariff		
Queensland Rail proposed a reference tariff based on annual volumes rising to 9.6 million tonnes.		The proposed reference tariff is not appropriate to approve. See section 8.8.

[305] Queensland Rail, sub. 1, pp. 12, 30.
[306] Queensland Rail, sub. 1, pp. 12, 30.
[307] New Hope, sub. 5, pp. 26, 36–38; Yancoal, sub. 9, pp. 15, 28–29 and sub. 16, p. 7.
[308] New Hope, sub. 5, p. 26; Yancoal, sub. 9, pp. 20–21.
[309] New Hope, sub. 5, p. 13.
[310] Yancoal, sub. 16, pp. 5–6.
[311] Queensland Rail, sub. 1, p. 55.

8.1 Queensland Rail's proposal

Queensland Rail proposed a West Moreton reference tariff of $32.63/ '000 gtk, or $12.63 per net tonne[312], which is 24% higher than the price of $26.42/ '000 gtk (estimated July 2025 dollars) that customers have been paying under the 2020 undertaking.[313] The proposed tariff is based on:

- annual volumes rising more than fourfold, from 2.1 million tonnes to 9.6 million tonnes[314]
- forecast capital spending (the 'capital indicator') more than doubling, to $346.9 million over the five-year undertaking period
- a weighted average cost of capital (WACC) of 7.39%, up from 5.46%
- a 61% increase in annual maintenance spending, to an average of $34 million a year, and a near doubling of operating spending
- accelerated depreciation over 14 years for new assets and 19 years for existing assets, based on Queensland Rail's forecast of mine lives
- a trigger mechanism that enables Queensland Rail to revise capital spending if customers do not contract for forecast volumes.

Stakeholders said the proposed West Moreton reference tariff was not affordable. They said:

- Queensland Rail had not consulted sufficiently on the tariff proposal[315]
- Queensland Rail had not substantiated cost forecasts including capital, maintenance and operating spending, or other aspects of the price proposal, including accelerated depreciation and WACC[316]
- the DAU should include a capital prudency process that gives users a vote on which projects are built[317]
- the DAU should include an independent mechanism to assess the current capacity of the network and determine whether the proposed spending will deliver the promised capacity.[318]

8.2 Developing the proposed reference tariff

Queensland Rail has proposed a step change in its capital, maintenance and operating expenditure for the West Moreton system, to address record forecast volumes. The 2025 DAU also introduces a range of measures to protect Queensland Rail's interests, including accelerated depreciation and 'triggers' that enable it to opt out of proposed capital expenditure. But the representations stakeholders made to us and the evidence they provided to us suggest that Queensland Rail's customers have had limited involvement in developing such spending plans.[319]

In this section, we set out our expectations for a reasoned and prudent strategy, explore the benefits of agreed outcomes, and discuss our role in the negotiation and assessment process.

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312 The proposed cost per net tonne is an average – the actual proposed cost per net tonne for each mine varies depending on its distance from the port. The total average cost per tonne, including traversing the Metropolitan system, is $15.71,

313 All West Moreton tariff figures have been converted to 2025 dollars, using actual and forecast CPI. The 2020 undertaking also included a ceiling price, calculated based on forecast volumes of 2.1 million tonnes, that will have escalated to $44.82/ 000 gtk in 2025 dollars by the end of the 2020 undertaking period.

314 Queensland Rail's forecast volumes ramp up to 9.6 million tonnes during the 2025 undertaking period.

315 New Hope, sub. 5, p. 8; sub. 12, pp. 5–6; Aurizon Coal and Bulk, sub. 2, pp. 72–75.

316 New Hope, sub. 5, pp. 4, 8–12; Yancoal, sub. 9, pp 13–17.

317 New Hope, sub. 5, pp. 5, 9–10; Yancoal, sub. 9, pp. 3, 13–14.

318 New Hope, sub. 5, p. 24; Yancoal, sub. 9, pp. 3, 19–20.

319 Yancoal, sub. 16, p. 3; New Hope, sub. 12, pp. 4–5.

8.2.1 Reasoned and prudent strategy

Spending is most likely to be efficient if it is based on a reasoned and prudent medium- to long-term strategy such as an asset management plan and/or a long term operational and development plan setting out possible future investment. The strategy should preferably be agreed on a consensus basis with customers and reflect their service requirements and cost and risk preferences. Key elements should include:

- appropriate targets, such as an expected capacity, at an agreed level of reliability
- a framework for achieving those goals.

This reasoned and prudent strategy should clearly articulate the approach for capital, maintenance and operating programs, and be capable of being assessed by us as we consider whether Queensland Rail's proposal is appropriate to approve with regard to the section 138(2) factors and the pricing principles in the QCA Act. It should reflect the legitimate interests of both users and Queensland Rail. As users and Queensland Rail are reliant on each other, it is likely that their interests will align in many circumstances. Where their objectives diverge, it is highly preferable that they negotiate trade-offs rather than leave us to determine an outcome.

The reasoned and prudent strategy will drive detailed spending plans, supported by business cases that explain how the proposed specific investments align with the strategic goals (see section 8.3.2, including Figure 7).[320]

We identified the need for coherent strategies in our recent guideline on climate change related spending[321] but were clear that the same general principles applied for all spending proposed by a regulated business. We emphasised our preference for agreed approaches as the best means for achieving outcomes that are appropriate to approve.[322]

> Consulting with customers is a key part of developing a coherent strategy under the negotiate-arbitrate and similar frameworks … Open and transparent stakeholder consultation is consistent with good business practice and demonstrates that a business is committed to aligning its strategy with the needs of its customers. Consultation is particularly important for strategies that are expected to drive larger expenditures.[323]

Queensland Rail is planning larger expenditures for the 2025 undertaking period – its proposed capital program of $346.9 million over the five years is almost two-thirds of its estimated regulatory asset base at the start of the period, and more than double its capital indicator for the 2020 undertaking.[324] And this higher spending is without any increase in the previously stated capacity of the system.[325]

Queensland Rail maintained that its West Moreton capital and maintenance expenditure proposal would reduce operational risk and increase confidence that the supply chain could deliver record coal railing demand. It said:

> Queensland Rail's capital and maintenance programs for DAU3 aim to meet the requirements of access holders by reasonably limiting the number of speed

[320] We refer to the long-term broader plan as a 'reasoned and prudent strategy' and the related asset-specific plan as a 'business case' to reflect the differences in the nature of the two types of plans, and to avoid confusion.

[321] QCA, *Climate change related spending*, guideline, September 2023.

[322] In the case of services, like Queensland Rail's West Moreton route service, that are declared for access under Part 5 of the QCA Act, the approach or strategy would need to meet and balance the criteria in section 138(2) of the QCA Act.

[323] QCA, *Climate change related spending*, guideline, September 2023, p. 5.

[324] $346.9 million of forecast capital expenditure, which is 64.8% of the proposed opening regulatory asset base (before allocation) of $535.2 million.

[325] QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, pp. 57–59.

> restrictions and section closures and therefore increase reliability with the aim of an associated throughput improvement …[326]

However, stakeholders have represented to us that they received insufficient detail from Queensland Rail to form a view on its spending plans. Yancoal said there were:

> doubts as to the prudency of the high costs of capital expenditure and operation and maintenance costs, given the limited disclosure provided and high-level nature of the justifications provided[327]

New Hope said:

> At this stage, NHG considers there is a real question as to whether, given the level of information provided, stakeholders have been provided with procedural fairness in respect of QR's various cost proposals.[328]

New Hope added that it had received a high-level overview of Queensland Rail's planned DAU in April 2023 and a further briefing on revenue allowances and tariffs in October 2023, shortly before the DAU was lodged. It said:

> A key impediment to consultation with QR appears to be that a reluctance to openly discuss proposals prior to receiving approval by the QR board is followed by a reluctance to alter proposals which have obtained board approval.
>
> We remain hopeful that meaningful consultation will commence in the near term.[329]

In relation to West Moreton expenditure, the 2025 DAU most likely does not reflect an informed view from its customers. This makes it difficult for us to determine whether Queensland Rail's West Moreton tariff proposal provides for efficient investment in and use of the rail infrastructure to support an agreed standard of service or, in the absence of agreement with customers, a level of service reflecting customers' projected requirements.

Queensland Rail and its customers already have substantial sunk costs in rail and mining infrastructure. Queensland Rail has proposed a large investment program, and some of the West Moreton customers have major investments planned or underway. It is difficult to see how Queensland Rail could contract for its full 9.6 million tonne demand forecast if it became clear it would be unable to deliver that volume on a sustainable basis.[330]

The volume and price considerations are intertwined. If the price is too high, then the customers may not contract for the forecast capacity. And if the price is too low, Queensland Rail may not have sufficient incentive to invest to support the volume as it may not receive a return commensurate with the regulatory and commercial risks. That balance is best addressed, at least in the first instance, by exchange of information and good-faith negotiation between the parties.

If Queensland Rail were proposing to assume the investment risk at prices that were sustainable for customers, and to be liable for making its contracted capacity available, it might be appropriate for it to proceed without a reasoned and prudent strategy for investing in and operating the West Moreton system, preferably developed on a consensus basis. However, to the extent that customers are expected to share, or assume, a substantial proportion of the investment and performance risk for West Moreton, it is reasonable for them to expect to be kept informed, and to share in the decision-making process.

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[326] Queensland Rail, sub. 1, pp. 9–10.
[327] Yancoal, sub. 9, p. 3.
[328] New Hope, sub. 5, p. 8.
[329] New Hope, sub. 12, p. 5.
[330] For a discussion of system capacity, see section 9.2.2, and Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 5, 19–21. that is published with this draft decision.

It is also important that all options be considered, including measures that are alternatives to investment by Queensland Rail. It may be that there are above-rail options or different stockpiling or scheduling approaches that will be more efficient ways to operate the supply chain. A below-rail investment that is done in isolation runs a real risk of not being the most efficient strategy. These alternative approaches should be explored with the West Moreton stakeholders, including the end users and the above-rail operators.

Queensland Rail has not proposed changes to the 2020 undertaking approval processes for capital and maintenance expenditure (see section 8.3.2). However, Queensland Rail and its customers may wish to consider an approach similar to the one Aurizon Network and its customers in central Queensland adopted under the 2017 Aurizon Network access undertaking (UT5), where maintenance and replacement capital expenditure are reviewed jointly. As we said in our 2021 guideline on pricing for Aurizon Network's GAPE and Newlands systems:

> UT5 was developed through extensive negotiation between Aurizon Network and stakeholders and reflected a step towards increased collaboration between all parties. It provides a range of industry-led solutions and processes that create a more customer-centred approach to access regulation. Such an approach, if effectively utilised, may avoid regulatory error, reduces the regulatory burden on all parties and creates opportunities for parties to explore solutions to diverse and complex issues. In this context, we consider Aurizon Network, affected parties and other users should seek to uphold this type of approach to access regulation and engage productively, with the aim of presenting an agreed solution, while making compromises that are mutually agreeable.[331]

Not just Aurizon Network and its customers provide an example for Queensland Rail and its West Moreton customers to emulate. DBI and its customers negotiated the most recent tariff for DBCT without seeking a determination from us. Moreover, Queensland Rail negotiates prices and other terms for its freight traffic on almost all its route services, the exception being West Moreton.[332]

We have sought to address the need for an informed view by providing Queensland Rail's customers with more information, both in this draft decision (see chapter 9) and in an accompanying report from our technical advisor, Arcadis. We encourage Queensland Rail to expand on this information to enable constructive discussions as it engages with customers on agreed outcomes.

8.2.2 Agreed outcomes

The reference tariff is part of a package of service standards, obligations, costs and risks, which reflects customers' preferences, the legitimate business interests of Queensland Rail, and other factors. Given Queensland Rail and its customers are best placed to assess their respective needs and preferences, we are keen for them to work together to find the best outcome. As we said in our recent guideline on climate-related spending:

> Our first preference is that regulated businesses and their customers reach consensus on strategies and spending approaches that suit all parties. Where there is an agreed capital investment or operating expenditure proposal, our role is likely to be light-handed.[333]

We also emphasised the value of commercially agreed outcomes under the Queensland access regime in our guide on access disputes under the QCA Act.[334] The guide explains that the access

[331] QCA. *Pricing of shared infrastructure for the GAPE and Newlands systems*, guidance paper, September 2021, pp. 2–3.
[332] Queensland Rail, sub. 14, pp. 23–25.
[333] QCA, *Climate change related spending*, guideline, September 2023, p. 8.
[334] QCA, *Access disputes under the QCA Act*, summary guide, June 2019.

regime 'is based on a negotiate–arbitrate framework, which envisages that, in the first instance, access to a declared service should be procured on the basis of terms and conditions that are commercially agreed between the access seeker and the provider of the declared service'.[335] The introductory chapter of this draft decision also discusses the benefits of agreed outcomes (see section 1.3).

Even if Queensland Rail and its customers are unable to agree on all aspects of a reference tariff, they should have a minimum goal of an agreed reasoned and prudent capital, maintenance and operating strategy for West Moreton, which establishes clear performance targets and sets out how to achieve them. That will assist us in assessing the efficient levels of capital indicator and maintenance and operating allowance to be used in determining the reference tariff, should it be necessary for us to do so. We also set out in section 8.3.2 how that reasoned and prudent strategy should, in turn, drive specific spending proposals.

8.2.3 Our role

We wrote to Queensland Rail in 2022, saying we were keen to accommodate its preference to submit a voluntary DAU and welcoming its commitment to consulting extensively with stakeholders in preparing the DAU. We also said we wanted to leave sufficient time after our draft decision for Queensland Rail and other stakeholders to collaborate on matters that remained outstanding.[336]

Our role is to assess Queensland Rail's DAU, including the reference tariffs and related matters in Schedules D and E, having regard to the approval criteria in section 138(2) of the QCA Act. If we find they are not appropriate to approve having regard to those criteria, we must suggest what Queensland Rail might propose that would be appropriate to approve.

We consider the objectives of the QCA Act are best achieved by Queensland Rail and its customers working towards agreed approaches on all aspects of the access undertaking. In respect of matters that cannot be agreed, we will assess the appropriate outcome against the criteria in section 138(2) of the QCA Act. In respect of matters agreed, we still, to discharge our statutory role, do need to apply an independent review to confirm that the agreed matters comply with section 138(2) – which includes, among other things, having regard to the interests of future access seekers. In practice, though, we expect that an outcome agreed by the parties will significantly assist in satisfying us that the criteria in section 138(2) have been appropriately addressed.

In assessing whether a pricing proposal is appropriate, having regard to the criteria in the QCA Act, we look, among other things, for evidence that it provides sufficient returns to compensate the access provider for the regulatory and commercial risks. But equally, we need to form a view on whether the proposal promotes efficient investment in, use of and operation of the infrastructure.

Some of the best evidence that it is appropriate to approve a tariff proposal is that the directly affected parties – Queensland Rail and its customers – have negotiated a price and associated terms that suit all parties. That should include the standard of service and feasible volumes, as well as mechanisms for engaging on matters such as capital spending and maintenance, where risks and outcomes are shared.

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[335] QCA, *Access disputes under the QCA Act,* summary guide, June 2019, p. 1.
[336] QCA, *Queensland Rail access undertaking timeline*, letter to Queensland Rail, 21 September 2022.

8.3 Capital spending: indicator and approval

The treatment of capital expenditure in the rail reference tariffs we regulate has for many years involved two steps:

- preparing a forecast – the capital indicator – that is used in the building blocks when the tariff is approved in an access undertaking
- conducting a subsequent review of the spending, once the projects are complete, before they are approved to be included in the regulatory asset base.

8.3.1 Capital indicator

Queensland Rail's tariff proposal includes a capital indicator, which enables its revenue to reflect expected investment during the term of the undertaking. The indicator is a forecast of capital spending. However, the capital projects built during the regulatory period are not included in the regulatory asset base until the next undertaking, to allow for them to be reviewed for prudency and efficiency.[337]

This approach was introduced to encourage investment by the regulated party, by:

- providing a return on expected efficient investment (the capital indicator) during the regulatory period
- having a pathway for capital expenditure to be included in the regulated asset base in the subsequent undertaking period, provided a decision-making and spending process that is clearly set out is followed.

But for the avoidance of doubt, the capital indicator is a budgetary and cashflow measure, not a mechanism for preapproval of proposed capital investments to be included in the asset base. In other words, while the specific projects proposed by Queensland Rail in its DAU material are relevant, our assessment of the efficiency of the capital indicator will be based more on the strategy underlying the investment plans (see section 8.2.1).

Approval of the capital indictor, as part of assessing whether it is appropriate to approve the reference tariff, should not be treated by Queensland Rail or its customers as an implied or explicit approval of the prudency of any of the projects included in Queensland Rail's DAU material. The prudency assessment will be done through the capital expenditure approval process in Schedule E of the 2025 DAU, as under previous undertakings.

8.3.2 Capital expenditure approval process

Queensland Rail has proposed a capital expenditure review and approval process in Schedule E of the 2025 DAU that is unchanged from that in the 2020 undertaking.

This provides for annual review of commissioned capital projects that are only included in the regulatory asset base once they have been found prudent in scope, standard and cost.

In our guideline on climate change-related spending, we set out a four-part approach to developing a spending proposal and business case. The approach focused on demonstrated need, consultation, consideration of options, and efficient cost. Once there is a reasoned and prudent strategy for West Moreton, the specific spending proposals arising from that strategy should be

[337] In fact, capital projects completed in the last year (or sometimes two years) of the regulatory period are still included as 'capital indicator' amounts in the building blocks for the subsequent undertaking, as the prudency review cannot be completed before the new undertaking takes effect. See sections 8.3.2 and 9.3.1.

prepared under a similar need, consultation, options and efficiency framework, before they are submitted to us for assessment under the processes in Schedule E (see Figure 7).

Figure 7 : The four key elements of a robust business case

Demonstrated need	Any spending proposal should solve an identified problem or fulfil a demonstrated need, whether it be for increasing or sustaining the service potential of the facility. This need should be demonstrated with reference to a reasoned and prudent long-term strategy and should not be ad hoc (see section 8.2.1). This might be established through a quantitative approach or, where that is not possible or reasonable, through a qualitative analysis.
Consultation with customers	The proposal should have regard to customers' views, including their risk preferences. Consultation should include potential customers, where this is possible. What have customers said about their preferred approach to investment in the rail infrastructure? Have customers been provided with robust and transparent information? How have their views been taken into account when choosing the proposed approach? This consultation could be demonstrated through customer letters of support or, as is done for some regulated businesses, a customer vote process. The consultation on an individual investment may be less important than consultation on a reasoned and prudent overall strategy (see section 8.2.1).
Demonstrated consideration of options	The business should show it has considered a range of alternative ways to address the identified problem. What options have been considered in assessing both the scope and standard of the planned spending? What are the pros and cons of those options? Are the options consistent with any hierarchy of options identified in the long-term strategy? The business case should explain how and why the proposed approach has been selected over the alternatives.
Efficient cost	The efficient cost should reflect value for money, rather than a simplistic choice of lowest upfront cost. Least cost should be considered over the life of an asset. Efficient cost also reflects externalities, in addition to the costs directly incurred by the regulated business and, ultimately, its customers. The upfront cost could be established through an appropriate process, such as a competitive tender.

Source: Adapted from Table 1 in QCA, *Climate change related spending*, guideline, September 2023, p. 7.

New Hope and Yancoal submitted that Schedule E should be amended to require Queensland Rail to:

- provide details of capital expenditure projects to customers
- consult with customers (including a vote process) before committing to significant projects
- prepare business cases that demonstrated the need for the projects and how a particular scope had been selected
- seek preapproval from us where customers did not support a proposed project, as rejection by customers would need to be relevant, but not determinative.[338]

The two mining companies provided the same suggested drafting of amendments to Schedule E.[339]

[338] New Hope, sub. 5, p. 26; Yancoal, sub. 9, p. 20.
[339] New Hope, sub. 5, pp. 34–36; Yancoal, sub. 9, pp. 26–28

Aurizon Coal and Bulk endorsed this capital expenditure approval proposal and said Queensland Rail should 'investigate interest in forming an industry group to evaluate and approve the scope, benchmarks and costs of QR's maintenance and capex plans on a regular basis'. It said such a group would be similar to the Rail Infrastructure Group established under Aurizon Network's UT5, and the Rail Capacity Group established under ARTC's Hunter Valley Access Undertaking. [340]

Queensland Rail said it was contractually committed to providing the capacity and was responsible for the safe operation of the network.[341] It said:

> Queensland Rail believes that the proposed amendments to DAU3 suggested by Yancoal and New Hope, where individual projects are voted on by users will introduce uncertainty and timing risk to the delivery of the overall program and reduce the effective control the Queensland Rail has over its network. This will put at risk system capacity, operational efficiency and safety.[342]

We would need more evidence to form a view that a consultative approach to managing capital and maintenance spending on West Moreton would put capacity, efficiency or safety at risk. However, it may be that some mechanism more iterative and cooperative than a customer vote is the appropriate way forward. One option might be to expand the scope of the system user group that Queensland Rail has established for West Moreton.

Much of the success of a cooperative approach to supply chain management would depend on the 'buy-in' of all parties. This is more likely to be achieved with a negotiated system approach than with something proposed only by some of the intended participants or developed by us. A framework for cooperation that was implemented without the backing of all parties – particularly the operator of the system – would probably be less effective than one that had broader support.

