

# Queensland Rail 2025 Draft Access Undertaking

Discussion paper

December 2024

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

Pag Arao-Arao, Duncan Coutts, Richard Creagh, Russell Jutlah, Adam Liddy, Stephen Wisenthal

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# Executive summary

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Our draft decision on Queensland Rail's 2025 draft access undertaking (DAU) called for parties to find common ground on matters where their views differed. Submissions reflect some progress in reaching consensus, including on operational matters in the DAU and on aspects of the standard access agreement (SAA). However, the parties remain far apart on the key issue of appropriate pricing and related matters for West Moreton coal services.

This discussion paper expands on some aspects of the draft decision in response to further investigation by us or comments by stakeholders. In broad terms, we are inclined to accept consensus positions between Queensland Rail and its stakeholders as they are best placed to determine terms and conditions of access and to allocate risk effectively and efficiently.

The discussion paper does not represent any final views and has no force as such.

## West Moreton access

For the West Moreton system, it is clear that the parties remain far apart in their expectations of pricing, reflecting uncertainties about capacity and demand, and a long-term rise in costs. In this environment, we are reluctant to set a reference tariff for access unless the parties themselves agree one. Rather, we have provided indicative pricing that may assist Queensland Rail and its users in reaching a negotiated position. It is in the interests of both sides to agree terms that reflect affordability and service concerns of miners and the legitimate interest of Queensland Rail in recovering its costs.

We also remain concerned that the capacity of the network is not sufficient to achieve the highest coal volumes that Queensland Rail is proposing, without significant capital investment in addition to what Queensland Rail has already put forward.<sup>1</sup> Our indicative cost recovery price at annual volumes of 7.5 million tonnes is \$40.07/000 gross tonne kilometres (gtk), or \$15.54 per net tonne. This is more than 50% higher than the price in the 2020 undertaking.

Access terms are set on most of Queensland Rail's network by negotiation, without a reference tariff in the access undertaking. We consider it is appropriate to use the same approach for access to the West Moreton system. The exception would be if Queensland Rail and its customers bring us an agreed reference tariff for West Moreton, which we would consider under section 138(2) of the QCA Act. In all cases, the parties can raise disputes about access terms with us.

Our analysis on these matters is detailed in chapter 2. Further information to assist parties in their negotiations is provided in Appendices A to C.

## Amendments to the 2025 DAU and Standard Access Agreement

We have assessed consensus positions received from stakeholders, having regard to the statutory criteria in section 138(2) of the QCA Act. We consider it is appropriate to approve consensus drafting amendments submitted by stakeholders on:

- the definition of planned possessions and notification requirements for changes to train plans in the 2025 DAU

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<sup>1</sup> Queensland Rail's collaborative submission includes forecasts for annual coal volumes of both 9.6 million and 7.5 million tonnes.

- insurance terms, the dispute resolution process and assignment of rights in the proposed SAA.

In this discussion paper, we also outline certain aspects of Queensland Rail's 2025 DAU and proposed SAA where our preliminary positions have changed from our draft decision in response to further information provided by stakeholders.

In relation to the provisions of the 2025 DAU, we consider it is appropriate for the 2025 DAU to be amended to:

- make the quarterly performance reports more informative for end users
- require Queensland Rail to publish passenger peak periods
- make it clear that Queensland Rail is to respond to an access holder's request for changes to contracted paths in a master train plan (MTP) as soon as reasonably possible, and to provide an access holder with reasons for any decision to decline a request for changes to an MTP.

In relation to the provisions in the proposed SAA, we consider:

- drafting amendments to the insurance provisions, the assignment of Queensland Rail's rights under an access agreement, and the dispute resolution framework are appropriate to improve the workability and clarity of these provisions
- where parties can agree mechanisms to improve overall network utilisation and performance, such mechanisms are best placed in an access undertaking, rather than being specified in individual access agreements.

Our analysis on these matters is detailed in chapters 3 and 4 of this discussion paper. Appendix D proposes specific drafting amendments to the 2025 DAU and proposed SAA that we consider will give effect to the positions outlined in the draft decision and discussion paper.

## Next steps

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

While we consider it would be appropriate to approve measures set out in this discussion paper, having regard to the criteria in section 138(2) of the QCA Act, we remain open to considering further agreed outcomes negotiated between Queensland Rail and its customers.

Our indicative approaches address some matters raised about the measures in Queensland Rail's DAU, where the parties have not put forward consensus positions. However, it is likely that the parties, should they negotiate directly and effectively, will come up with terms and conditions that better reflect their own preferences and interests. Failing such outcomes, we will welcome proposals that seek to address both the interests of the party making the submission and the interests of other parties. We will have regard to all submissions as we proceed to a final decision on Queensland Rail's DAU.