We share the view that a consultative mechanism like the Rail Infrastructure Group that has been operating successfully in central Queensland for several years has merit.[343] We have a role in that central Queensland process, but it is largely driven by Aurizon Network and its customers – and was negotiated and agreed by them.

Queensland Rail, too, has opted in the past to obtain support from its customers for proposed West Moreton capital spending. For example, it provided letters in favour of its Toowoomba Range stabilisation project as part of its 2018 application for preapproval of the investment under Schedule E of the 2016 undertaking.[344]

We consider the mechanism proposed by New Hope and Yancoal may be the appropriate way to promote efficient investment in and use and operation of the West Moreton system, and be in the legitimate interests of both Queensland Rail and its customers (ss. 138(2)(a), (b), (e) and (h)). However, there may be other ways for Queensland Rail and its customers to apply the need, consultation, options and efficiency approach set out in Figure 7.

We look forward to the outcome of discussions between Queensland Rail and its customers.

[340] Aurizon Coal and Bulk, sub. 2, pp. 75 and 76.
[341] Queensland Rail, sub. 14, pp. 11–12.
[342] Queensland Rail, sub. 14, p. 12.
[343] See Aurizon Coal and Bulk, sub. 2, p. 75.
[344] More information on the Toowoomba Range Stabilisation project, including Queensland Rail's submission, stakeholder comments, expert reports and our decision, is available on the QCA website at *Capital expenditure preapproval*.

Summary 8.1

It may be appropriate for Queensland Rail to amend the provisions for review of its capital spending in the 2025 DAU (Schedule E) to provide for more involvement of its customers in the assessment and approval process. The mechanism for greater customer involvement is best negotiated between Queensland Rail and the relevant customers.

8.4 Capacity assessment

Queensland Rail has based its proposed West Moreton coal tariff on annual volume forecasts of 9.6 million tonnes for coal.[345,346] Queensland Rail said the coal volume estimate was based on its acceptance of advice from the three West Moreton coal customers of volumes they wished to contract and/or renew.[347] It said 'the coal mines and their operators can contract up to 97 return train paths per week across the range' and could also run ad hoc train services for as many as 16 more paths.[348] But Queensland Rail also said it needed to undertake $346.9 million of capital expenditure and $172.5 million of maintenance over the five-year undertaking period to enable the infrastructure to deliver the proposed volumes.[349] This compares with Queensland Rail's proposed opening asset value of $535.2 million.

Stakeholders requested more information on the current capacity of the network, including the key assumptions behind Queensland Rail's network capacity analysis, and how the proposed capital spending would increase West Moreton capacity to the 9.6 mtpa forecast. New Hope and Yancoal suggested an independent assessment of capacity on the West Moreton system was necessary. They said the process used in the central Queensland coal network (CQCN), whereby capacity was assessed by an independent expert, provided a suitable model.[350]

Australian Coal and Bulk provided results of its own analysis of West Moreton capacity and said that Queensland Rail needed to publish the assumptions on which it had based its capacity assessment.[351]

Queensland Rail did not address the stakeholders' proposal for an independent capacity review in its responsive submission.

Engineering firm Arcadis has provided views on the potential capacity of the West Moreton system as part of its technical assessment of the information provided by Queensland Rail to accompany the 2025 DAU. This assessment can be found in section 3.1.3 of its report.[352] Our views on specific

[345] A West Moreton coal train carries about 2,000 tonnes of coal. So, a weekly path accounts for about 100,000 tonnes of annual coal capacity, assuming 50 paths a year. On that basis, 97 weekly paths would be sufficient for approximately 9.7 million tonnes of annual coal haulage.
[346] Queensland Rail did not provide a forecast for grain volumes.
[347] Queensland Rail, sub. 1, p. 12.
[348] Queensland Rail, sub. 1, p.7.
[349] Queensland Rail, sub. 1, pp. 30, 38.
[350] New Hope, sub. 5, p. 24; Yancoal, sub. 9, pp. 19–20 and sub. 16, p. 7.
[351] Aurizon Coal and Bulk, sub. 2, pp. 61–66. The assumptions that Aurizon Coal and Bulk suggested Queensland Rail should publish are listed on pp. 63-64.
[352] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 5, 19-21.

drivers of West Moreton capacity, including the Arcadis advice, are discussed in section 9.2.2 of this draft decision.

Our preliminary position is that greater clarity on the capacity of the network will promote efficient investment in and use of West Moreton rail infrastructure (s. 138(2)(a) of the QCA Act). As such, an independent review of capacity has merit. It will be in the interests of customers to have confidence that contracted volumes can be delivered, particularly given the scale of investment and maintenance spending that Queensland Rail has proposed (ss. 138(2)(e) and (h)).

We encourage Queensland Rail and its customers to address independent capacity assessment as part of their discussions on overall West Moreton tariff matters and work toward an agreed approach that can be presented to us to be included in our final decision.

Summary 8.2

It may be appropriate for Queensland Rail to amend the 2025 DAU to include an independent capacity review process for West Moreton.

8.5 Risk mitigation

Queensland Rail has proposed various measures to reduce its risks in investing in and maintaining the infrastructure that provides the West Moreton route service. These include:

- accelerated depreciation that, among other things, helps mitigate its asset stranding risk (see section 8.5.1)
- 'triggers' that let it opt out of proposed capital investment that has been included in the building blocks used to assess the reference tariff (section 8.5.2).

Customers also proposed risk mitigation measures. These include:

- capital expenditure reconciliation, with tariff adjustments where investment is materially different from forecasts (section 8.5.3)
- priority rights to renewal of access for existing West Moreton access holders (section 8.5.4).

8.5.1 Accelerated depreciation and capital underwriting

Our consistent position on risks is that they are best borne by those with the greatest ability to manage them. We therefore consider that accelerated depreciation or some other mechanism agreed between Queensland Rail and its customers is appropriate to address any difference between the expected technical and economic lives of Queensland Rail's assets.

The 2025 DAU proposes an accelerated depreciation profile based on forecast mine lives estimated by AME in a report for Queensland Rail. It provides for existing assets to be depreciated over 19 years, and capital expenditure during the 2025 undertaking period to be depreciated over 14 years or less.[353] These proposed asset lives are significantly shorter than those that have been applied to

[353] These asset lives are considered in more detail in section 9.6.

West Moreton system assets when assessing the West Moreton tariffs for the 2016 and 2020 undertakings (see Table 10 in section 9.6).

Queensland Rail said the accelerated depreciation would ensure that spending during the term of the 2025 undertaking was recoverable over the mine lives of all users, while longer asset depreciation would result in the remaining users paying for the assets they continued to use.[354] Queensland Rail said accelerated depreciation was equitable for users:

> This approach results in an equitable distribution of costs to each West Moreton System miner. The shorter accelerated depreciation period is equitable as it will ensure that all mines pay for the new assets required for the record 9.6Mtpa tonnage forecast … post 2034 the remaining mines will continue to pay for the service they are still using.
>
> Queensland Rail is proposing an equitable relationship of the costs attributed to the individual mines which protects the legitimate business interests of Queensland Rail's customers.[355]

Queensland Rail justified its accelerated depreciation methods based on its analysis of structural viability of coal mines informed by advice from consultants AME[356] and HoustonKemp.[357] Queensland Rail also noted our position on accelerated depreciation as a measure to address asset stranding risk in our decision on the 2020 DAU. In that decision, we said:

> Our decision is to not implement accelerated depreciation as part of this DAU process; however, we would be amenable to accepting an appropriate accelerated depreciation profile, should Queensland Rail propose it as part of a DAAU. We consider that an appropriate accelerated depreciation profile would likely be sufficient to address the longer-term stranding risks that West Moreton coal faces.[358]

Stakeholders said they were concerned about the proposal, particularly its impact on affordability.[359] Yancoal said the increase in reference tariff could potentially result in mines ceasing production earlier than assumed.[360]

In principle, we consider it may be appropriate for Queensland Rail to undertake depreciation with schedules that reflect prudent and efficient management of its asset base and align with expected economic lives (s. 138(2)(b)).[361]

However, the question of whether accelerated depreciation would act to mitigate asset stranding risk is not straightforward and cannot be considered in a vacuum. Queensland Rail's proposal would significantly increase the annual depreciation costs recovered from users and increase the reference tariff. This may, in turn, bring forward the date at which assets cease to be used.

There are other ways to mitigate asset stranding risk, apart from accelerated depreciation. Longer-term contracts or user underwriting of capital expenditure are just two measures that could act to

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[354] We note that HoustonKemp analysis supplied by Queensland Rail did not strongly support the different depreciation treatment of capital expenditure and existing assets. HoustonKemp said 'we recommend that new capital investment should be recovered over the estimated weighted average remaining mine life' It recommended these lives be reviewed periodically. See Queensland Rail, sub. 1, attachment 5, p. 17.
[355] Queensland Rail, sub. 1, p. 12.
[356] Queensland Rail, sub. 1, attachment 4, pp. 2–5.
[357] Queensland Rail, sub. 1, attachment 5, pp. 8–11.
[358] QCA, *Queensland Rail draft access undertaking,* decision, February 2020, p. 50.
[359] New Hope, sub. 5, p. 12; Yancoal, sub. 16, p. 4.
[360] Yancoal, sub. 16, p. 4.
[361] We consider it appropriate to periodically revise depreciation schedules to reestablish the efficient use of the assets. Where technical lives are used, it is reasonable to assume that operational characteristics that established the original technical lives of the asset would also be periodically reassessed to their currency in light of the ongoing use of the asset. Where volumes are expected to exceeded prior volume forecasts it is reasonable to question whether the technical life of the asset is still appropriate to the operational wear and tear faced. We do not consider that technical life is a set-and-forget depreciation methodology.

reduce the likelihood that Queensland Rail would be unable to recover its infrastructure investments.

Queensland Rail and its users are best placed to understand the full range of financial and contractual options available to mitigate stranding risk as well as the potentially varying impacts on their respective commercial operations and identify the most efficient method(s) to address it. As discussed in section 8.5.5, we consider the first step to finding the most economically efficient outcome will be negotiation between Queensland Rail and its users that takes into account asset lives along with other risks and considerations.

8.5.2 Volume triggers (tariff reset)

The 2025 DAU includes 'volume triggers' that provide for Queensland Rail to lodge a DAAU to reset the reference tariff each time a West Moreton contract is up for renewal if it is not renewed. Queensland Rail proposed that the QCA would have the same powers to review the DAAU as it would if it had issued an initial undertaking notice (Schedule D, cl. 3.2).

Queensland Rail said this would give it 'an opportunity to reset its capital and maintenance program to reduce the capital expenditure that would otherwise be brought forward to meet capacity requirements and protects our [Queensland Rail's] customers from paying for capacity that is not required.'[362]

New Hope and Yancoal said Queensland Rail's proposed drafting of clause 3.2 of schedule D would 'immunise' Queensland Rail from any volume risk and, in the case of one of the three mines shutting down, transfer that risk to the other mines. They said that, if it was implemented, it should be symmetric, so that there would be a further review if volumes recovered.[363]

We consider the volume trigger as proposed by Queensland Rail may be in the legitimate business interest of Queensland Rail, as it might protect its revenue during the term of the 2025 undertaking (s. 138(2)(b)). However, there are other ways to achieve similar objectives that might be more appropriate to approve.

These include, for example, having the triggers work from the bottom up, rather than the top down, with capital spending only added to the capital indicator once volumes are confirmed, or customers agree to underwrite the capital expenditure. This might give the customers an incentive to contract for access, as that would give them and Queensland Rail more certainty to support investment decisions.

The driver of Queensland Rail's trigger proposal seems to be that its forecast volumes are not contracted for the full term of the undertaking, so some investments made by Queensland Rail will therefore turn out to have been unnecessary. This concern overlaps, at least in part, with the miners' proposed capital expenditure reconciliation, which would address under-spending of the capital indicator amount.

[362] Queensland Rail, sub. 1, p. 30.
[363] Yancoal, sub. 9, p. 3.

8.5.3 Capital expenditure reconciliation (true-up)

Yancoal and New Hope submitted that there should be an annual reconciliation or true-up to address any under- or over-spend of the capital indicator, with tariffs adjusted during the term of the undertaking, rather than only in the subsequent term.[364]

Both mining companies provided the same suggested drafting of amendments to replace clause 7 of Schedule E.[365]

Yancoal said that without reconciliation provisions:

> there is real potential for users to be paying an inflated tariff during the entirety of the DAU3 period, with the affordability and therefore volume risks that creates, with relief for the lower than proposed capital expenditure only being experienced in the next term.[366]

New Hope said that an earlier true-up (reconciliation) would prevent cashflow impacts on either Queensland Rail or customers and avoid 'creating winners and losers within the customer group as relative volumes change'.[367]

In its responsive submission, Queensland Rail quoted Yancoal's comment about capital expenditure reconciliation but did not address the matter.[368]

We consider an earlier reconciliation during the term of the undertaking may promote efficient investment in, and use of, West Moreton infrastructure. It may also be in the legitimate business interests of both Queensland Rail and its customers, if it applies to both upward and downward variances in actual spending, compared with the capital indicator (ss. 138(2)(a), (b), (e) and (h)). However, such a measure is best considered as part of an overall package of measures for sharing and mitigating risks, that is negotiated by the parties.

8.5.4 Renewal rights

Queensland Rail proposed the West Moreton miners be subject to the same one-time renewal right that is provided for when access arrangements are prioritised (see section 3.2 of this draft decision, and clause 2.10 of the 2025 DAU).

However, Yancoal and New Hope said miners that were underwriting Queensland Rail's West Moreton infrastructure spending should have preferential renewal rights. They said this was because they will assume the burden of paying the 2020 undertaking capitalised losses, as well as providing Queensland Rail with the 'vast majority' of its return on capital if accelerated depreciation is implemented.[369] Yancoal said:

> It is difficult to see why a future user, who will not have underwritten the existence and continued maintenance and operation of the West Moreton network, should have the same renewal rights as those who have.[370]

The appropriate level of certainty about renewal will depend significantly on the degree to which the access holders are required to address Queensland Rail's investment risk (see the other risk-

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[364] The capital indicator is discussed in more detail in sections 8.3.1 and 9.5.2 of this draft decision. The capital expenditure carry-over account, which governs the treatment of the under- or-overspend of the capital indicator through adjustments in the subsequent undertaking period, is considered in section 9.3.1.
[365] New Hope, sub. 5, pp. 36–38; Yancoal, sub. 9, pp. 28–29.
[366] Yancoal, sub. 9, p. 20.
[367] New Hope, sub. 5, p. 26.
[368] Queensland Rail, sub. 14, p. 11.
[369] Yancoal, sub. 9, pp. 20–21; New Hope, sub. 5, p. 26.
[370] Yancoal, sub. 9, p. 21.

related matters discussed in this section 8.5). But as a broad principle, the more the risk is transferred to the customers, the more certainty over security of access they should receive.

Our preliminary position therefore is that it may be appropriate to amend Queensland Rail's DAU to include renewal rights that apply to West Moreton access holders, particularly if Queensland Rail and the relevant customers agree that would be their preferred way to implement those rights, as part of an overall allocation of risks. However, we also consider that it may not be appropriate to have a blanket removal of clauses 2.10(c)(i) and (iii), as that would apply to all of Queensland Rail's customers, not just those that might provide capital underwriting and other risk mitigation measures for Queensland Rail for West Moreton.

It may also be appropriate that renewal rights for West Moreton access form part of the contractual agreements between Queensland Rail and its customers that emerge from their negotiations on the reference tariff and other terms. The 2025 DAU retains existing provisions that nothing in the undertaking prevents an access holder exercising contractual renewal rights, and that exercising such rights does not require an access application (clause 2.10(d)).

We encourage further submissions, preferably on a consensus basis, on how and whether to implement West Moreton renewal rights and look forward to learning the outcome of discussions between the parties.

8.5.5 Conclusion: negotiated risk-sharing and security

The complicated web of risk-sharing measures and security of access for West Moreton is best negotiated between Queensland Rail and its customers. Each of the four measures discussed above – depreciation, triggers, capital reconciliation and renewal rights – should be 'on the table' along with other risk-related matters in discussions between the parties.

For example, measures such as accelerated depreciation or capital underwriting that help mitigate Queensland Rail's asset stranding risk may be balanced against renewal rights for the customers who provide that assurance to Queensland Rail. Equally, Queensland Rail's volume triggers and the miners' capital expenditure reconciliation seem like two sides of the same coin and should be discussed as part of the parties' overall negotiation about how to address volume uncertainty.

It may also be that different customers will want different approaches to risk sharing. In that case, it may be best that measures like capital underwriting and security of access be negotiated on a bilateral basis between Queensland Rail and its customers, just as they negotiate matters like contract term.

Summary 8.3

It may be appropriate for Queensland Rail to amend the 2025 DAU to include a balanced risk-sharing approach for West Moreton, that has regard to the risk preferences and commercial requirements of all parties.

8.6 Tariff structure

We consider having a two-part tariff and associated distance taper will continue to strike an appropriate balance between the 'user pays' principle, revenue adequacy for Queensland Rail and fostering economic development along the West Moreton system.[371]

The 2025 DAU provides for a two-part tariff that recovers the annual revenue requirement on a train path basis and on a weight and distance basis (i.e. per gtk) (sch. D, cl. 3.1).

The two-part tariff was introduced in 2010 to address the potential for above-rail investments to increase volumes, and therefore below-rail revenues. The tariff structure splits the gains from any increase in capacity per train – Queensland Rail increases its revenue, while customers benefit from lower unit costs.[372]

The tariff structure has the effect of creating a 'distance taper' – a tariff outcome that lessens the disincentive for developing mines further from ports.[373] It also recognises that mines closer to the Port of Brisbane (e.g. New Hope's New Acland mine) do not use infrastructure west of their haulage point – but consume capacity so that fewer paths are available to access seekers further west (e.g. Yancoal's Cameby Downs mine). This means supplying a train path with an origin closer to the port carries an inherent opportunity cost to Queensland Rail (which requires sufficient revenue to cover access to the entire system) and the distance taper provides for users closer to the port to pay a portion of that cost.

New Hope said New Acland mine would be paying around 40% more per thousand gtk than Cameby Downs paid, and this was a cross-subsidy to mines that were further from the port. New Hope asked that the QCA confirm the Cameby Downs and Wilkie Creek mines would be paying sufficient revenue to cover at least the incremental cost of their services.[374]

Yancoal said we had previously considered the two-part tariff structure and considered it appropriate across multiple undertakings. It said the recent reopening of the Wilkie Creek mine demonstrated the distance taper had encouraged economic development.[375]

Our draft decision is that it is appropriate to retain the two-part tariff and distance taper approach in the pricing structure. The distance taper helps balance the competing objectives of cost reflectivity and revenue adequacy by:

- having miners closer to the port pay less for access than those further away, which is consistent with the user pays principle (ss. 138(2)(a), (e) and (h))
- encouraging economic development by mitigating some of the cost disadvantage faced by mines further from the port (ss. 138(2)(d) and (h))
- addressing in part the opportunity cost to Queensland Rail of selling a shorter path, which it might otherwise have been able to use for a more distant mine that provided more revenue (s. 138(2)(b)).

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[371] QCA, *Queensland Rail's Draft Access Undertaking*, decision, June 2016, p. 202.
[372] QCA, *QR Network 2009 Draft Access Undertaking*, draft decision, December 2009, p. 93.
[373] The distance taper has been a feature of the CQCN tariffs since the first QCA-approved access undertaking in 2001.
[374] New Hope, sub. 5, p. 13.
[375] Yancoal, sub. 16, pp. 5–6.

Summary 8.4

It is appropriate to approve the two-part West Moreton tariff structure in the 2025 DAU.

Private and user-funded infrastructure

We consider the treatment of single-user infrastructure should be equitable between different users, so that the impact on other users of the system is similar, regardless of whether the asset is owned by Queensland Rail or an access holder.

New Hope said the balloon loop for the Cameby Downs mine at Columboola was included in the West Moreton RAB, while Queensland Rail had proposed that the spur and balloon loop it was building for New Acland would be private infrastructure and not included in the RAB. It said tariffs paid by New Hope were increased by having the Cameby Downs loop in the RAB.[376]

Yancoal said the loop for Cameby Downs was funded via Yancoal's payment obligations under an access facilitation deed (AFD) with Queensland Rail. It said changing the treatment now would create windfall gains and losses, and result in New Hope being cross-subsidised by Yancoal.[377]

As a matter of principle, we do not consider it appropriate to reopen the historical treatment of assets in these circumstances, particularly where the distributional impacts are unclear.

That said, in considering the appropriate treatment of private infrastructure going forward, as opposed to infrastructure underwritten by an end user, but owned by Queensland Rail, we have had regard to the approach in similar circumstances for Aurizon Network. It was common for single-user assets to be funded via AFDs, before the 2010 separation of the central Queensland coal transport assets that are now owned by Aurizon Network from the rest of the state's below-rail assets, that are owned by Queensland Rail.[378] AFDs were used to enable capital underwriting by customers.

Customers under AFD arrangements made a payment to Queensland Rail or Aurizon Network (when their network businesses were both part of QR Network), that was rebated over the life of the asset, through a reduction in access charges to that customer. The asset was included in the RAB, but the payments to the customer matched the cashflows (return on and of capital) that the network provider received for having the asset in its asset base.

Aurizon Network, which has many single-user assets underwritten with AFDs, has an equivalent approach for privately funded assets. In effect, trains running across private infrastructure receive a discount off the reference tariff which is equivalent to the cashflows the network provider would have received if the mine-specific asset was in the network's asset base. In both cases, the cashflows are revenue neutral for Aurizon Network, the mainline infrastructure owner, with the discount or rebate covered by the tariffs paid by all users on the system.

[376] New Hope, sub. 5, pp. 13–14.
[377] Yancoal, sub. 16, p. 6.
[378] Aurizon Network is a subsidiary of Aurizon Holdings. Aurizon Holdings initially traded as QR National Ltd., and Aurizon Network as QR Network, before the group was renamed in the early years after privatisation.

The New Acland balloon loop will be the first private coal infrastructure on Queensland Rail's West Moreton system, so there has not been a need previously to establish how such assets should be treated when assessing the West Moreton tariff.

We consider that an equitable arrangement is appropriate, such that the effect on system reference tariffs is the same regardless of infrastructure ownership. The Aurizon Network approach in central Queensland provides a good model for an equitable approach on the West Moreton system. Therefore, we consider that:

- the New Acland spur and loop should be taken into account when considering the West Moreton tariff
- there should be an equivalent rebate or discount arrangement with New Hope that matches the revenue Queensland Rail would have received if the asset was in its regulated asset base in the tariff calculation
- the 2025 DAU should be amended so that it has provisions for us to assess the prudency of scope, standard and cost of private infrastructure, similar to those in clause 6.3.2 of Aurizon Network's 2017 access undertaking (UT5).

We note that New Hope's balloon loop will allow for more efficient use of above-rail assets, by loading and turning around trains quickly, and in a way that does not negatively affect other users of the main line. This will benefit all West Moreton users and promote efficient investment in, use and operation of the rail assets (s. 138(2)(a)). An equitable funding treatment for private infrastructure will be in the interests of current users, and of future access seekers who may also require private infrastructure (ss. 138(2)(e) and (h)).

Summary 8.5

The West Moreton tariff in the 2025 DAU should be amended so that private infrastructure is included in the tariff calculation, subject to there being a rebate arrangement, and a process for us to assess the prudency of the assets.

8.7 Loss capitalisation and 2020 undertaking

We consider the approach to the losses capitalised during the term of the 2020 undertaking is best agreed between Queensland Rail and its access holders before the new undertaking period begins.

The loss capitalisation mechanism was introduced in the 2020 undertaking amid expectations that West Moreton volumes would fall to 2.1 million tonnes a year – a level that made it unlikely Queensland Rail would be able to charge a price that recovered the full efficient cost of providing access. The capitalised losses reflect the difference between Queensland Rail's total revenue requirement based on efficient costs, and its actual revenue based on the 'affordable' price in the 2020 undertaking, which was set below the ceiling price.

The exact mechanism for recovering the capitalised amounts, should demand rise to a level that makes that feasible, is left to be settled once volume expectations are clearer.[379] The 2020 undertaking also includes a requirement that Queensland Rail submit a revised reference tariff if it

[379] QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, p. 20.

expects annual contracted volumes will exceed 4.1 million tonnes during the term of the undertaking.[380]

Queensland Rail said in its material accompanying the 2025 DAU that it expected West Moreton volumes to exceed 4.1 million tonnes in 2023–24 and therefore intended to lodge a DAAU to reset the reference tariff. This would have included a proposed treatment of the loss capitalisation account.[381]

However, given the Wilkie Creek mine is in receivership and is subject to a sale process, it is no longer clear that the 4.1 million tonne threshold will be reached, or that Queensland Rail will lodge a DAAU.

It is also not clear what the amount of capitalised losses will be by the start of the new undertaking period. Queensland Rail said $22.8 million of losses had accumulated in the three years ended 30 June 2023. That total capitalised amount may still rise or fall during the remainder of the 2020 undertaking period. Experience so far has been that the 'break-even' at the current tariff is about 4 million tonnes a year (above that volume, there is a surplus, rather than a capitalised loss). It is possible, if volumes rise substantially over the next 18 months, that the accumulated capitalised losses will decline substantially or be eliminated by 30 June 2025.

Both New Hope and Yancoal said they would provide substantive submissions on loss capitalisation once Queensland Rail had provided its proposed approach under AU2 (the 2020 undertaking). However, they said that Queensland Rail's proposed partial changes to the loss capitalisation provisions in the 2025 DAU were not appropriate, as the clauses from the 2020 undertaking should either:

- be entirely deleted if the capitalised losses had been repaid by the start of the new undertaking, or
- provide a recovery methodology if there was a remaining balance to be recovered.[382]

As with the building blocks assessment of the tariff, any decision on the appropriate treatment of the capitalised losses will depend on clarity about volumes. At this time, the potential amounts of capitalised losses at the end of the 2020 undertaking period range from nil or immaterial, up to a substantial proportion of a year's allowable revenue.

Our preliminary position is that it may be appropriate to continue escalating the 2020 undertaking tariff at CPI for the remainder of the undertaking period. Any outstanding balance in the loss capitalisation account would then be rolled over into the 2025 undertaking tariff calculation, similar to the treatment of the capital carry-over account.

However, it will be best if Queensland Rail and its customers find an agreed approach that results in the capitalised losses being fully addressed during the term of the 2020 undertaking. We look forward to the outcome of their discussions.

[380] QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, pp. 22–23.
[381] Queensland Rail, sub. 1, p. 55.
[382] Yancoal, sub. 9, pp. 17–18; New Hope, sub. 5, pp. 24–25.

Summary 8.6

The mechanism for addressing the accumulated capitalised losses is best negotiated between Queensland Rail and its customers.

8.8 Appropriate reference tariff

We are required to determine whether it is appropriate to approve the reference tariff and associated provisions proposed by Queensland Rail in Schedules D and E of the 2025 DAU, having regard to the criteria in section 138(2) of the QCA Act (s. 136(4)). We also have regard to comments from stakeholders. If we find it is not appropriate to approve the proposal, we must explain why and suggest changing it in a way that would be appropriate (s. 136(5)).

Queensland Rail has proposed a reference tariff based on forecast volumes, and an assumption that it will be able to deliver those volumes. Having regard to the approval criteria in section 138(2) of the QCA Act, including the interests of Queensland Rail and its customers, we are not currently satisfied, based on the information provided to date, that the tariff proposal satisfies the approval criteria. This is because of:

- a lack of an agreed reasoned and prudent strategy for the West Moreton route service, which means investment in and use and operation of the infrastructure is likely not to be efficient because it is not clear the investment is required to meet customer demand, and it is thus not aligned with the object of Part 5 of the QCA Act (s. 138(2)(a))
- the uncertainty about volumes, given the status of customers' plans and contract renewals, which means an assessment cannot be made of whether the proposed investment in and operation of the infrastructure is efficient and thus aligned with the object of Part 5 (s. 138(2)(a))
- the uncertainty about whether the proposed volumes can actually be delivered, even with the proposed spending, which casts further doubt on the efficiency of the investment and indicates the spending is not in the interests of access seekers and access holders (ss. 138(2)(e) and (h))
- the associated uncertainty about the efficient level of costs and, consequently, whether the proposal provides Queensland Rail with expected revenue that is at least enough to recover those costs and provide a return on investment commensurate with the regulatory and commercial risks involved (ss. 138(2)(b) and (g) and s. 168A(a)).

All of these missing elements create significant obstacles for us in seeking to use a building blocks approach to estimate an efficient price. For example, we can secure expert technical advice on whether a proposed strategy and program of works are likely to support a particular volume and standard of service. But this technical analysis becomes difficult (if not impossible) to provide in a manner that will lead to decisions consistent with the QCA Act without having confidence in the forecast volume or knowing the standard against which to assess the proposal.

It is therefore our draft decision not to approve Queensland Rail's proposed reference tariff because Queensland Rail has not demonstrated it is appropriate to do so having regard to the criteria in section 138(2) of the Act. Amongst other things, insufficient information has been provided to us to enable us to form a view the reference tariff meets the criteria in the pricing principles in section 168A of the Act or to enable us to assess the remaining section 138(2) criteria.

In the absence of any firm foundation on which to calculate a building-blocks-based reference tariff, we have sought an alternative approach that has regard to the approval criteria in section 138(2) of the QCA Act, including the interests of Queensland Rail and its customers.

Our preliminary position is that one appropriate approach may be for Queensland Rail to amend the 2025 DAU to provide for CPI escalation of the current (AU2) West Moreton reference tariff. Our understanding is that the 'break-even' volume for coal services at the 2020 undertaking tariff is about 4 mtpa, with Queensland Rail able to generate a surplus to recoup capitalised losses above that volume (see section 8.7). We also note that the West Moreton system has previously been able to support annual volumes of 7.8 million tonnes, with infrastructure at or below the current standard (see section 9.2).

This indicates that CPI escalation may be appropriate to approve with regard to the criteria in section 138(2) of the QCA Act, assuming annual volumes are sufficient that Queensland Rail recovers its efficient costs based on the current standard of the network, and below a level at which a step change in spending is likely to be required.

While the outlook remains uncertain, and we will review all our assumptions before making a final decision, there are a number of plausible scenarios that would give annual coal volumes in a range of 4 to 8 million tonnes. Given this, a price escalated by CPI may be in the interests of all parties, pending effective negotiations on an agreed reference tariff based on a reasoned and prudent strategy for capital expansion and maintenance, that reflects customer requirements. A price escalated by CPI may:

- be in the interests of customers and Queensland Rail, as it is a price that access seekers and access holders have been willing to pay, and at which Queensland Rail has been prepared to provide access during the current regulatory period (ss. 138(2)(b), (e) and (h))
- be likely to provide Queensland Rail with sufficient revenue to at least cover its incremental costs, based on expected volumes in the short term (ss. 138(2)(b) and (g) and s. 168A(a) – see sections 8.7 and 9.2.1)
- be in the interests of Queensland Rail, as it is likely to recover its efficient costs at reasonably expected volumes, and there are mechanisms, including draft amending access undertakings (DAAUs), for it to seek to amend Schedule D to recover additional efficient costs if volumes rise significantly (ss. 138(2)(b) and s. 168A(a))
- provide time to gain greater certainty about volumes (and costs), which will enable more effective assessment of efficient investment in and use of the rail infrastructure (s. 138(2)(a))
- provide time for a negotiated outcome, including a reasoned and prudent strategy, which would promote efficient investment in, use of and operation of the West Moreton system for coal services (s. 138(2)(a)).

Barring a change in circumstances, and subject to consideration of further submissions and other evidence, it may be appropriate to include a CPI-escalated tariff or some alternative proposed by Queensland Rail or stakeholders in the final decision. In considering this, we will have regard to whether the price provides sufficient revenue to support continued safe and effective operation of the rail infrastructure, which is in the interests of Queensland Rail, its customers and the public (ss. 138(2)(b), (e), (d), (g) and (h)). A negotiated building blocks-based reference tariff and related measures could then be submitted for approval later in a DAAU under section 142 of the QCA Act.

However, we encourage negotiations between Queensland Rail and its customers on a new building-blocks-based reference tariff that is appropriate to approve from the start of the new undertaking. To assist with those negotiations, we provide information in chapter 9. We observe that both sides have an incentive to negotiate and are better informed as to their respective interests, needs, constraints, risk profiles and willingness to pay.

Queensland Rail may want to consider the customers' interest in, among other things:

- infrastructure investment required to enable a reliable service that will deliver their coal to the port
- more information and greater participation in decision-making about investment and other supply chain issues
- a price that enables them to compete with miners on other rail systems.

The customers may want to consider Queensland Rail's interest in, among other things:

- comfort it will recover the cost of its investments, even where their economic life is shorter than their technical life
- a return on investment commensurate with the regulatory and commercial risks
- rail operations that comply with its safety obligations.

Both sides may wish to consider whole-of-system approaches to achieving service goals, including alternatives such as above-rail investment, and operational changes.

In considering the DAU under section 138(2), we will have regard to the extent to which Queensland Rail and its customers have provided information to us and to each other in a timely manner and the extent to which all parties have engaged in consultation and negotiation in good faith. We consider this a relevant factor for the purposes of section 138(2)(h) in a circumstance where a major capital expansion is planned. We will therefore welcome detailed information on the progress and process of negotiations, as part of submissions after this draft decision, and in response to any subsequent discussion papers we may publish.

We look forward to seeing the outcome of discussions between the parties.

Summary 8.7

Queensland Rail's proposed West Moreton reference tariff is not appropriate to approve.

An appropriate way for Queensland Rail to amend the 2025 DAU may be to escalate the 2020 undertaking reference tariff by CPI, if Queensland Rail and its customers are unable to agree on key aspects of a building blocks approach, including volumes, service standards and a reasoned and prudent strategy for capital spending and maintenance.

9 Tariff building blocks

As discussed in chapter 8, given the present lack of a reasoned and prudent strategy for investment in and maintenance of the network, and the uncertainty about both contracted volumes and available capacity, we do not consider it appropriate to approve the reference tariff proposed by Queensland Rail for access to the West Moreton system by coal services.

Therefore, we do not seek in this chapter to provide an assessment of the efficiency of each of the building blocks to form a view on the reference tariff, as has been customary in draft decisions on previous DAUs.

We instead provide contextual and technical information, where possible, that may assist Queensland Rail and its customers in working towards agreed positions for West Moreton, including a capital and maintenance strategy. This information includes engineering advice from our consultant, Arcadis, on which we have not yet formed a view.

For clarity, the information in this chapter does not represent our considered views. Rather, it should be viewed as information that we consider may be relevant for stakeholders to reach a consensus position on the building blocks, tariffs and related matters in schedules D and E of the 2025 DAU.

We will have regard to submissions, the advice from Arcadis and our own analysis, in assessing the efficient levels of each of the building blocks, should it be necessary for us to do so.

Overview

Building blocks and tariff (Schedule D and E) – summary

Queensland Rail proposal	Clause	QCA comment
Coal volumes		
Forecast volumes of 9.6 mtpa, based on expected contracted tonnages.[383]	Schedule D	Queensland Rail should agree with users appropriate volume forecasts. See section 9.2.
Opening regulatory asset base		
Opening West Moreton RAB[384] of $535.2m,[385] of which $446.2m should be allocated to coal services.[386]	Schedule D	It may be appropriate to approve the opening RAB, once it is adjusted to reflect updated AU2 capital expenditure, and changes in system capacity. See section 9.3.
WACC		
An indicative WACC of 7.39%.[387]	Schedule D	We are minded to approve a rate of return based on Queensland Rail's proposal with an updated risk-free rate and cost of debt. See section 9.4.

[383] Queensland Rail, sub. 1, p. 9.
[384] As at 1 July 2025.
[385] Unless stated otherwise, all figures in this chapter are expressed in $2025–26 and exclude interest during construction where applicable.
[386] Queensland Rail, sub. 1. p. 12.
[387] Queensland Rail, sub. 1, p. 10.

Capital expenditure		
Capital expenditure of $346.9m meets the four-fold increase in demand.[388]	Schedule D	We would be minded to approve a capital indicator that is agreed between Queensland Rail and its users. See section 9.5.
Asset lives		
New assets to be depreciated over 14 years, and existing assets over 19 years.[389]	Schedule D	Queensland Rail's proposed asset lives may be appropriate to approve. See section 9.6.
Appreciation		
The RAB should be escalated by inflation, forecast to be 3%, reducing to 2.5% for the final 2 years of the AU3 period.[390]	Schedule D	It may be appropriate to approve the proposed escalation of the RAB. See section 9.7.
Maintenance expenditure		
Maintenance expenditure of $172.5m over the AU3 period.[391]	Schedule D	It may be appropriate to approve maintenance expenditure that is agreed between Queensland Rail and its users. See section 9.8.
Operating expenditure		
Operating expenditure of $85.3m over the AU3 period.[392]	Schedule D	It may be appropriate to approve operating expenditure that is agreed between Queensland Rail and its users. See section 9.9.
West Moreton system reference tariff		
Queensland Rail proposed a headline reference tariff of $32.63/'000 gtk.[393]	Schedule D	Queensland Rail and its customers should agree on key aspects of a building blocks approach, including volumes, service standards and a reasoned and prudent strategy for capital spending and maintenance. See section 9.10.
Metropolitan system reference tariff		
Escalate the existing Metropolitan system reference tariff by CPI.[394]	Schedule D	It may be appropriate to approve the proposed metropolitan system tariff. See section 9.11.

9.1 Building blocks approach to regulatory pricing

While the analysis in this chapter is provided for information, our general approach to regulatory pricing for the West Moreton coal reference tariff has been to use a building blocks approach, which was used by Queensland Rail to develop its proposed total revenue requirement. The total revenue requirement is usually calculated to recover building blocks including:

- a return on assets (WACC) from a regulatory asset base (RAB)

[388] Queensland Rail, sub. 1, p. 10.
[389] Queensland Rail, sub. 1, pp. 10–11.
[390] Queensland Rail, sub. 1, p. 11.
[391] Queensland Rail, sub. 1, p. 11.
[392] Queensland Rail, sub. 1, p. 11.
[393] Queensland Rail, sub. 1, p. 11.
[394] Queensland Rail, sub. 1, p. 59.

- a return of assets from the RAB (depreciation)
- allowances for:
  - maintenance
  - operating expenses
  - taxation.

The reference tariff is then assessed as recovering Queensland Rail's costs of providing access for West Moreton coal services, and is split into two parts:

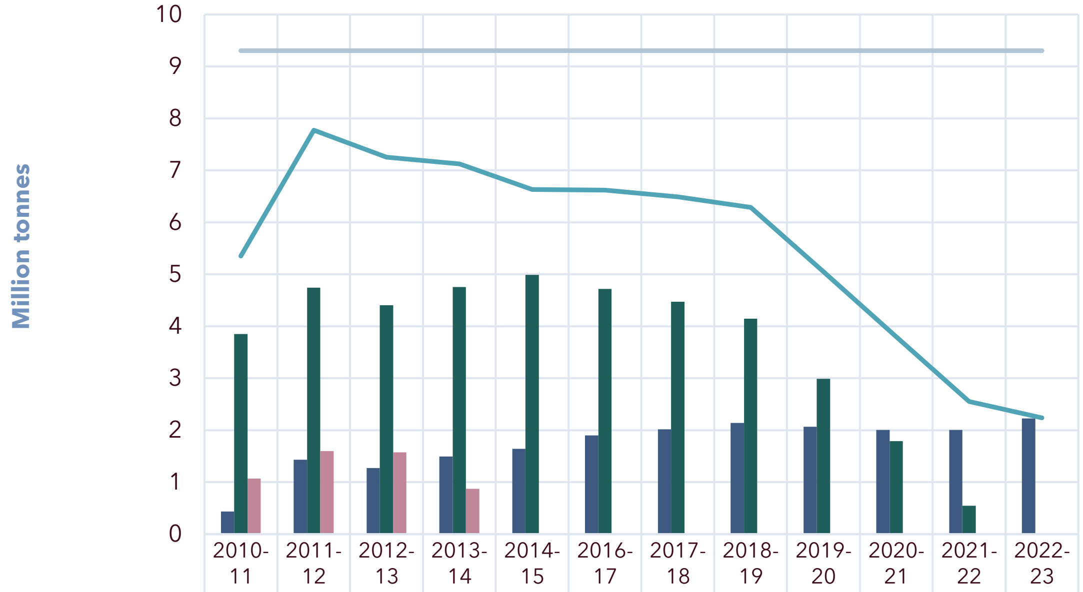
- a weight and distance-based component (AT1), charged per gtk
- a fixed component (AT2), charged per train path.

The Metropolitan tariff was assessed previously using a 'proxy approach' that relies on prices derived for the coal services that use the West Moreton system (see section 9.10). It is also a two-part tariff.

9.2 Coal volumes

West Moreton is a mixed system serving a variety of freight, passenger and coal traffics. The bulk of services and tonnage using the West Moreton system route service are coal. Despite significant engineering challenges, the West Moreton system has been able to support volumes from three coal mines operating on the line, transporting a peak of 7.8 mtpa in 2011–12 (see Figure 8).

Figure 8: Historical volumes on the West Moreton system



	2010-11	2011-12	2012-13	2013-14	2014-15	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
Cameby Downs	0.43	1.43	1.27	1.49	1.64	1.90	2.02	2.14	2.06	2.00	2.01	2.23
New Acland	3.85	4.74	4.40	4.76	4.99	4.72	4.47	4.14	2.99	1.79	0.55	0.00
Wilkie Creek Mine	1.07	1.60	1.57	0.88	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01
Total volumes	5.36	7.77	7.25	7.13	6.63	6.62	6.49	6.29	5.05	3.79	2.56	2.24
Total average DAU3	9.30	9.30	9.30	9.30	9.30	9.30	9.30	9.30	9.30	9.30	9.30	9.30

Source: Queensland Government, Coal industry review statistical tables, Coal production data by mine, coal type and financial year, Open Data Portal, accessed 2 April 2024. Figures from financial year end 2011–2015 were accessed as part of the DAU2 decision and archived.

Queensland Rail projected that coal volumes will ramp up to 9.6 mtpa during the DAU3 period.[395] This is much higher than the volume the West Moreton system currently carries, and more than the peak volume the system has carried historically. We have considered Queensland Rail's volume forecasts for AU3 from the perspective of:

- forecast demand during AU3 (section 9.2.1)
- the capacity of the West Moreton system (section 9.2.2).

9.2.1 Forecast demand

Queensland Rail has proposed a four-fold increase in coal volumes in the AU3 period, compared with the volumes used to assess the 2020 undertaking tariffs. It forecasts demand will ramp up to 9.6 mtpa in 2027–28 and continue at this level for the remainder of the 2025 undertaking period (Table 3).[396] Current demand on the West Moreton system is significantly below Queensland Rail's forecast of 8.2 mtpa in the first year of AU3 (2025–26). While Queensland Rail indicated in its explanatory document that it expected contracted tonnages to exceed 4.1 mtpa in the later years of the AU2 period, at the time of writing it is not clear that this has happened.[397]

Table 3: Queensland Rail's forecast annual volumes (mtpa)

2025-26	2026-27	2027-28	2028-29	2029-30
8.2	9.5	9.6	9.6	9.6

Source: Queensland Rail, sub. 1, p. 12.

While we understand these demand forecasts reflect information provided by users, the volume forecast must be considered in light of the potential uncertainties that could affect the operations of users and their level of demand during this period. We address these demand-side uncertainties in three categories:

- mine-specific factors
- coal industry uncertainty
- the potential impact of the reference tariff.

Mine-specific factors

Queensland Rail has forecast tonnages based on expected volumes from the three mines operating on the West Moreton system, namely:

- Cameby Downs
- New Acland Stage 3
- Wilkie Creek.

The mine operators have contracts to transport varying volumes of product to port using Queensland Rail's West Moreton route service (including traversing the Metropolitan system). These contracted volumes, along with advice from miners as to their future operations, are the basis of the expected demand underpinning Queensland Rail's coal volume forecasts. However, none of the contracts currently in place covers the entire five-year 2025 undertaking period, as evidenced by

[395] Queensland Rail, sub. 1, p. 12.
[396] Queensland Rail, sub. 1, p. 12.
[397] AU2 includes a recovery mechanism (tariff reset) requiring Queensland Rail to submit a draft amending access undertaking if contracted volumes and corresponding railings exceed 4.1 mtpa. As of the time of writing, no DAAU has been submitted. Queensland Rail, sub. 1, p. 55.

Queensland Rail's proposal to have triggers to revise work programs and tariffs should contracts not be renewed.[398]

Another complication is that the Wilkie Creek mine was in receivership as we prepared this draft decision, although we understand it had resumed railing, albeit at reduced volumes.[399] Yancoal stated that due to this development since the 2025 DAU was lodged we should:

> keep a watching brief on the prospects of New Wilkie continuing as the DAU3 process progresses before making a decision on the appropriate volume forecast.[400]

In addition, the New Acland mine is still in the development phase and is subject to a legal challenge over its water licence.[401] Aurizon Coal and Bulk, which operates the coal trains on the West Moreton system, said that given the uncertainty surrounding the Wilkie Creek and New Acland mines, 'forecast coal volumes will remain unreliable until these two matters are settled.'[402]

For Queensland Rail's demand forecasts to be achieved, the New Acland and Wilkie Creek mines will have to resolve their respective legal and financial situations and significantly ramp up production. Until this happens, it is not certain what West Moreton demand will be during the AU3 period, or how quickly demand will ramp up.

Coal industry uncertainty

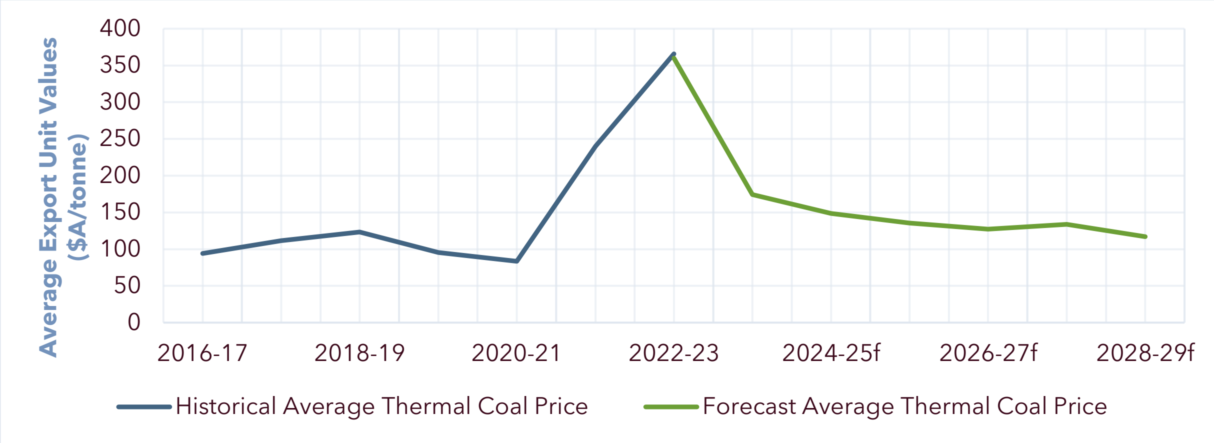
Beyond mine-specific factors, changes in the overall thermal coal market have the potential to affect all the mines using the West Moreton system. We have previously observed that Queensland Rail is exposed to significant volume risk due to its dependence on thermal coal miners.[403] In our recent guideline on climate change-related spending we said:

> The long-term outlook for Queensland thermal coal may be … problematic. In our final decision on Queensland Rail's 2020 draft access undertaking we specifically noted that Queensland Rail's West Moreton line coal customers (who produce thermal coal) are likely to be vulnerable to sustained economic shocks. But in 2022, prices for Queensland thermal coal achieved all-time record levels in real terms.[404]

Figure 9 charts the volatility of historical and forecast thermal coal prices.

[398] See sections 8.5.2 and 8.5.5.
[399] S Thompson, K Sood and E Rapaport, 'Houlihan Lokey starts New Wilkie clean-up job; flyers out', *Australian Financial Review*, 28 February 2024.
[400] Yancoal, sub. 9, p. 12.
[401] Queensland Rail, sub. 1, pp. 12–13.
[402] Aurizon Coal and Bulk, sub. 2, p. 70.
[403] The AU2 decision was made in the context of only one coal miner having certainty of operating.
[404] QCA, *Approach to climate change related expenditure*, final position paper, September 2023.

Figure 9: Average Australian thermal coal price forecast



Note: Figures for FY 2017–FY 2023 are actuals and for FY 2024–FY 2029 are forecast.
Source: Department of Industry, Science and Resources, *Resources and Energy Quarterly*, Australian Government, March 2024.

Coal prices have declined significantly from their 2022 peak, and forecasters have diverging views on where they are headed. HoustonKemp, on behalf of Queensland Rail, considered that coal prices might rise during the energy transition,[405] while Aurizon Coal and Bulk[406] and Yancoal[407] considered prices were drifting lower to a long-term pricing level. Yancoal highlighted that its operations had recently been dependent on unanticipated high coal prices and that a return to long-term levels could impact affordability.[408]

While it is unclear what coal price assumptions underpinned the volumes nominated by miners for the AU3 period, there is evidence that the coal industry is less profitable now than in the last couple of years.[409]

Stakeholders' submissions present contrasting views on whether Queensland Rail's volume assumptions are soundly based, in light of the proposed West Moreton reference tariff. Yancoal said:

> thermal coal volumes are forecast to remain stable over the medium term (which Yancoal submits suggests a lower assessment of volume risk than QR has sought to assert).[410]

Potential impact of the reference tariff

An additional factor that may impact the viability of customers' mines and, by extension, the level of user demand, is the level of the West Moreton reference tariff itself. Yancoal said that during the AU2 period:

> Cameby Downs … was effectively saved by unanticipated high thermal coal prices as a result of unforeseen trade issues and geopolitical events.[411]

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405 Queensland Rail, sub. 1, attachment 4, p. 2.
406 Aurizon Coal and Bulk, sub. 2, p. 60.
407 Yancoal, sub. 9, p. 5.
408 Yancoal, sub. 16, p. 4.
409 In addition to pricing factors, national and international carbon dioxide reduction and net zero carbon emission policies will likely have an impact on the length of time coal mining operations remain viable in the longer term. We note that HoustonKemp considers that all mines on the West Moreton system will cease operation by 2050, with the first mine's reserves depleted by 2034. These issues are discussed further in section 8.5, which addresses asset stranding risk.
410 Yancoal, sub. 16, p. 3.
411 Yancoal, sub. 16, pp. 4–5.

Yancoal noted that production costs had remained consistent across AU2 and leading into AU3,[412]and that:

> at the pricing levels QR is now proposing, there are material risks of mines ceasing production at the next expiry of their access agreement (when they can exit without triggering a material take or pay liability), compounding the affordability issues for any producers that remain …[413]

9.2.2 System capacity

It is in every stakeholder's interest, including Queensland Rail's, to make sure users have an accurate picture of the capacity that will be available to them during the AU3 period, as discussed in section 8.4. In this section, we provide information on what the actual capacity of West Moreton might be, both now and in the future.

Analysis from Arcadis indicates carrying Queensland Rail's forecast of 9.6 mtpa of coal on the West Moreton system would require approximately 93 loaded train paths per week.[414] While this is less than the maximum 97 train paths Queensland Rail states can be provided for in the MTP for coal traffic, this volume represents a significant increase compared to current operations. For example, the current MTP only provides for 43 train paths per week for coal traffic, giving volumes of approximately 4.4 mtpa.[415] Queensland Rail's current Western system information pack suggests the allowable gross tonnes for the West Moreton system are between 4.5 and 7 mtpa.[416,417] Achieving the forecast tonnages for the 2025 undertaking period would require significant increases in these figures. This may prove challenging from an engineering perspective and represent a significant increase in noise impact for the community compared to current operations.

Stakeholders were concerned the forecast system capacity might not be achieved and asked for greater transparency around Queensland Rail's proposal.[418] Aurizon Coal and Bulk said its own analysis showed it was possible to schedule sufficient trains for 9.6 mtpa. However, it noted that this analysis did not include any allowance for system losses such as availability of rolling stock, and mine and port scheduling. It applied a system loss rate of 15% and suggested the capacity of the network might be 8 mtpa.[419] As noted in section 9.2, this figure is in line with the maximum annual volumes achieved on the West Moreton system in recent history.

Analysis by Arcadis shows that Queensland Rail faces a number of challenges to deliver the real-world availability of 97 return paths on an ongoing basis.[420] Key drivers of the potential capacity include:

- engineering factors
- environmental factors
- scheduling factors
- ad hoc capacity.

[412] Yancoal, sub. 9, p. 4.
[413] Yancoal, sub. 16, pp. 4–5.
[414] Assuming 2,000 tonnes of product per train.
[415] This excludes ad hoc capacity, which is discussed below.
[416] The Rosewood to Toowoomba section is currently rated at 7 mtpa, and the section from Toowoomba to Dalby is currently rated at 4.5 mtpa.
[417] Queensland Rail, *Western System Information Pack*, August 2016.
[418] Aurizon Coal and Bulk, sub. 2, pp. 6–7; New Hope, sub. 5, p. 8; Yancoal, sub. 9, p. 19 and sub. 16, p. 7.
[419] Aurizon Coal and Bulk, sub. 2, pp. 61–63.
[420] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 17–22.

Engineering factors

Sections of the West Moreton system, particularly those using 41kg/m rail, and the Toowoomba Range, require significant maintenance. With the relatively low utilisation of the system at present, this maintenance requirement can be fulfilled using spare train paths with minimal impact on overall rail traffic from these possessions, as half or fewer of the 97 weekly train paths assigned to coal are being used.

However, the existing strategy cannot be followed where the number of paths used increases to meet the forecast throughput of 9.6 mtpa, as that amount of traffic places far tighter limits on the number of paths available for maintenance. It appears that Queensland Rail's record proposed capital program is, in some respects, aimed at increasing system resilience to reduce the impact on the system of train traffic, thereby reducing the number of train paths required for maintenance.

While this strategy may be successful in delivering a system that can provide the required number of paths to transport 9.6 mtpa, analysis by Arcadis raises some doubts over whether this level is sustainable.[421] Even with the capital works proposed (see section 9.5) the increased coal traffic will require higher levels of maintenance. Given the system has not operated at this capacity previously, there is also the possibility that unanticipated new maintenance needs will emerge.[422] Completing the required level of maintenance in an environment where the number of available maintenance possessions is effectively halved without affecting the number of paths available to be used by access holders will be challenging for Queensland Rail.[423]

Environmental factors

The two principal environmental factors that affect the reliability of the network and the number of paths available to coal traffic are heat restrictions and rainfall events.

Some sections of the West Moreton system are subject to speed restrictions where the ambient temperature exceeds 32 degrees Celsius, and closure where temperatures exceed 35 degrees Celsius. These restrictions are necessary due to the increased risk to the network and traffic related to both weakening, and expansion-related movement, of rail at high temperatures. These sections are generally where 41 kg/m rail is used in the network. Queensland Rail proposes to replace the rail in many of these sections to reduce the need for restrictions on operation. However, it is not possible for a railway to eliminate all heat-related restrictions. General engineering standards provide for system shutdown at 40 degrees ambient temperature. It follows that while rail replacement may enable Queensland Rail to reduce heat-related speed restrictions by imposing them only at higher temperatures, it is not possible to eliminate them.

In addition to heat-related environmental factors, high rainfall events are cause for shutdown on the Toowoomba Range. Due to the topography of the range, high rainfall events can lead to rock or tree falls that could cause derailments. Where cumulative rainfall exceeds 30 mm in a 24-hour period, the range crossing must be closed for an inspection to check the range crossing is safe for rail traffic. Even where no issues are identified that need rectification works, these inspections take a minimum of between 3 and 8 hours, during which trains cannot operate.

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[421] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 21–22.

[422] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 21–22.

[423] While it is a factor beyond the scope of the DAU3 decision, we also note that Arcadis predicts greater difficulties beyond 2030 in maintaining this capacity when the five-year 'honeymoon period' of lower maintenance from the capital expenditure ends.

Proactive maintenance and expenditure on improving drainage and slope stabilisation, as well as removing potential hazards such as trees and unstable rock formations can reduce the likelihood of remediation works after rainfall events, but the need for inspections will remain.

Scheduling factors

Coal traffic on the West Moreton system must be scheduled with traffic carrying other types of freight, including that from the south-west system and from Toowoomba. The trains must also pass through the Metropolitan system, which has scheduling windows at peak times dedicated to passenger transport.

Stakeholders said they were concerned about capacity issues in the Metropolitan system arising from closures related to Cross River Rail,[424] as well as the potential for increased passenger rail traffic from Cross River Rail to reduce paths available for coal traffic.[425]

The scheduling issues affecting operational capacity are further complicated by the environmental factors outlined above. For example, applying heat-related speed restrictions not only increases transit times – it also affects the subsequent scheduling of the train through the Toowoomba Range crossing and the Metropolitan system. Given the range crossing is a bottleneck for traffic across multiple cargo types and multiple systems, closing the range for necessary safety inspections after high rainfall events affects all traffic using the range and how trains are scheduled through the Metropolitan system.

Further complicating scheduling is an above-rail factor – that is, the limited number of locomotives available for running with a 15.75 tonne axle load on the narrow gauge Queensland Rail network, which restricts scheduling flexibility. Arcadis advised that due to the limited market for narrow gauge locomotives it can take years to procure them and would potentially require construction of additional maintenance and storage facilities, meaning that high tonnages would be required over the long term to provide a return on investment.[426]

Ad hoc capacity

The volume forecast by Queensland Rail relates to contracted capacity in the MTP, which it says is a theoretical maximum of 97 train paths per week. In addition to the contracted capacity for coal in the MTP, there are 14 return paths which are reserved for non-coal traffic, such as grain, livestock and passenger trains.

Where these preserved paths are not used,[427] they are available to coal traffic in the DTP on an ad hoc basis, or to provide more scope for maintenance activities. As such, ad hoc capacity may act as a buffer in certain periods of the year to conduct greater maintenance or allow for catch-up of any paths lost in the MTP. However, given it can only be provided on an ad hoc basis, this potential capacity provides less certainty to coal customers, which may affect their willingness to underwrite the cost of providing it.

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[424] Aurizon Coal and Bulk, sub. 2, pp. 67–70.
[425] Yancoal, sub. 16, p. 5.
[426] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, p. 19.
[427] Agricultural traffic, such as grain, is highly seasonal.

9.2.3 Forecast coal volumes

As we have outlined, there are multiple factors that present significant challenges for Queensland Rail in consistently delivering the tonnages it has forecast in DAU3. We note the concerns from stakeholders around the forecast volumes, particularly regarding their real-world achievability.[428] We also note the advice from Arcadis in relation to Queensland Rail's forecast coal volumes:

> While our engineers believe that the scenario is theoretically achievable, the demanding nature of this rail network, with high tonnage and operational utilisation, will present significant challenges despite the proposed expenditure.[429]

If the forecast coal volumes are contracted but cannot be achieved, it will be a problem for both Queensland Rail and its customers. The volume forecasts drive both Queensland Rail's work programs and its users' capital investments in their mines.

West Moreton system capacity is a potential limiting factor in miners' ability to deliver to their customers and achieve forecast cashflows for their projects. Investments that are made by miners to support production that exceeds the total system capacity actually available may impact the viability of their operations, which in turn may increase the risk of asset stranding for Queensland Rail. System capacity shortfalls may also slow the rate at which the resource is depleted, potentially affecting the mine life predictions that underpin Queensland Rail's depreciation proposal.[430]

And, given wear and tear on the rail infrastructure is closely correlated with tonnage carried, it is likely not to be efficient to invest to serve a volume that cannot be achieved, or is not needed, when a more realistic volume forecast would require lower investment.

The most efficient outcome is likely to be found where both Queensland Rail and users, who are best placed to understand all the uncertainties and their own risk and service preferences, work toward agreed volume and capacity estimates that can be presented to us to be used in preparing our final decision.

Summary 9.1

It may not be appropriate to approve Queensland Rail's proposed coal volumes unless it is clear they will be contracted and there is capacity to deliver them. This is a matter best resolved by negotiation between Queensland Rail and its customers.

9.3 Asset base

Queensland Rail's asset base reflects historical regulatory treatment of long-lived capital investments, and the asset base methodology has remained little changed since the AU1 decision. Queensland Rail's DAU proposed an opening unallocated system regulatory asset base (RAB) of $535.2 million, further capital spending of $346.9 million during the five-year regulatory period (see

[428] Aurizon Coal and Bulk, sub. 2, p. 61.
[429] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, p. 5.
[430] Queensland Rail, sub. 1, attachment 4, p. 3.

section 9.5), and maintenance spending of $182.6 million (see section 9.8). This section considers the treatment of the RAB, including:

- the opening regulatory asset value (section 9.3.1)
- RAB optimisation (section 9.3.2)
- asset allocation (section 9.3.3).

9.3.1 Opening regulatory asset base

Queensland Rail has proposed an opening coal allocated RAB of $446.2 million for the 2025–26 financial year. This is derived from a common network RAB of $535.2 million, with the assumed 97 path coal allocation from a total of 113 weekly coal paths available for the West Moreton system (85.8%).[431]

Queensland Rail has derived the 2025–26 RAB from the current AU2 RAB. Its estimate includes the capital expenditure for 2020-21 and 2021-22 period that we approved as well as capital indictor amounts for the remaining AU2 period.[432] Queensland Rail has applied historical CPI figures from the Australian Bureau of Statistics alongside our inflation forecasting approach (section 9.7).

Table 4: West Moreton common network asset base roll-forward proposed by Queensland Rail ($000's)

	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Opening asset value	388,912[a]	419,083	469,185	506,476	521,000	535,230
Capital expenditure	23,582	33,348	23,595	16,937	17,242	
Inflationary gain	19,746	31,783	30,450	15,446	15,887	
Less depreciation	13,157	15,029	16,754	17,860	18,899	
Closing asset value	419,083	469,185	506,476	521,000	535,230	

a The opening asset value includes coal-only infrastructure valued at $14.5 million.
Source: Queensland Rail, sub. 1, p. 17.

Since it lodged the 2025 DAU, Queensland Rail has submitted its capital expenditure claim for 2022-23, to the amount of $44.9 million,[433] which significantly exceeds the $23.6 million used to calculate the opening 2025–26 RAB. As such, the opening RAB will need to be re-estimated, taking into account our final decision on the latest capital claim, as well as any further changes during the AU2 period. Queensland Rail also said it would propose additional capital spending in the final years of the 2020 undertaking period, above amounts projected in the AU2 capital indicator. This can be expected to increase the capital carry-over account, which will carry forward any differences between actual capital expenditure and the spending included in the AU2 capital indicator into the opening RAB for AU3.

More broadly, the capital works programs proposed in the 2025 DAU (discussed in section 9.5) will build on the foundation of works completed during the AU2 period. As such, these works will have

[431] Allocation method for pre-1995 assets is 97 paths out of 137 (84%) and for coal only assets is 1 path out of 1 (100%). The overall effective allocation to coal for 2025-26 is 83.37%. For more on how the allocations are derived, see QCA, *Queensland Rail's Draft Access Undertaking,* decision, June 2016, pp. 119–146.
[432] Queensland Rail has confirmed that this opening regulatory asset base amount does not include the proposed additional capital expenditure planned for the AU2 period over and above that included in the AU2 capital indicator.
[433] Including interest during construction.

flow-on effects on the capital, maintenance and operational programs required during the AU3 period.

9.3.2 RAB optimisation

Queensland Rail has proposed a significant increase in capital expenditure during the AU3 period, compared with AU2 (see section 9.5). Queensland Rail said this was needed to meet the significant increase in forecast coal volumes (see section 9.2). Queensland Rail states that:

> For the DAU3 period, Queensland Rail has proposed efficient capital costs for the West Moreton System having regard to the age and condition of the network, and the volumes proposed to be hauled over a network that was not originally designed for this purpose.[434]

Aurizon Coal and Bulk[435] and Yancoal[436] (with support from New Hope[437]) said the historical claimed capacity of the West Moreton system might have been overstated, and asset values might reflect past capacity estimates that were no longer justified. Yancoal said:

> [Queensland Rail's] very significant capital expenditure spend, justified largely based on the inadequate state of the current rail infrastructure, should give rise to serious questions about whether the existing regulatory asset base should be materially optimised downwards ...[438]

HoustonKemp, in a report for Queensland Rail, said optimising assets would create an undesirable regulatory precedent. In its opinion:

> the write down of assets on the West Moreton system is inappropriate, inconsistent with objectives of the QCA Act, and could have material and significant consequences for investment in sectors subject to economic regulation throughout Queensland and Australia.[439]

We think this is unlikely but would be interested in stakeholder views on which regimes would most likely be affected and why.

West Moreton users raised asset optimisation in the context of achieving a reference tariff that they considered affordable. While asset optimisation could act to lower reference tariff levels, as New Hope said,[440] there are multiple factors that affect the level of the reference tariff that Queensland Rail and users are able to negotiate on to enable the efficient use of the network. For example, in AU2, Queensland Rail charged an affordable tariff, along with a loss capitalisation mechanism to support the continued use of the network.[441]

Some agreed adjustment to the RAB would be an approach that, if it chose to, Queensland Rail could propose with regard to the interests of users.

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[434] Queensland Rail, sub. 1, p. 26.
[435] Aurizon Coal and Bulk, sub. 2, p. 71.
[436] Yancoal, sub. 9, pp. 14–15.
[437] New Hope, sub. 2, p. 1.
[438] Yancoal, sub. 9, p. 14.
[439] Queensland Rail, sub. 14, attachment 1, p. ii.
[440] New Hope, sub. 12, p. 1.
[441] We note that in the context of accelerated depreciation HoustonKemp said that '[the] existing RAB represents sunk costs. As such, promoting efficient investment in the West Moreton system is not a relevant consideration' (Queensland Rail, sub. 1, attachment 5, p.17). It could equally be argued that accelerating the return of assets on effective life-expired assets is economically inefficient because users are paying for assets that have no practical economic utility, especially where this leads to an unaffordable reference tariff.

9.3.3 Asset allocation

We are minded to approve an opening RAB that has been updated to reflect differences in capital expenditure during the AU2 period. While we are also minded to approve maintaining the AU2 allocation of coal assets based on the availability of 97 train paths, we invite stakeholder views on whether allocating of 97 out of 113 train paths remains appropriate, given the information emerging about what the actual capacity of the system may be.

Summary 9.2

It may be appropriate to approve an opening RAB that has been updated to reflect differences in capital expenditure during the AU2 period and uses a methodology of allocation between coal and non-coal users that reflects any changes in system capacity.

9.4 Rate of return

We consider that Queensland Rail's proposed indicative rate of return[442] of 7.39% is reasonable for determining the reference tariffs to apply to the coal handling services operating on the West Moreton and Metropolitan systems. We would be minded to approve a rate of return based on Queensland Rail's proposal, with updates to reflect:

- an updated risk-free rate, calculated using an averaging period nominated in advance by Queensland Rail
- an updated cost of debt, using the average of 12-monthly observations from April to March in advance of the upcoming regulatory period.

The methodologies that we consider appropriate for updating these two time-variant parameters are specified below.

We consider that this will provide for a rate of return that is commensurate with the regulatory and commercial risks faced by Queensland Rail in providing access to coal handling services on the West Moreton and Metropolitan systems.

In assessing the reasonableness of Queensland Rail's proposed rate of return for the AU3 regulatory period, we have:

- undertaken a bottom-up WACC estimate, based on our preferred methodology for calculating the WACC and each of the relevant individual parameters.
- considered the overall reasonableness of Queensland Rail's proposed rate of return.

Our approach to assessing Queensland Rail's proposed rate of return, including the methodology applied to calculate our bottom-up WACC estimate, is consistent with the approach outlined in our rate of return review.[443] New Hope and Yancoal supported estimating market parameters using the methods identified in our rate of return review. However, both New Hope and Yancoal considered

[442] The rate of return compensates the investor for the time value of money and risk that they face in providing the assets that deliver the services that are subject to the regulatory regime.
[443] QCA, *Rate of return review*, final report, version 3, February 2024.

that firm-specific parameters required a reassessment from the parameters applied to calculate the WACC in AU2, in light of changes in the risk environment for the AU3 regulatory period.[444]

In making this draft decision, we have considered Queensland Rail's exposure to risks afresh as part of our bottom-up WACC estimate and our overall consideration of the reasonableness of Queensland Rail's proposed rate of return (see section 9.4.2). In doing so, we have had regard to the extent that Queensland Rail's proposed regulatory arrangements mitigate risk or efficiently allocate risk to another party (see Box 3).

While we have calculated an indicative bottom-up WACC of 6.70% for Queensland Rail for the AU3 regulatory period, we consider that Queensland Rail's rate of return proposal provides Queensland Rail with a reasonable rate of return for the AU3 regulatory period.

Queensland Rail's approach for calculating its proposed rate of return is consistent with that applied to calculate the approved rate of return for the 2020 access undertaking. Differences between the Queensland Rail's proposed rate of return to the rate of return approved as part of the 2020 access undertaking largely reflect timing differences in the calculation of specific time-variant WACC parameters. In updating these time variant parameters for AU3, Queensland Rail has applied the relevant methods and values set out in our rate of return review.

Furthermore, our comparison with other regulatory decisions supports Queensland Rail's proposed WACC being reasonable, and sufficient to promote efficient investment in the infrastructure required to provide the West Moreton route service.

Accordingly, our draft decision is that Queensland Rail's proposed WACC, adjusted for updated time-variant numbers in 2025, is appropriate to approve, on the basis that it will provide a return commensurate with the regulatory and commercial risks of providing access. We consider it is also in the interests of customers to provide Queensland Rail with a return that supports investment in the network to provide the access they require.

[444] New Hope, sub. 5, pp. 14, 20; Yancoal, sub. 9, pp. 7–8. More specifically, Yancoal submitted that where the systematic risks faced by Queensland Rail in proving access to the West Moreton users had materially changed, the asset beta should also undergo a corresponding change. New Hope submitted that changes to the customer and contract profile on the West Moreton system meant that Queensland Rail would face a lower degree of systematic risk.

Box 3: Mitigation and allocation of risk under Queensland Rail's 2025 DAU proposal

Queensland Rail's regulatory regime for the West Moreton route service includes a number of measures that mitigate its risk. A key feature is 100% take-or-pay on contracted volumes. These take-or-pay contracts provide a revenue floor for Queensland Rail and mitigate much of its short-run volume risk.

Queensland Rail also benefits from a building blocks-based reference tariff, that is assessed for, among other things, whether Queensland Rail receives a return that meets the efficient costs of providing access and includes a return on investment commensurate with the regulatory and commercial risks. The reference tariff is not affected by fluctuations in the coal price received by Queensland Rail's customers.

Queensland Rail's take-or-pay contracts and reference tariffs are only two of the features of the regulatory framework that materially buffer its cash flows from cyclical movements in the economy. A number of other mechanisms, which feature in the QCA Act or have been proposed as part of the 2025 DAU process, contribute to insulating Queensland Rail's revenue stream from external shocks, including:

- the ability of Queensland Rail to recover capital expenditure where it might differ from forecast levels, should we approve it
- security arrangements for Queensland Rail, with access holders required to pay relinquishment fees (80% of the remaining access charges) in the event that they surrender their contracted volumes
- limited asset optimization, restricting the scope for Queensland Rail's RAB to be lowered
- a capacity investment framework that provides Queensland Rail with the ability to secure capital underwriting
- accelerated depreciation, which is proposed to align the recovery of Queensland Rail's investments with its forecasts of remaining mine lives
- the right of Queensland Rail to submit a draft amending access undertaking under the QCA Act.

9.4.1 Bottom-up WACC analysis

We have undertaken a bottom-up WACC analysis to evaluate Queensland Rail's proposal.

We have calculated an indicative bottom-up WACC of 6.70% for Queensland Rail for the AU3 regulatory period (see Table 5).

To calculate an indicative bottom-up WACC for Queensland Rail, we have used a nominal, post-tax WACC[445] based on our estimates of individual WACC parameters. Our assessment of the individual parameters used to generate our bottom-up estimate is outlined below.

[445] Our approach uses the Officer WACC3 model and estimates the WACC for a benchmark firm, rather than the regulated firm's actual WACC.

Table 5: Parameters used to calculate our indicative bottom-up WACC estimate

WACC parameter	QCA preliminary estimate
Risk-free rate#	3.37%
Market risk premium	6.3%
Asset beta	0.48
Equity beta	0.71
Gearing	40%
Cost of debt#	4.95%
Gamma	0.484
Indicative bottom-up WACC estimate	**6.70%**

Placeholder values have been adopted for the risk-free rate and the cost of debt to estimate an indicative bottom-up WACC estimate for Queensland Rail's AU3 regulatory period. These placeholder values will be updated prior to our final decision.

Risk-free rate

We consider it reasonable to adopt Queensland Rail's proposed risk-free rate[446] of 3.37% as a placeholder to determine our bottom-up WACC estimate for Queensland Rail's AU3.

Our approach to estimating the risk-free rate for Queensland Rail is to:

- use 10-year Australian Government (nominal) bond yields as the proxy for calculating Queensland Rail's risk-free rate.[447] These bonds have very low default risk and are also highly liquid. We consider using long-term Australian Government bonds reflects the requirements of investors and lenders who, in relation to long-lived infrastructure assets, will deploy equity over the entire life of the asset, rather than over any given regulatory period
- average the yields over a period nominated in advance by the regulated entity that is between 20 and 60 business days in length, ending as close as reasonably possible to the commencement of the regulatory period. Averaging the daily risk-free rate over a short period will manage the risk of unanticipated volatility from one-off shocks.

Queensland Rail proposed an indicative risk-free rate of 3.37%, applying this methodology and using a 20-business-day averaging period ending April 2023.[448]

We consider it appropriate for the risk-free rate to be updated using this methodology prior to the start of the AU3 regulatory period, using an averaging period nominated by Queensland Rail. Queensland Rail is to propose the timing and length of its nominated averaging period in advance of the averaging period commencement date. The nominated averaging period should:

- be between 20 and 60 business days to provide a rate that reflects current conditions, but smooths the effects of temporary shocks
- commence as close as reasonably practical to the start of the regulatory period (ending before commencement of the period) to capture current rates.

[446] The risk-free rate is the rate of return an investor would expect to receive on an asset with zero default risk. It compensates an investor for the time value of money.
[447] Our approach is to use daily Australian Government bond rates published by the Reserve Bank of Australia (RBA) (F2 table) to estimate the risk-free rate, converting the daily yields into an effective annual rate using the conversion method outlined in Appendix F of our rate or return review. See QCA, *Rate of return review*, final report, version 3, February 2024.
[448] Queensland Rail, sub. 1, p. 82.

Market risk premium

We consider it reasonable to apply a market risk premium[449] of 6.3% to determine our bottom-up WACC estimate for Queensland Rail's AU3.

Our approach to estimating the market risk premium for Queensland Rail is based on the Ibbotson method. The market risk premium is not directly observable. We consider that the Ibbotson method is likely to provide a plausible indication of the average market risk premium investors can expect to receive in normal conditions. The Ibbotson method assumes that investors use historical excess returns data to inform their expectations of achievable future returns.

In applying the Ibbotson method, we consider it appropriate to use a sampling period from 1958[450] to February 2024. We consider this provides for a data series that contains both a relatively large number of observations and consists of high-quality data.

Queensland Rail proposed a market risk premium of 6.5% for the AU3 regulatory period, which was estimated using our preferred methodology with data to December 2022.[451]

Beta

We consider it reasonable to apply an asset beta[452] of 0.48 and an equity beta[453] of 0.71 to determine our bottom-up WACC estimate for Queensland Rail's AU3.

An appropriate beta estimate will reasonably compensate Queensland Rail for the systematic risk that it faces in providing access to coal handling services on the West Moreton system. To determine a reasonable beta estimate for Queensland Rail, we have had regard to Queensland Rail' s business and operating environment, as well as the features of the proposed regulatory framework that reduce or increase its exposure to systematic risk.

Box 4 outlines a number of key characteristics that we consider will influence Queensland Rail's exposure to systematic risk.

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449 The market risk premium is the additional return that an equity investor requires, to be compensated for the risk of investing in a fully diversified portfolio of risky assets, relative to purchasing a risk-free asset.

450 1958 is the first year for which the Sydney All Ordinary Shares price index was calculated on a daily, rather than a retrospective basis, and 1958 is also (approximately) the first year for which marketable short-term government securities (e.g. Treasury notes) were issued. See T Brailsford, J Handley and K Maheswaran, 'Re-examination of the historical equity risk premium in Australia', *Accounting & Finance*, vol. 48, 2008, pp. 85–86.

451 Queensland Rail, sub. 1, p. 83.

452 The asset beta (or unlevered equity beta) of an entity is a measure of the volatility of returns from a firm's assets relative to the volatility of returns to the market as a whole — often referred to as systematic (or non-diversifiable) risk.

453 The equity beta (or levered asset beta) measures the movement of equity return of a business with the market return. It captures both the underlying systematic risk of Queensland Rail (relative to the risk of the market) and the debt funding to equity holders.

Box 4: Key characteristics influencing Queensland Rail's exposure to systematic risk

We consider that Queensland Rail's market position as the sole below-rail service provider for the coal-handling users that access the West Moreton system and the resulting regulatory framework afford a high level of revenue insulation. In this regard, we consider that various features of Queensland Rail's proposed regulatory arrangements will significantly dampen Queensland Rail's exposure to systematic risk (see Box 3).

However, Queensland Rail serves a limited number of coal handling customers on the West Moreton system. A smaller customer base increases the risk that where a customer's volume forecasts are not achieved, that lost revenue cannot be diversified across the pool of other customers. Queensland Rail submitted that the West Moreton system would have 3 coal-handling customers at most during the AU3 period.

Fundamentally, the competitiveness of coal producers accessing the West Moreton system will be a key determinant of Queensland Rail's exposure to volume risks in the longer term. Below-rail coal services will be sustained as long as end customers have a sustained demand for the output of their mines. Thermal coal export volumes from Australia are forecast to remain steady over the regulatory period.

Supporting this forecast for stable demand over the medium term, Aurizon Coal and Bulk submitted that the demand for Australian thermal coal was more influenced by Asian trade, which represented 83% of global seaborne import volume. Moreover, Aurizon Coal and Bulk noted that the average age of coal-fired generation capacity in Asia was only 14 years. Aurizon Coal and Bulk considered that countries with younger coal-fired generators were less likely to transition toward renewable power until existing assets were closer to expiry.

Importantly, the mines using the West Moreton route service produce thermal coal that is of relatively high energy content and relatively low ash content. Aurizon Coal and Bulk also noted that out of the 10 largest coal-producing countries, Australia had the third-lowest emissions intensity for producing and transporting coal.

Overall, we consider that Queensland Rail's coal handling customers on the West Moreton system have strong incentives to maintain production at a consistent level throughout the economic cycle. High shut-down and start-up costs give mines an incentive to continue to produce coal even in a low coal price environment, where market circumstances are expected to be temporary.

The characteristics of West Moreton system's customer base make demand for the service less responsive to fluctuating coal prices and economic cycles.

We have sought to estimate a beta reference point, to help guide our views on the appropriate equity beta for Queensland Rail. In doing so, we have considered observed betas obtained from a sample of sufficiently comparable listed firms as a benchmark to inform our estimate of a reasonable beta for Queensland Rail.

We consider that beta estimates obtained from a sample of regulated energy and water businesses and a sample of toll roads businesses provide useful reference points to help guide our decision on an appropriate beta for Queensland Rail. We consider that the systematic risk associated with providing access to coal handling services on the West Moreton system is:

- greater than the systematic risk of regulated energy and water businesses (see Box 5)
- less than the systematic risk of toll road businesses (see Box 6).

Box 5: Regulated energy and water businesses' exposure to systematic risk

We consider that regulated energy and water businesses have similar attributes to Queensland Rail's provision of services on the West Moreton system, including:

- services that are subject to cost-based regulatory regimes
- a customer base that has no alternative service options, which exhibits a resilient demand for the service through economic cycles.

New Hope considered that Queensland Rail had relatively limited exposure to fluctuations in domestic economic conditions, due to the availability of revenue protection mechanisms and the nature of customer demand. New Hope submitted that, amongst other things:

- demand for Queensland Rail below-rail services and regulated energy and water businesses were similarly inelastic to changes in domestic economic conditions
- revenue protection mechanisms applied to Queensland Rail and energy/water network businesses.

Despite there being some similarities between Queensland Rail and regulated energy and water businesses, we consider that the customer base of regulated energy and water businesses provides for more resilient demand, compared to coal handling services on the West Moreton system. Queensland Rail has a smaller and less diverse coal customer base than that of regulated energy and water businesses – making it more exposed to counterparty risk should a customer temporarily stop railing.

Relative to coal handling services on the West Moreton system, regulated energy and water businesses are typically not as reliant on risk-mitigating mechanisms such as long-term, take-or-pay-contracts, to insulate them from volume risk. Queensland Rail will be exposed to a higher level of volume risk in instances when customers have not contracted to high levels.

Box 6: Toll roads businesses' exposure to systematic risk comparator sample

Toll road businesses are not subject to a cost-based regulatory framework with fixed periodic reviews. While these businesses are often provided with a CPI-linked price cap, cash flow volatility may arise from market shocks and revenue might deviate from the costs of providing the service. Both New Hope and Yancoal submitted that toll road businesses typically did not have the same revenue protection mechanisms.[454]

Additionally, toll road businesses do not have contracting arrangements with customers and face competitive pressure from existing alternatives to toll road services. In contrast, Queensland Rail's coal handling customers on the West Moreton system have no feasible alternative transport options, and long-term contractual arrangements are a feature of Queensland Rail's regulatory compact. As such, Yancoal considered that toll road business did not have the same types of volume risk protections as Queensland Rail.[455]

We consider that Queensland Rail's coal handling customers on the West Moreton system have strong incentives to maintain their production at a consistent level throughout the economic cycle. In this regard, New Hope considered that toll roads businesses were likely to be much more elastic to changes in economic conditions, compared to demand on Queensland Rail's West Moreton system.[456] However, toll roads have larger and more diversified customer bases than Queensland Rail which will to an extent mitigate exposure to economic downturns.

New Hope and Yancoal considered that Queensland Rail now had a risk profile that was more closely aligned to regulated energy and water businesses. In this regard, New Hope and Yancoal considered that Queensland Rail's exposure to risk had changed since the AU2 regulatory period, reflecting:

- changes in Queensland Rail's customer profile[457]
- Queensland Rail's proposed changes to the regulatory arrangements.[458, 459]

Yancoal submitted that Queensland Rail was now closer to being relatively immune from volume risk and therefore more closely akin to the inelastic demand and guaranteed revenue outcomes that regulated electricity and water businesses faced.

In contrast, HoustonKemp (in a report commissioned by Queensland Rail) considered that Queensland Rail faced greater exposure to volume risk than regulated energy and water

[454] New Hope, sub. 5, p. 19; Yancoal, sub. 9, pp. 8–9.
[455] Yancoal, sub. 9, pp. 8–9.
[456] New Hope, sub. 5, p. 19.
[457] New Hope and Yancoal noted that Queensland Rail was forecasting much higher contracted volumes. Yancoal also submitted that the New Acland Stage 3 mining lease had been approved with production volumes ramping up and the New Wilkie mine had reopened.
[458] New Hope and Yancoal noted that Queensland Rail had proposed an accelerated depreciation profile for AU3 based on an estimated weighted average mine life. Yancoal also referred to Queensland Rail's proposal to introduce a volume-based trigger for re-opening reference tariffs during the AU3 regulatory period.
[459] New Hope, sub. 5, pp. 14–17; Yancoal, sub. 9, pp. 8–9.

businesses. HoustonKemp stated that the risk to Queensland Rail if volume forecasts did not materialise or a mine did not come online remained significant. HoustonKemp considered that there was no evidence to suggest that the level of systematic risk faced due to exposure to the thermal coal export sector was materially different to that in the AU2 period, particularly given the increasing and uncertain shift towards decarbonisation.[460]

We do not consider that Queensland Rail's proposed amendments to the regulatory framework result in it having a risk profile that aligns with that of a regulated energy and water business.

Accelerated depreciation will mitigate Queensland Rail's exposure to the risk of volumes not being sustained by access holders, or reallocated to new coal-handling access seekers, over the long-term. However, we consider that Queensland Rail remains exposed to the risk of a customer's volume forecasts not materialising. This is particularly the case as none of its forecast volume is contracted for the full term of AU3, although this is offset by the fact that all three customers have substantial sunk costs, which they are unable to recoup without securing access from Queensland Rail. We consider that Queensland Rail will be exposed to a higher level of volume risk than regulated energy and water businesses, noting:

- regulated energy and water businesses are able to diversify the risk of a customer's volume forecast not materialising across a large pool of customers
- Queensland Rail is reliant on mechanisms in the regulatory framework, such as loss capitalisation, to address instances of forecast volumes not materialising.

In this regard, HoustonKemp stated that Queensland Rail's accelerated depreciation proposal did not protect Queensland Rail against broader revenue risks, as the depreciation allowance was based on a specific volume forecast, which might or might not materialise.[461]

While the current volume forecasts for certain coal-handling customers on the West Moreton system have increased since the rate of return was assessed for the AU2 regulatory period, volume forecasts change over time. Queensland Rail remains exposed to the risk that the current volume forecast fails to materialise.

Aurizon Coal and Bulk submitted that two of the three mines using the West Moreton system faced challenges to their operation, noting:

- New Acland Stage 3 was facing a challenge from the Oakey Coal Action Alliance relating to the Queensland Government's decision to grant an associated water licence to New Acland, which could hinder its future operations
- New Wilkie Energy entered receivership in early 2024 and the New Wilkie mine was (at the time of Aurizon Coal and Bulk's submission) in care and maintenance while alternatives for its future operation were considered.[462]

We have therefore calculated the asset betas for our sample of regulated energy and water businesses and a sample of toll roads businesses to inform our estimate Queensland Rail's beta (see Table 6).[463]

[460] Queensland Rail, sub. 14, p. 70.
[461] Queensland Rail, sub. 14, p. 71.
[462] Aurizon Coal and Bulk, sub. 2, pp. 60–61.
[463] The businesses included in each of these samples, as well as the approach applied to estimate the asset betas, are outlined in Appendix C.

Table 6: QCA asset beta estimates using 10-year weekly data

Sample	Observations	Mean	Median
Regulated energy and water businesses	37	0.39	0.38
Toll roads businesses	3	0.63	0.61

Source: QCA analysis.

We consider that the small size of the toll roads businesses sample limits the extent the resulting beta estimate can be considered a reliable upper bound estimate from which to establish a reasonable asset beta for Queensland Rail.[464]

Nevertheless, we consider that Queensland Rail's proposed asset beta of 0.48 and equity beta of 0.71[465] to be reasonable.

We consider that an asset beta of 0.48 is supported by our beta reference points. In this regard, an asset beta of 0.48 sits above our asset beta for the regulated energy and water business, and 0.07 below the lowest asset beta observed in our toll roads sample.

We also consider that an equity beta of 0.71 provides for regulatory certainty, as an equity beta was applied to determine Queensland Rail's bottom-up WACC estimate for AU2. HoustonKemp considered that a firm's systematic risk was not expected to change significantly over time, unless broad market factors such as regulatory frameworks or market conditions changed.[466]

Benchmark capital structure

We consider it reasonable to apply a 40% debt and 60% equity (40% gearing) benchmark capital structure to determine our bottom-up WACC estimate for Queensland Rail's AU3.

This is consistent with the gearing approved to estimate Queensland Rail's WACC associated with providing access to coal handling services on the West Moreton route service for its AU2 regulatory period.

We consider it reasonable to maintain the current regulatory benchmark gearing for the AU3 regulatory period, given that Queensland Rail's established risk profile has not varied significantly from the previous regulatory period. As such, we consider the benchmark gearing for Queensland Rail should remain reasonably stable over this time.

Queensland Rail proposed to retain a 40% gearing ratio for the AU3 regulatory period.

Cost of debt

We consider it reasonable to adopt Queensland Rail's proposed cost of debt of 4.95% as a placeholder to determine our bottom-up WACC estimate for Queensland Rail's AU3.[467]

We consider it appropriate to estimate Queensland Rail's cost of debt using:

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[464] New Hope (sub. 5, pp. 17–18) submitted that, if considered, each of the available toll road businesses should be given no more weight than each of the regulated energy and water businesses, noting the regulated energy and water businesses sample was roughly 10 times larger than that of toll roads businesses. We have not assigned weights to our asset beta estimates obtained from the two samples. Rather, we have used these estimates as reference points to help guide our decision on an appropriate beta for Queensland Rail.

[465] Using the Brealey-Myers levering formula (using a value of 0.12 for the debt beta) for de-levering and re-levering beta.

[466] Queensland Rail, sub. 14, p. 69.

[467] We consider that Queensland Rail's cost of debt should be estimated with reference to the provision of the declared service, and not for a standalone benchmark entity supplying rail transportation services in the West Moreton. See Aurizon Network, sub. 3, p. 9.

- a 10-year term cost of debt[468]
- a BBB benchmark credit rating[469]
- an unweighted trailing average approach,[470] with annual debt tranche refinancing.

Queensland Rail proposed an indicative cost of debt of 4.95%, applying this methodology and using a 20-business day averaging period ended 30 April 2023.[471] Queensland Rail produced 10 annual cost of debt estimates, using 10-year corporate bond yields reported by the RBA (see Table 7). Queensland Rail also applied a 10-basis-point uplift to its cost of debt estimate for debt raising/refinancing costs.[472]

Table 7: Queensland Rail's annual cost of debt estimates

Annual averaging period	Cost of debt estimate
Ending 30 April 2014	7.18%
Ending 30 April 2015	5.09%
Ending 30 April 2016	5.27%
Ending 30 April 2017	4.69%
Ending 30 April 2018	4.48%
Ending 30 April 2019	4.65%
Ending 30 April 2020	3.35%
Ending 30 April 2021	2.78%
Ending 30 April 2022	4.03%
Ending 30 April 2023	6.95%
10-year trailing average	**4.85%**

Source: Queensland Rail, sub. 1, p. 87.

We consider it appropriate for the cost of debt to be updated using this methodology prior to the start of AU3. Consistent with our rate of return guidelines, Queensland Rail is proposing to update its cost of debt calculation to the average of 12-monthly observations from April to March in advance of the upcoming regulatory period.[473]

In doing so, we consider that the cost of debt data source should reflect 10-year corporate bond yields reported by the RBA. Furthermore, we consider it appropriate to linearly extrapolate Reserve Bank of Australia (RBA) 10-year bond yields to 10 years.[474]

We have published a supporting workbook on our website (*Cost of debt estimation*, 2024) that provides an example of this approach for estimating the cost of debt.

[468] This is consistent with the efficient debt financing practices of regulated infrastructure entities with long-lived assets.
[469] This reflects the benchmark credit rating approved to estimate Queensland Rail's WACC for the AU2 regulatory period. No justification has been provided to warrant a departure from this benchmark credit rating.
[470] This reflects that it may be efficient for capital-intensive infrastructure firms to manage refinancing risk by staggering debt financing, rather than refinancing the entire debt portfolio over a relatively short window of time.
[471] Queensland Rail, sub. 1, p. 82.
[472] Queensland Rail, sub. 1, p. 87.
[473] Queensland Rail, sub. 14, p. 77.
[474] The RBA determines its 10-year bond yields by aggregating relevant bonds with a residual maturity close to the target 10-year tenor, but the aggregated tenor of its 10-year bonds has tended to be marginally less than 10 years.

We also consider it appropriate to allow debt raising costs of 10 basis points within the cost of debt for the trailing average approach to account for the administrative costs associated with raising debt.

In implementing a trailing average cost of debt, the impact of the updated cost of debt may occur either through annual updates to Queensland Rail's allowable revenues, or through a true-up at the beginning of the next regulatory period. Queensland Rail does not propose arrangements in its 2025 DAU for updating allowable revenues throughout the regulatory period to reflect annual updates to the cost of debt.[475] Therefore, the impact of the updated cost of debt throughout the regulatory period is to occur through a true-up at the beginning of the next regulatory period.

Annual updates would minimise mismatches between the regulatory cost of debt allowance captured in allowable revenues and the actual cost of debt from a benchmark efficient firm during the regulatory period.

We welcome further submissions from stakeholders as to whether it is appropriate for the impact of the updated cost of debt throughout the regulatory period to occur through a true-up at the beginning of the next regulatory period, or whether annual adjustments are appropriate.[476]

Gamma

We consider it reasonable to apply a gamma[477] of 0.484 to determine our bottom-up WACC estimate for Queensland Rail's AU3.

Our approach to estimating gamma is to calculate the product of two components:

- a distribution rate, which considers the ratio of distributed imputation credits to company tax paid
- a utilisation rate, which considers the rate at which distributed imputation credits are used by investors in the market.

Consistent with our gamma value estimated as part of our rate of return review, Queensland Rail proposed a gamma of 0.484 to determine its WACC estimate for the AU3 regulatory period.[478]

We have recalculated gamma applying the approach adopted in our rate of return review. The most recent assessment of the utilisation rates of imputation credits involves examining equity ownership over the period 2019 to 2023. From our analysis, there has not been a material change in the gamma since our rate of return review and we do not consider there is reason to depart from a gamma estimate of 0.484 at this time.

9.4.2 Top-down assessment

In considering whether Queensland Rail's proposed WACC is appropriate to approve, we have undertaken a top-down assessment to consider whether it provides Queensland Rail with an appropriate level of compensation commensurate with the risks Queensland Rail faces.

[475] As part of Queensland Rail's submission (sub. 14, p. 77), HoustonKemp reported that it understood from discussions with Queensland Rail that Queensland Rail was proposing annual updates to the trailing average cost of debt, which should result in smoother trailing average than applying an end-of-period true-up.
[476] Queensland Rail's reference tariff mechanism to date has not included annual updates to re-set the prices, apart from CPI escalation. However, stakeholders have proposed an annual true-up for variance between the capital indicator and actual capital spending (see section 8.5.3). If the capital true-up were implemented, it might mitigate the extra regulatory burden of having annual tariff adjustments only for changes to the WACC.
[477] Gamma is the value to investors of distributed dividend imputation credits.
[478] Based on a distribution rate of 0.88 and a utilisation rate of 0.55.

While Queensland Rail's proposed indicative rate of return of 7.39% is above our bottom-up WACC estimate, we consider that it will provide Queensland Rail with a reasonable rate of return for the AU3 regulatory period.

Queensland Rail's overall approach for calculating its proposed rate of return is consistent with that applied to calculate the approved rate of return for the 2020 access undertaking. Differences between the Queensland Rail's proposed rate of return and the rate of return approved as part of the 2020 access undertaking largely reflect timing differences in the calculation of specific time-variant WACC parameters. In updating these time variant parameters for AU3, Queensland Rail has applied the relevant methods and values set out in our rate of return review.

We consider that taking this approach to calculate the rate of return for the 2025 DAU is reasonable, given there have been no material changes in Queensland Rail's overall risk profile.

In assessing Queensland Rail's proposed rate of return, we have also compared Queensland Rail's proposal to the WACC values adopted for a number of other Australian regulated entities. In doing so, we have undertaken a normalisation exercise[479] (see 'Normalisation' below) for timing differences to make for a more meaningful comparisons across regulatory decisions. This comparative analysis supports our preliminary view that Queensland Rail's proposed WACC:

- compensates Queensland Rail for the systematic risk that it faces in providing access to coal handling services on the West Moreton system
- does not result in access charges being set at a level that is inefficiently high.

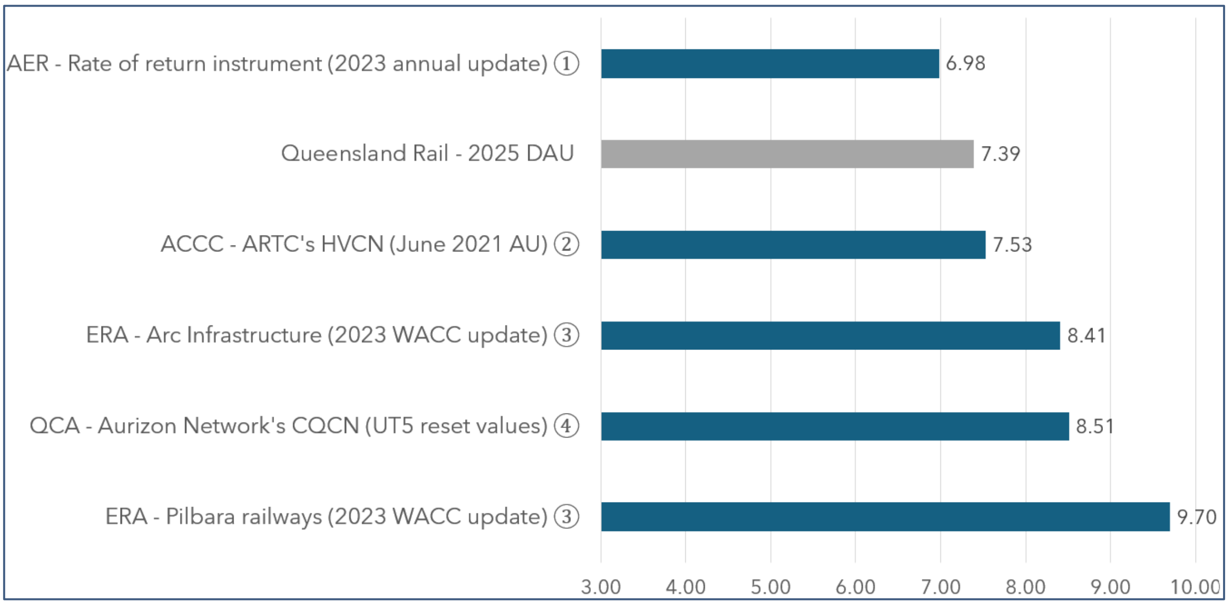
Furthermore, it is important for Queensland Rail to be able to earn a rate of return that provides sufficient incentives to promote efficient investment in the network. If the rate of return is too low, it could have a 'chilling' effect on investment, leading to inadequate capacity and/or service quality. Importantly, Queensland Rail has identified that significant capital expenditure is required over the AU3 regulatory period to deliver the level of capacity requested by access holders. From our analysis, we consider it appropriate to exercise judgement beyond our bottom-up WACC estimate so that Queensland Rail's WACC provides a reasonable overall rate of return.

Normalisation

We have compared Queensland Rail's WACC against the corresponding nominal post-tax WACCs calculated for a range of Australian regulated businesses. In doing so, we have sought to calculate the time-varying parameters of the other regulators' WACC values with reference to the averaging period applied in Queensland Rail's proposed rate of return (April 2023) (Figure 10).[480] Where a regulated business's WACC has also been calculated in 2023, we have made a direct comparison with that approved WACC. We will seek to update these estimates as part of our final decision.

[479] To provide for a more like-for-like comparison of the WACC values, we have sought to calculate the time-varying parameters of the other regulators' WACC values with reference to the same point in time.
[480] That is, we have sought to update the risk-free rate and debt risk premium applying the same method for calculating these parameters as outlined in the respective regulatory decisions.

Figure 10: Normalised WACCs for selected Australian regulated businesses (2023)



Notes: 1. The Australian Energy Regulator (AER) WACC estimate is obtained from the AER's rate of return 2023 annual update, which used a August 2023 averaging period. 2. ARTC's approved WACC for the Hunter Valley Coal Network (HVCN) reflects a negotiated outcome between ARTC and its users. We have normalised the risk-free rate using the methodology applied to estimate the risk-free rate in the ACCC's HVCN 2017 DAU draft decision for an April 2023 averaging period. We have not normalised the cost of debt, as the approach applied in the ACCC's HVCN 2017 DAU draft decision can no longer be reproduced due to relevant information no longer being produced by the RBA. 3. The Economic Regulation Authority (ERA) WACC estimates are obtained from the ERA's 2023 determination on the WACCs for the freight and urban networks and the Pilbara railways, which used a June 2023 averaging period. 4. Aurizon Network's WACC estimate for the CQCN is obtained from our reset Schedule F values decision, which used a June 2023 averaging period.
Sources: QCA analysis; AER, *Rate of return annual update 2023*, December 2023; ACCC, *Australian Rail Track Corporation's 2017 Hunter Valley Access Undertaking*, draft decision, 20 April 2017; ERA, *2023 Weighted average cost of capital for the freight and urban networks and the Pilbara railways*, final determination, September 2023; QCA, *Aurizon Network's reset Schedule F values*, decision, October 2023.

On a normalised basis, Queensland Rail's rate of return proposal is lower than the WACCs for the two other major coal-carrying systems in Australia, ARTC's HVCN and Aurizon Network's CQCN.

Amongst other things, we consider that differences in customer base will contribute to West Moreton coal facing a higher level of risk relative to both ARTC's HVCN and Aurizon Network's CQCN. For instance, Queensland Rail serves three West Moreton mines, all producing thermal coal, albeit of high quality. In comparison, Aurizon Network's CQCN and ARTC Hunter Valley both serve many more mines, with a substantial proportion of those mines shipping metallurgical coal, which has a higher value and is likely to have a longer-term commercial future.

Therefore, all else being equal, it may be considered reasonable for West Moreton coal services to have a higher WACC than either Aurizon Network or Hunter Valley. However, as noted by New Hope and Yancoal, both of those network operators have made behavioural commitments to their customers, as part of agreed commercial arrangements that included the WACC.

In this regard, New Hope and Yancoal submitted that some of Queensland Rail's industry peers in Australia were difficult to compare directly because of different circumstances:

- The ARTC's WACC was negotiated as part of a broader package of commitments.[481]

[481] New Hope, sub. 5, p. 22; Yancoal, sub. 9, p. 10.

- Aurizon Network's WACC was commercially agreed as a result of the introduction of performance targets and independent capacity assessments that did not apply to Queensland Rail.[482]
- Arc Infrastructure's WACC was benchmarked against North American railroads, which had a different risk profile from Queensland Rail's West Moreton coal services.[483]

While Queensland Rail has not negotiated an appropriate WACC with its coal-handling customers on the West Moreton system, Queensland Rail is proposing to undertake the capital expenditure required to be able to support the volumes requested by access holders and access seekers.

We consider that our comparison of other regulatory decisions supports Queensland Rail's proposed WACC being reasonable, and likely to promote efficient investment in the infrastructure required to provide the West Moreton route service.

However, a final view on the WACC will depend in part on any positions agreed between Queensland Rail and its customers as part of their reference tariff negotiations, including risk allocation and system coordination. These positions may affect our assessment of the risks faced by Queensland Rail which, in turn, may affect our assessment of an appropriate WACC. For avoidance of doubt, we will be favourably disposed to approving a WACC that forms part of an agreed package of pricing and related measures brought to us by Queensland Rail and its customers.

Queensland Rail's proposed adjustment to its bottom-up estimate

In proposing an indicative WACC of 7.39%, Queensland Rail applied an uplift of 0.6% to its bottom-up estimate.[484] This is consistent with the approach applied for the AU2 regulatory period, where an uplift to the cost of debt was provided to compensate for volume uncertainty.[485]

Queensland Rail submitted that it still faced the same volume uncertainty on the West Moreton system that it faced in the AU2 period. As such, Queensland Rail considered that a need remained for an adjustment to the benchmark bottom-up WACC.[486]

New Hope and Yancoal considered that Queensland Rail's proposed adjustment to the WACC was not justified. New Hope considered that the circumstances for AU3 were markedly different. In this regard, the short-term uncertainty present at the time of the AU2 decision had been substantially addressed[487], while longer-term risk factors had been addressed through other elements of Queensland Rail's proposal. Yancoal also considered that Queensland Rail's exposure to volume risk had been significantly reduced.[488]

We consider that there is evidence that the volume uncertainty remains a concern for the AU3 regulatory period. None of the mines that use West Moreton coal haulage services is contracted for the full term of the undertaking. The recent uncertainty about the Wilkie Creek mine also highlights the risks Queensland Rail faces, particularly with only three customers. In assessing the appropriate WACC in our final decision, we will have regard to any changes that may resolve some of these volume-related matters before the start of the AU3 regulatory period.

[482] Yancoal, sub. 9, p. 10.
[483] New Hope, sub. 5, p. 22.
[484] Queensland Rail, sub. 1, p. 29.
[485] This uplift to the cost of debt was equivalent to around a 0.6% adjustment to the bottom-up WACC estimate.
[486] Queensland Rail, sub. 1, p. 29.
[487] New Hope submitted that an adjustment to the bottom-up WACC estimate was approved for the AU2 regulatory period to specifically to address short-term uncertainty around approvals for the New Acland Stage 3 mine development.
[488] New Hope, sub. 5, pp. 14–15; Yancoal, sub. 9, pp. 3, 9–11.

In this assessment of Queensland Rail's indicative WACC proposal, we have not formed a view on the merits of applying a specific adjustment or 'top-up' to the bottom-up WACC estimate consistent with the approach used to estimate Queensland Rail's WACC for AU2. Rather, we have considered whether overall the proposed WACC provides Queensland Rail with an appropriate level of compensation commensurate with the risks it faces.

Summary 9.3

We are minded to approve Queensland Rail's proposed indicative rate of return proposal with an updated risk-free rate and cost of debt.

9.5 Capital expenditure

The capital indicator is an ex ante estimate of the capital spending that will be incurred during a regulatory period. Our approval of a capital indicator does not imply that we have accepted that level of capital expenditure should be included in Queensland Rail's RAB (see section 8.3.1). Rather, at the end of each year, Queensland Rail is required to provide us with a capital expenditure claim and we then assess the claim.[489] Once we make a decision about that claim, it then becomes approved capital expenditure, which is added to the RAB.

Queensland Rail proposed a total capital indicator of $346.9 million for AU3, a significant increase from the AU2 total capital indicator of $153 million.[490] Queensland Rail said this higher capital expenditure was necessary as the network was not currently able to support the peak forecast capacity of 9.6 mtpa[491] and required significant investment to reduce speed restrictions and increase reliability of the network so that the forecast capacity could be delivered. Analysis of track condition data shows that, while track condition has generally improved since 2018, the Toowoomba Range crossing remains the area with the most track geometry challenges (see Appendix B).

Table 8 shows the capital indicator by year and by section of the network.

[489] Further information on the assessment process is on our website at https://www.qca.org.au/project/queensland-rails-2020-access-undertaking/capital-expenditure-claim-2/.
[490] While not part of this decision, Queensland Rail has proposed an additional $40.6 million in capital expenditure during the AU2 period, effectively increasing the AU2 capital indicator. We understand Queensland Rail intends to put this additional expenditure forward as part of a separate DAAU.
[491] See section 9.2.

Table 8: Proposed capital expenditure by year and corridor ($2025–26, excluding IDC)

Corridor	2025-26	2026-27	2027-28	2028–29	2029-30	Total
Rosewood-Jondarayan	$66.6	$70.0	$10.1	$15.4	$7.5	$169.6
Jondarayan-Macalister	$32.4	$33.9	$11.1	$9.5	$3.2	$90.2
Macalister-Columboola	$6.9	–	$21.7	$24.4	$33.9	$87.0
Total	**$105.9**	**$104.0**	**$43.0**	**$49.3**	**$44.6**	**$346.9**

Source: Queensland Rail, sub. 1, p. 27.

Queensland Rail proposed 'triggers' for a reset of the reference tariff and works program should any contract not be renewed during the AU3 period (see section 8.5.2). This would require Queensland Rail to adjust its capital and maintenance programs to meet the revised expected demand of the remaining system users.

Stakeholders expressed concern over the amount of capital expenditure proposed.[492] They said a lack of transparency made it difficult to assess the proposal.[493]

The appropriateness of the capital expenditure program largely depends on the level of demand and system capacity. Given the volume uncertainty (see section 9.2) it is difficult to assess the appropriateness of the capital indicator proposed by Queensland Rail. The proposed capital indicator represents both a significant challenge for Queensland Rail in delivering these works and a significant potential cost to users.

As outlined in section 9.2, we do not consider the forecast volumes to be appropriate to approve at this time due to the level of uncertainty. However, we have used the volume and cost forecasts proposed by Queensland Rail to provide indicative information on efficient levels of capital, maintenance and operational allowances for Queensland Rail's West Moreton coal services.

9.5.1 Arcadis analysis

Engineering consultancy Arcadis has advised us that, based on the tonnage forecast by Queensland Rail, it considers 14 out of the 17 project types in the proposed capital indicator to be reasonable. However, it identified that the capital indicator proposed may not be the most efficient way to deliver the capacity needed. Table 9 shows the differences in capital expenditure between Queensland Rail's proposal and alternative estimates prepared by Arcadis.

[492] New Hope, sub.5, pp. 8-9; Yancoal, sub. 9, pp. 3, 13–14.
[493] Aurizon Coal and Bulk, sub. 2, p. 72; New Hope, sub. 5, pp. 8–9; Yancoal, sub. 9, p. 3.

Table 9: Differences between Queensland Rail capital indicator and Arcadis analysis

Project	Arcadis assessment ($m)
Track Reconditioning	–93.7
Re-sleepering	–6.9
Bridge Pier Replacement	–20.5
Total	**-121.1**

Source: Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 24–25.

The differences in amounts for the capital indicator are predominately due to Arcadis concluding that capital works proposed in the west of the network (between Macalister and Columboola) are not reasonable, and it would be more efficient to continue with current maintenance practices for this section of track, rather than conduct capital works.[494]

Arcadis questioned whether greater efficiencies could be realised by having regard to the likely asset lives. While Queensland Rail's proposed work adhered to general engineering standards, Arcadis questioned whether this proposal had fully taken into account the preferred risk profile of users and an environment where assets are expected by Queensland Rail to have reached the end of their economic lives in 19 years.[495]

Arcadis also highlighted issues such as Queensland Rail's long approval processes for large capital works and labour market constraints resulting from mobilisation for rail projects such as Sydney Metro, Inland Rail and Cross River Rail as risks to the delivery of the works underpinning the capital indicator.

9.5.2 Capital indicator

As discussed in section 9.2, there is a level of uncertainty around the volumes that will ultimately be transported under AU3. Given how crucial demand levels are to the capital works programs underpinning the capital indicator, it is important to first reach agreement between all parties on the most appropriate level of demand.

Stakeholders were concerned about the level of capital expenditure and considered that an annual review process could be included in the 2025 DAU, whereby Queensland Rail engaged with users regarding capital works programs (see section 8.3.2).[496] Clearly, there is an appetite from users to engage with Queensland Rail on this matter, as well as an overriding concern over the level of the reference tariff.

While this section focuses on the capital indicator proposed by Queensland Rail, it cannot be considered in isolation – it must also be considered in context of how it impacts users and their investment plans. Ultimately, there is a direct but complex relationship between users' need for network investment to enable their operations and the network owner's need for user demand for it to continue to operate.

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[494] Our analysis of track condition data confirms that track geometry issues are largely concentrated at the eastern end of the system in and around the Toowoomba Range crossing (see Appendix B).
[495] Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024 p. 22.
[496] Aurizon Network, sub. 3, p. 5; New Hope, sub. 12, p. 4; Yancoal, sub. 9, p. 15.

We consider the objectives of the QCA Act are best achieved by Queensland Rail and its customers working towards agreed approaches. Given stakeholders desire to engage and the significant price impact of these programs, we encourage Queensland Rail to engage with users and above-rail operators not only so that they may be able to agree on alternative capital programs which minimise costs through greater consideration of the interaction between service levels and above-rail costs, but also to consider arrangements to help maintain this consensus throughout the 2025 undertaking period.[497]

Summary 9.4

It may not be appropriate to approve the capital indicator proposed by Queensland Rail based on the information currently available.

9.6 Asset lives

As discussed in section 8.5.1, the 2025 DAU proposes an accelerated depreciation profile based on forecast mine lives estimated by AME, advising Queensland Rail. Queensland Rail proposed that:

- existing assets be depreciated over 19 years, replacing the current depreciation method of technical life. Assets that have a remaining life of less than 19 years would continue to be depreciated over that remaining period
- DAU3 capital expenditure be depreciated over 14 years, indexed to 1 July 2025. This would result in spending in subsequent years having a declining maximum depreciation life, reducing to nine years for assets built in the last year of the undertaking period.[498]

Applying the asset lives proposed would be a significant revision to asset lives currently applied to West Moreton system assets as shown in Table 10.

[497] See also section 8.3.

[498] For example, capital expenditure proposed in July 2026 would have a theoretical maximum depreciation profile of only 13 years. Capital expenditure is not depreciated until it is completed, meaning that expenditure for the July 2026 year is depreciated for only 6 months in the first year, resulting in a maximum practical depreciated life of 12.5 years. Therefore, capital expenditure proposed in the final year of the DAU3 would have a maximum practical depreciation schedule of 9.5 years.

Table 10: AU2 West Moreton asset lives

Asset lives	Years
Track (including turnouts)	35
Roads	38
Fences	20
Signals	20
Bridges	100
Tunnels	100
Culverts	100
Earthworks	100
Other	20
Land acquisition costs	50
Telecommunications	20
Land	0

Source: Queensland Rail, sub. 1, p. 34.

Stakeholders did not suggest alternative asset lives to those proposed by Queensland Rail for consideration.

We note that, so far, the asset lives proposed by Queensland Rail are the only ones put forward for consideration, and that the general principle of Queensland Rail being entitled to recover investments over the economic lives of its assets has not been challenged.

Our preliminary view is that the asset lives proposed by Queensland Rail may be reasonable and likely to promote efficient investment in and use of the West Moreton route service, and may be in the interests of Queensland Rail (s. 138(2)(a), (b)). However, as discussed in section 8.5, the first step to finding the most economically efficient outcome will be negotiation between Queensland Rail and its users that takes into account asset lives along with other risks and considerations.

Summary 9.5

The asset lives proposed by Queensland Rail may be appropriate to approve.

9.7 Appreciation

Queensland Rail proposed to continue escalating the RAB, maintenance costs and operating costs by inflation each year. For the purposes of the DAU Queensland Rail proposed to apply forecast inflation rates of 3% for the first three years of AU3, and 2.5% for the final two years. As with the current arrangements, these figures will be updated with actual inflation each year when the RAB is rolled over. Queensland Rail's proposal was supported by New Hope.[499, 500]

Indexation is a well-established regulatory approach to managing the real value of a RAB, and Queensland Rail's proposal is appropriate to approve.

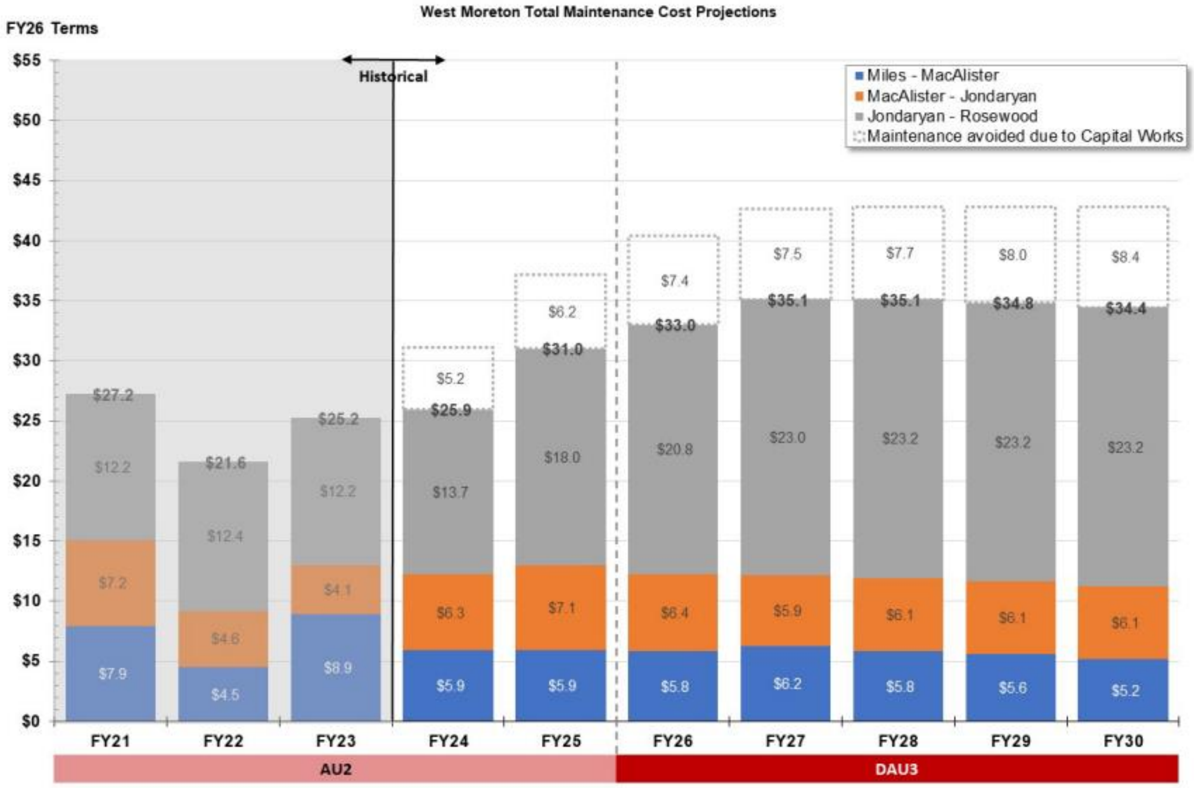
Summary 9.6

It is appropriate to approve Queensland Rail's proposed approach to RAB appreciation based on the information currently available.

9.8 Maintenance expenditure

Queensland Rail proposed a significant increase in maintenance expenditure, driven primarily by the need to accommodate 9.6 mtpa across the West Moreton system. Figure 11 outlines historical and proposed expenditure during the AU2 and DAU3 periods, allocated by corridor.

Figure 11: Maintenance expenditure FY21–30



Source: Queensland Rail's DAU 3 explanatory document, p. 45.

The $172.5 million proposed maintenance allowance is a $69.2 million increase over the $106.5 million approved for AU2. Most of the proposed increase ($55.9m) is related to increased track

[499] New Hope, sub. 12, p. 2.
[500] We note that while Aurizon Network proposed cessation of RAB indexation, this was in the context of accelerated depreciation. See Aurizon Network, sub. 3, p. 21.

maintenance. Queensland Rail said the increased maintenance will also require more train path possessions for maintenance activities compared to current levels. To minimise this potential impact on capacity, Queensland Rail proposed to increase staffing levels on maintenance crews, to complete more maintenance tasks within restricted possession periods.

Stakeholders were concerned with the significant increases in maintenance costs proposed by Queensland Rail[501], as well as the difficulty in assessing the proposal based on the amount of information provided.[502]

9.8.1 Relationship with the capital indicator

The required level of maintenance is closely linked to the proposed capital works, as upgraded or renewed sections of track generally require less maintenance. Often one reason why capital works are conducted is that in the long run it is more efficient to replace assets as that will reduce maintenance costs.

As discussed in section 9.5, Arcadis has found that it would be more efficient to retain existing maintenance practices between Macalister and Columboola, due to the capacity remaining the same as present, and due to that section of track having relatively low utilisation, so there are sufficient spare paths available for maintenance possessions.

This approach west of Macalister would be a significant change to both the capital and maintenance programs proposed by Queensland Rail in the material accompanying the 2025 DAU. Arcadis recommended maintaining existing maintenance practices, as opposed to capital works, west of Macalister. However, it said it was unable to obtain sufficiently detailed information from Queensland Rail about maintenance activities to calculate the associated costs that should be included. As a result, we anticipate the maintenance allowance may need to be revised in line with demand and capital indicator changes, taking into account further information provided by Queensland Rail on its maintenance plan.[503]

9.8.2 Maintenance expenditure

Given the size of the maintenance expenditure proposed, the potential efficiencies identified by Arcadis and the impact of the proposed maintenance allowance on the reference tariff, we consider that users, above-rail operators and Queensland Rail may be able to agree on an alternative maintenance program that reflects updated demand forecasts and capital expenditure programs that minimise costs through greater consideration of the interaction between service levels and above-rail costs.

We consider the objectives of the QCA Act are best achieved by Queensland Rail and its customers working towards agreed approaches. Given stakeholders' desire to engage, the potential efficiencies identified by Arcadis, and the significant price impact of these programs, we encourage Queensland Rail to engage with users and above-rail operators so that they may be able to agree on alternative maintenance programs that minimise costs through greater consideration of the interaction between service levels and above-rail costs.[504]

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[501] Aurizon Coal and Bulk, sub. 2, p. 5; New Hope Group, sub. 5, p. 10; Yancoal, sub. 9, p. 3.
[502] New Hope Group, sub. 5, pp. 10–11.
[503] Arcadis also examined the split between fixed and variable maintenance costs. See Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 41–44.
[504] See also section 8.3.

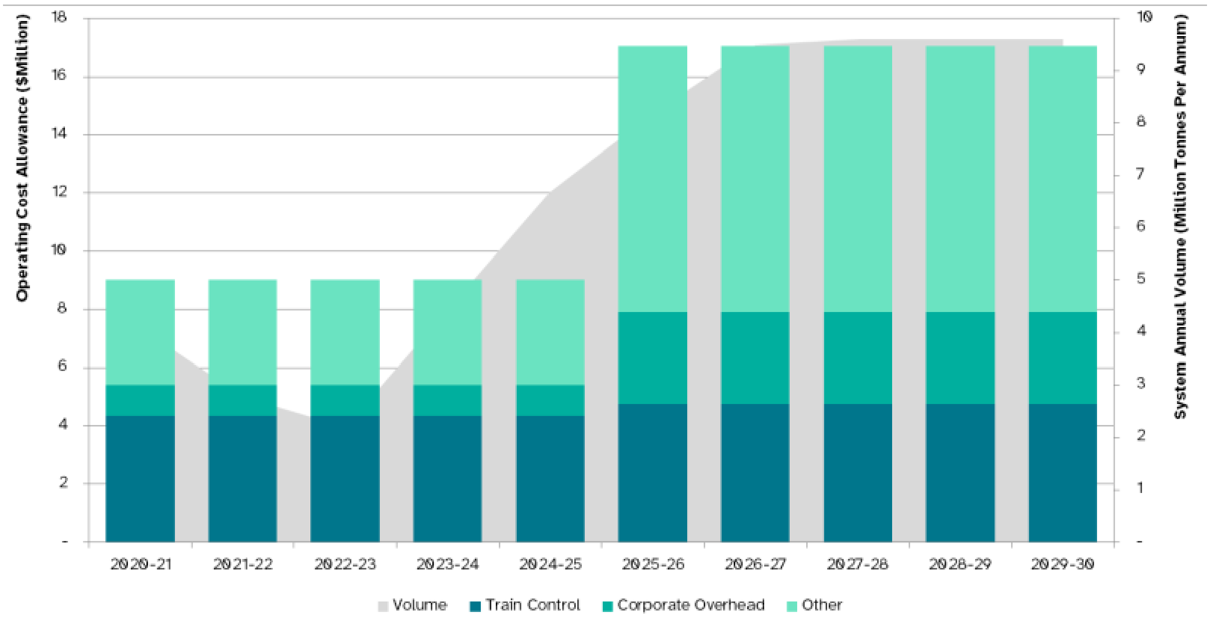
Summary 9.7

It may not be appropriate to approve the maintenance allowance proposed by Queensland Rail based on the information currently available.

9.9 Operating expenditure

Queensland Rail proposed an 89% increase (in real terms) in operating expenditure compared to AU2 (Figure 12).

Figure 12: West Moreton operating cost allowances



Source: Queensland Rail, sub. 1, p. 48.

Queensland Rail said it had revised its approach to forecasting operating costs, and that the methodologies employed in AU1 and AU2 'underestimated long-term operating costs'.[505] The approach for costs proposed in DAU3 is based on escalating Queensland Rail's claimed 2021–22 costs to $2025-26, with individual cost categories escalated separately[506] to obtain a forecast amount. Table 11shows Queensland Rail's analysis of the allowances, actuals, and differences for past West Moreton system operating costs.

[505] Queensland Rail, sub. 1 p. 48.
[506] In the case of train control costs, a bottom-up escalation was used.

Table 11: West Moreton operating costs allowances vs actuals ($m)

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
QCA allowance	7.2	7.4	7.6	7.7	7.2	7.5
Operating costs	8.1	11.7	16.0	12.3	12.4	11.4
Difference	(0.9)	(4.3)	(8.4)	(4.6)	(5.2)	(3.9)

Source: Queensland Rail, sub. 1, p. 48.

However, Queensland Rail did not provide information to explain the significantly higher operating costs starting in 2017–18, that continued during the AU2 period, or whether these higher costs were efficient. It justified changing the approach to forecasting on the basis that the new estimates corresponded to increased actual operating costs.

Stakeholders were concerned with the significant increases in operating costs proposed by Queensland Rail[507], as well as the difficulty in assessing the proposal based on the amount of information provided.[508] Aurizon Network said the increases in operating costs were not explained and that Queensland Rail had not provided evidence that they represented efficient costs.[509] Queensland Rail provided some analysis of relative corporate overheads in a study by ARUP.[510] However, this analysis was based on averages based on the length of track, and there are multiple other factors that may be useful as the basis for benchmarks.

Arcadis assessed the proposed operating costs based on information provided by Queensland Rail as well as benchmarking against operating expenses in international operations. It found that 8 of the 9 proposed operating cost activities were reasonable, the exception being corporate overhead. Arcadis said the allowance for overheads had increased by 87% relative to 2020-21, but it had not received additional information on these costs from Queensland Rail. Arcadis concluded there was insufficient information to consider corporate overhead costs (18.6% of forecast operating costs) reasonable.[511]

As with capital and maintenance, operating costs will depend on the level of demand in the system, in particular the number of customers and the number of trains that must be managed. As such, the capital, maintenance, and operational programs are, to an extent, a package. Given the significant price impact of these combined work programs, and the questions raised by stakeholders over the proposed cost increases, we consider that Queensland Rail should consult with users and above-rail operators to agree on a package reflective of updated demand forecasts and revised programs that minimise costs through greater consideration of the interaction between service levels and above-rail costs.

[507] New Hope Group, sub. 5, p. 11–12; Yancoal, sub. 9, p. 3, 16.
[508] New Hope Group, sub. 5, p. 11–12; Yancoal, sub. 9, p. 3, 16.
[509] Aurizon Network, sub. 3, p. 6.
[510] ARUP report reference.
[511] Arcadis also examined the split between fixed and variable operating costs. See Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU*, May 2024, pp. 41–44.

Summary 9.8

It may not be appropriate to approve the operating costs proposed by Queensland Rail based on the information available.

9.10 Metropolitan system tariff

Queensland Rail proposed to maintain the existing Metropolitan System tariff in real terms, escalating the current tariff charges by CPI.

The Metropolitan tariff has been developed for the past decade using a proxy approach that relies on prices derived for the coal services that use the West Moreton system. This approach avoided the complicated task of seeking to allocate costs for the Metropolitan system to coal services, which use only a small portion of what is predominantly a commuter network.

Queensland Rail proposed to continue this Metropolitan proxy pricing approach and escalate the 2020 undertaking price by actual and forecast CPI. We consider that the proxy approach remains an appropriate way of determining a price that sits between:

- the incremental cost – which would be at or near zero
- the standalone cost – which could be expected to be at least as high as the price that is being charged.

Continuing the existing proxy approach was supported by New Hope[512], and no concerns were raised by other stakeholders.

Accordingly, our decision is that it is appropriate to approve continuing the 'proxy' approaches used in previous undertakings. We consider this simple, transparent approach continues to be in the interests of Queensland Rail, access seekers and access holders (ss. 138(2)(b), (e) and (h)).[513]

Summary 9.9

It may be appropriate to approve the proposed Metropolitan system tariff approach.

[512] New Hope, sub. 5, p. 23.
[513] We note this would still leave the way open for Queensland Rail to apply in the future to implement a Metropolitan-specific asset base and our decision would not predetermine our consideration of any future DAU.

Appendix A: The access regime

A.1 Queensland access regime

Part 5 of the QCA Act sets out the statutory regime for access to services in Queensland, including the process for declaration of services and the negotiation of terms of access. The regime is based on a negotiate–arbitrate framework, which envisages that, in the first instance, access to a declared service should be procured on the basis of terms and conditions that are commercially agreed between the access seeker and the provider of the declared service.

The regime also provides for developing an 'access undertaking', which is defined under the QCA Act as 'a written undertaking that sets out details of the terms on which an owner or operator of the service undertakes to provide access to the service whether or not it sets out other information about the provision of access to the service'.[514] It is notable that since implementation of the Queensland access regime, access to declared services has primarily been facilitated through approved access undertakings. These have been the primary means of setting out: (i) a process required for an access seeker to negotiate access; (ii) general terms and conditions that apply when negotiating access agreements; and (iii) how disputes in relation to access are to be resolved.

A.2 Queensland Rail

Queensland Rail provides access to declared services for the purposes of the access regime. The relevant services involve 'the use of rail transport infrastructure for providing transportation by rail if the infrastructure is used for operating a railway for which Queensland Rail Limited, or a successor, assign or subsidiary of Queensland Rail Limited, is the railway manager'.[515] On 1 June 2020, the Treasurer and Minister for Infrastructure and Planning declared the following parts of the Queensland Rail service, which parts are each a service, under section 84(1)(b) of the QCA Act: (a) the North Coast Route service; (b) the Mount Isa Route service; (c) the West Moreton Route service; (d) the Central Western Route service; (e) the Western Route service; and (f) the South Western Route service (collectively referred to in this draft decision as the 'declared services').[516]

As a result of this service declaration, Queensland Rail is subject to various obligations under the QCA Act, including engaging in negotiations in good faith regarding access to the service (s. 100), providing information to access seekers regarding the service, and participating in access dispute resolution.

The following are previous access undertakings involving Queensland Rail:[517]

- 2008 access undertaking – 2010–2015
- 2016 access undertaking – 2016–2020
- 2020 access undertaking (AU2) – 2020–2025.

[514] QCA Act, Sch. 2.
[515] The declaration of Queensland Rail's below-rail infrastructure is set out in s. 250(1)(b) of the QCA Act.
[516] Queensland Government, *Gazette* (Extraordinary), vol. 384, no. 31, 1 June 2020.
[517] Additional information is available on the QCA website at https://www.qca.org.au/project/queensland-rail/previous-access-undertakings/.

Appendix B: Track quality

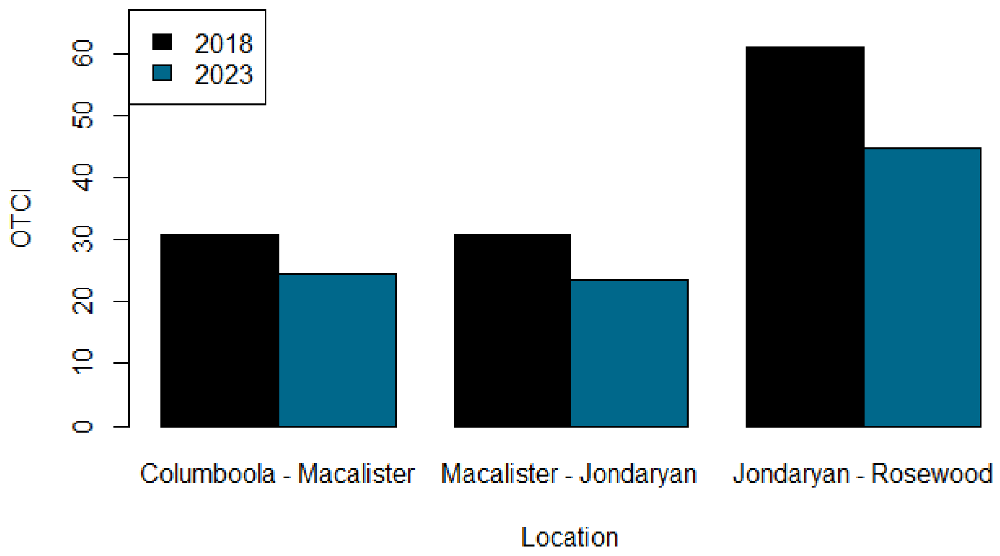
We have analysed track geometry data provided by Queensland Rail to inform our analysis and assist stakeholders to better understand track condition in the West Moreton system. Stakeholders said that limited disclosure by Queensland Rail prevented them from verifying key performance measurements, including the OTCI.[518]

We found that the condition of the West Moreton system has improved since 2018, due in part to a reduction in the proportion of the track where the twist measure is out specification. The Toowoomba range crossing remains the primary location for rail condition hotspots.

Overall track condition index

The OTCI is a measure reported on by Queensland Rail to give a general indication of the condition of its rail infrastructure.[519] It combines a range of key measures of track geometry, to indicate how the infrastructure is performing and help identify areas requiring maintenance or asset upgrades. It is a broad indicator and is best used to monitor overall trends in track condition.[520] OTCI values that have decreased over time may suggest that the track condition has improved, while the opposite applies for OTCI values that have increased. Queensland Rail provided OTCI data for 2018 to inform our investigation of the 2020 DAU and provided updated data in 2023 to assist with our consideration of the 2025 DAU. We split our analysis for both years into three main geographical sections along the West Moreton system: Rosewood–Jondaryan, Jondaryan–Macalister, and Macalister–Columboola.[521]

Figure 13: OTCI values for 2018 and 2023



Source: Queensland Rail data and QCA analysis.

[518] Yancoal, sub. 9, p. 14.
[519] Measures similar to the OTCI are used by many rail operators, including Aurizon Network. However, the exact implementation can vary.
[520] The sum of three times the standard deviation for each parameter was calculated for each 100 m section of the track. The OTCI is the average of all these 100 m sections along the entire track.
[521] Queensland Rail provided track measurements from August 2018 for the QCA's investigation for AU2 and track measurements from September 2023 for the QCA's investigation for AU3.

Table 12: OTCI data summary

	Columboola-Macalister	Macalister-Jondaryan	Jondaryan-Rosewood
2018	30.75	30.76	60.92
2023	24.60	23.50	44.83

Source: Queensland Rail data and QCA analysis.

For all three sections of track, the OTCI values have decreased between 2018 and 2023, suggesting that track quality has generally improved. While the OTCI values for Columboola–Macalister and Macalister-Jondaryan are similar, values for the Jondaryan-Rosewood corridor are significantly higher for both the 2018 and 2023 data. These elevated OTCI values may be explained by the greater amount of traffic that runs through the Jondaryan–Rosewood corridor, which also includes the steep and winding Toowoomba Range crossing.

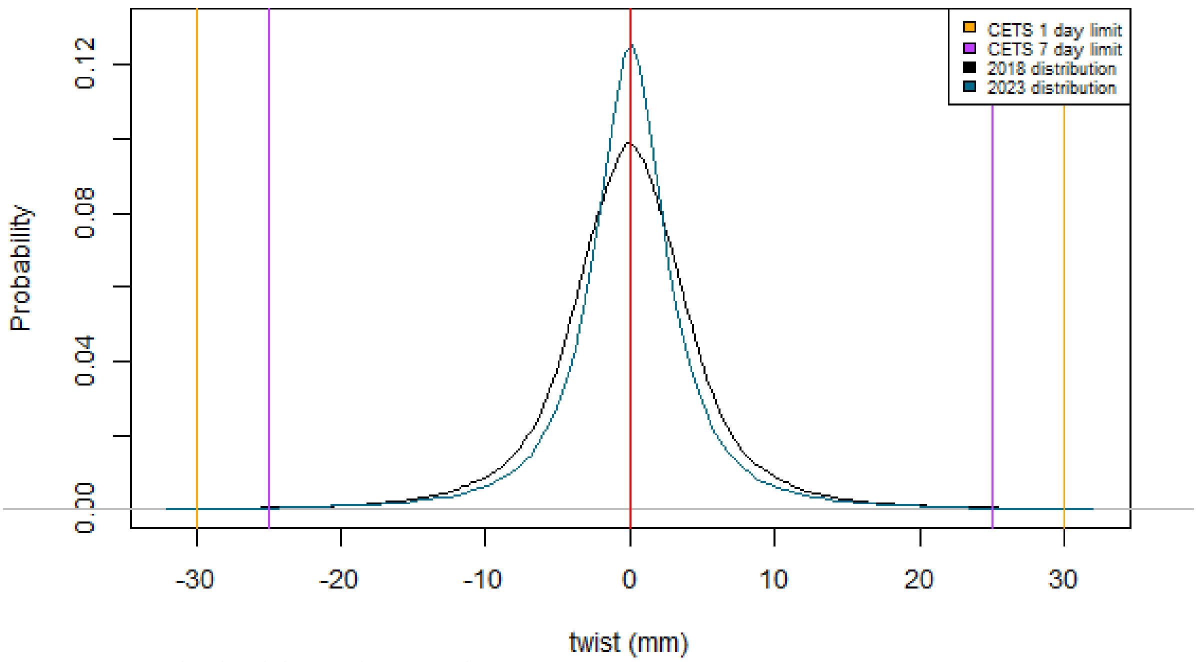
Twist and gauge

The Civil Engineering Track Standards (CETS) provide maintenance thresholds for various track geometry parameters to maintain consistency and safety throughout the network. Should track data measurements exceed these limits, maintenance work is carried out. Based on advice from Queensland Rail, for major exceedances (>30 mm), maintenance work is carried out within 1 day, whereas minor exceedances (25–30 mm) have a window of 7 days.

During the investigation for the 2020 access undertaking (AU2), our consultant SYSTRA analysed the 2018 track quality data, with a particular focus on a parameter known as 10 m twist. Twist is defined as the rate of change of the cant (superelevation) over a particular interval. In other words, it measures whether the two rails, connected by sleepers, are at the same level over the interval, or whether one rises or falls relative to the other (i.e. whether there is a 'twist' in the track). The importance of twist among other geometric parameters has been highlighted in recent research by Abadi et al. (2023), where twist was found to play a significant role in how unbalanced loads to either the left or right rail could lead to rocking movements and even derailment.[522] SYSTRA's analysis included plotting the distribution of the 10 m twist and calculating the distance exceeding the CETS limits. We conducted similar analysis using the most recent data and compared results.

[522] 'Among geometrical parameters, twist plays an important role in the operation of railway lines and it has rarely been studied. It affects interaction of track and wheels, can cause an unbalanced load to the left and right rails and imposes more dynamic loads to ballast and sleepers. In severe cases it leads to rocking movements and even derailment. Twist along the railway track causes different forces in wheel and rail leading to geometrical failures.' (EIY Abadi, AM Sameni and M Yaghini, 'Analysis of the relationship between geometric parameters of railway track and twist failure by using data mining techniques', *Engineering Failure Analysis*, vol. 143, part A, 2023, doi:10.1016/j.engfailanal.2022.106862.)

Figure 14: Twist distributions over 10 m intervals



Source: Queensland Rail data and QCA analysis.

The data relating to the percentage of track exceeding the CETS thresholds is summarised in Table 13.

Table 13: Summary of 10 m twist data

	1-day threshold	7-day threshold
2018	0.16%	0.44%
2023	0.03%	0.17%
Difference (2023 vs 2018)	81.25% lower	61.36% lower

Source: Queensland Rail data and QCA analysis.

One-day (>30 mm) and 7-day (25–30 mm) CETS thresholds

Exceedances in the 1-day threshold are any twist measurements that exceed 30 mm, over a 10-metre section of track. These are to be rectified within 1 day. Similarly, exceedances in the 7-day threshold are any twist measurements that are within 25–30 mm. These are to be rectified within 7 days.

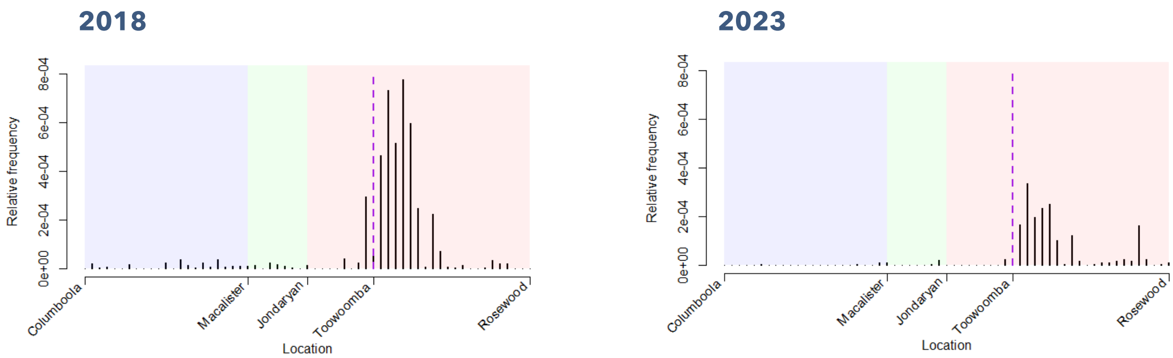
Figure 14 shows a clear narrowing of the 2023 twist distribution compared to the 2018 distribution. A higher proportion of data points are clustered around 0 mm, and the percentage of track exceeding the CETS thresholds has also decreased significantly. This decrease in the percentage of track length that exceeds the maintenance limit may suggest that the formation renewal and track reconditioning programs have been successful in achieving their aims.

Given the relatively elevated OTCI values for the Jondaryan–Rosewood corridor, we also plotted the distribution of hotspots relative to location.[523] We define a hotspot as any measurement that exceeds

[523] Due to the 2023 data containing significantly more data points, the relative frequency was taken to provide a fair comparison between the 2018 and 2023 datasets.

the CETS 7-day limit. Most of the hotspots are also located in the Jondaryan–Rosewood section of the network.[524]

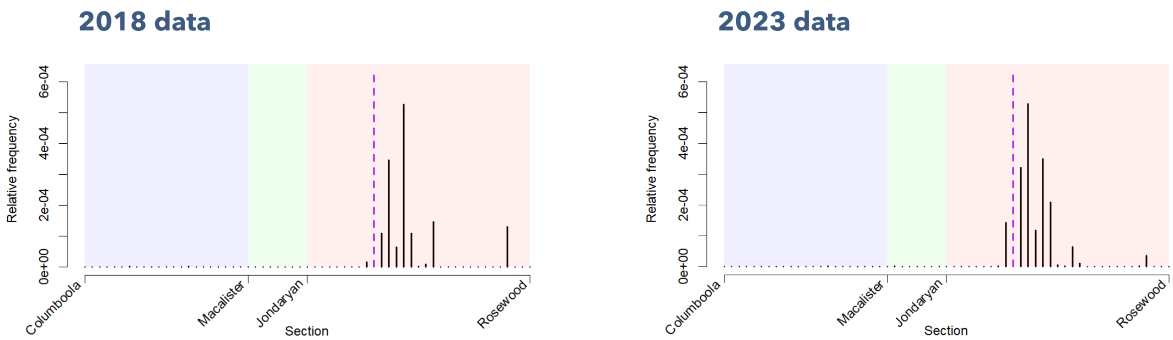
Figure 15: Twist hotspots exceeding a 7-day response threshold



Source: Queensland Rail data and QCA analysis.

Gauge is the distance (separation) between the two rails. Using the gauge thresholds for maintenance intervention provided by Queensland Rail, we can analyse hotspots in the network for both 2018 and 2023 data. The result is similar to the twist analysis, with most of the hotspots in the Jondaryan–Rosewood corridor, clustered just east of Toowoomba on the range crossing.

Figure 16: Gauge hotspots exceeding the 15 mm limit



Source: Queensland Rail data and QCA analysis.

Twist and gauge measurements of railway tracks are an important indicator of track quality and are affected by maintenance and formation renewal programs. While the relative frequency of twist hotspots has decreased since 2018, there does not appear to be any improvement in gauge hotspots. By providing the OTCI and an overview of track quality, we hope to assist stakeholders in gaining a clearer understanding of the track condition in the West Moreton system.

524 Specifically, the hotpots are clustered just east of Toowoomba. Geographically, this is on the range leading up to Toowoomba from Brisbane.

Appendix C: Beta data

To estimate the beta for any given firm, we regressed its returns data against the returns of a proxy for the market portfolio in the home economy, such as the All Ords or ASX200 for Australia and the S&P500 for the United States.

To estimate beta, data must be captured over a period of time. In choosing the time horizon of the data that is used, there is an inherit trade-off between capturing a large amount of data to try and limit the standard errors of the estimate, while also capturing information that is relevant to the risk profile of the firm.

We have used a 10-year return window. In doing so, we have used weekly data, as we consider it strikes a balance between having a large number of observations and also being unlikely to capture statistical noise that might possibly be accompanied by higher-frequency (e.g. daily) return intervals.

We note that when using weekly returns, there is the potential for estimates to vary by non-trivial amounts depending on the reference day selected. Therefore, we have taken an average of each of these weekly reference day combinations to deal with the potential variation that may arise when estimating beta.

The firms included in our regulated energy and water businesses and toll roads businesses samples, are outlined in Tables 14 and 15**Error! Reference source not found.**, respectively.

Table 14: Firms included in our regulated energy and water businesses sample

Company
Alliant Energy Group
Ameren Corporation
American Electric Power
APA Group
Avista Corp
Black Hills Corp
Canadian Utilities Ltd
CMS Energy Corp
Consolidated Edison Inc
Dominion Energy Inc
Duke Energy Corp
Edison International
Emera Inc
Eversource Energy
FirstEnergy Corp
Fortis Inc
Idacorp Inc

Company
MGE Energy Inc
National Grid Plc
North Western Corp
PNM Resources Inc
Portland General Electric Co
PPL Corp
Sempra Energy
Southern Co
WEC Energy Group Inc
Xcel Energy Inc
American Water Works Co Inc
American States Water Co
Artesian Resources Corp
California Water Service Grp
Middlesex Water Co
SJW Group
Essential Utilities Inc
York Water Co
Severn Trent Plc
United Utilities Group Plc

Table 15: Firms included in our toll roads businesses sample

Company
Atlas Arteria
Getlink SE
Transurban Group

Appendix D: Submissions received

Submission	Number
Queensland Rail initial submission	
Queensland Rail's DAU3 explanatory document	1
Submissions in response to the DAU	
Aurizon Coal and Bulk	2
Aurizon Network	3
Centrex	10
GrainCorp	4
New Hope Group	5
North West Phosphate	6
Pacific National	7
Qube Logistics	8
Yancoal	9
Responsive submissions	
Glencore	11
Mount Isa Line Users	17
New Hope Group	12
Pacific National	13
Queensland Rail	14
Rail Operator Group	15
Yancoal	16

Glossary

ACCC	Australian Competition and Consumer Commission
AER	Australian Energy Regulator
ARA	Australian Railway Association
ARTC	Australian Rail Track Corporation
AU	access undertaking
AU2	Queensland Rail's 2020 access undertaking
AU3	Queensland Rail's 2025 access undertaking (once approved)
CETS	Civil Engineering Track Standards
CPI	Consumer price index
CQCN	Central Queensland coal network
DAU	draft access undertaking
DBCT	Dalrymple Bay Coal Terminal
DBI	Dalrymple Bay Infrastructure
DTMR	Department of Transport and Main Roads, Queensland Government
DTP	daily train plan
ERA	Economic Regulation Authority
HVCN	Hunter Valley coal network
MTP	master train plan
OTCI	overall track condition index
RBA	Reserve Bank of Australia
SAA	standard access agreement
SCC	supply chain calendar
QCA	Queensland Competition Authority
WACC	Weighted average cost of capital

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