We invite submissions from interested parties regarding the discussion paper by **Tuesday 28 January 2025**.

# Submissions

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**Closing date for submissions: 28 January 2025**

Public involvement is an important element of our decision-making processes. Therefore, we invite submissions from interested parties. We will take account of all submissions received within the stated timeframes. Submissions, comments or inquiries regarding this paper should be directed to:

**Queensland Competition Authority**

GPO Box 2257, Brisbane Q 4001

Tel 07 3222 0555

[www.qca.org.au/submissions](http://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 that 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*. Among other things, we will assess if disclosure of the relevant information is likely to damage a person's commercial activities, and we will consider the public interest.

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](http://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](http://www.qca.org.au)**. If you experience any difficulty gaining access to documents, please contact us on **07 3222 0555**.

# 1 Introduction

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We have prepared this discussion paper to assist stakeholders in making further comments on Queensland Rail's 2025 DAU. The discussion paper focuses on:

- providing more information on West Moreton coal capacity and costs to inform discussions between Queensland Rail and its customers
- considering areas where Queensland Rail and its customers have reached consensus
- setting out instances where our preliminary positions have changed.

Submissions on all matters are due by **Tuesday 28 January 2025**.

This paper outlines our current views on approaches that may be appropriate to approve. Our consideration of the 2025 DAU and the application of the statutory assessment criteria is not finalised, and our thinking may change in making the final decision. Our final decision will be informed by submissions made in response to this paper, including any further consensus positions and agreed outcomes. This paper is not a draft version of a final decision, and it has no force of itself.

## 1.1 Background

Queensland Rail submitted its 2025 DAU in November 2023, and we published our draft decision in June 2024.

The draft decision included preliminary positions on various non-tariff matters and encouraged Queensland Rail and other stakeholders to seek agreement on areas where their views differed.

The draft decision also provided information on various aspects of the West Moreton tariff building blocks, including demand, capacity, costs and the rate of return. However, given the uncertainty about key inputs, we did not calculate an estimated price. We encouraged Queensland Rail and its customers to reach consensus on the best way forward for the West Moreton tariff.

Stakeholders provided initial submissions on the draft decision in July 2024, and collaborative submissions on 8 November 2024.

## 1.2 Agreed outcomes

In our draft decision, we emphasised the importance of consultation and consensus as the preferred way to settle areas of difference between Queensland Rail and its stakeholders.

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 explore salient issues and potential areas of consensus in relation to the 2025 DAU.<sup>2</sup>

This applied both for non-tariff matters and for setting the reference tariff for West Moreton coal services. We said:

The reference tariff is part of a package of service standards, obligations, costs and risks, which reflects customers' preferences, the legitimate business interests of

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<sup>2</sup> OCA, *Queensland Rail 2025 Draft Access Undertaking*, draft decision, June 2024, p. 9.



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.<sup>3</sup>

We welcome the consensus positions that were included in the collaborative submissions and encourage the parties to continue their efforts to find common ground on matters where differences remain.

## 1.3 Structure

This paper is set out as follows:

- Chapter 2 sets out our preferred approach to West Moreton access terms.
- Chapter 3 discusses amendments to the 2025 DAU.
- Chapter 4 discusses amendments to the proposed SAA.
- Appendices A to C provide information to assist parties in negotiating West Moreton access terms:
  - Appendix A considers demand and sustainable capacity
  - Appendix B provides cost information
  - Appendix C discusses aspects of non-price terms of access.
- Appendix D proposes specific drafting amendments to the 2025 DAU and proposed SAA that we consider will give effect to the positions outlined in the draft decision and discussion paper.

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<sup>3</sup> QCA, *Queensland Rail 2025 Draft Access Undertaking*, draft decision, June 2024, p. 77.

## 2 West Moreton access terms

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We currently consider that it is not appropriate to include a West Moreton coal reference tariff in the 2025 DAU, unless Queensland Rail and its customers can find consensus on a price and related matters that bridges the substantial differences between their current positions.

In our draft decision, we found that Queensland Rail's proposed reference tariff was not appropriate to approve for a number of reasons, including uncertainty about both capacity and demand, and the lack of an agreed reasoned and prudent strategy for managing and investing in the West Moreton rail infrastructure.

Queensland Rail and its customers said in their collaborative submissions they had discussed various aspects of the West Moreton tariff and related terms. However, they had not settled on a single volume forecast, agreed an access price for West Moreton coal services, or finalised consensus positions on how to assess capacity or plan capital expenditure.

We have sought further advice on the capacity of West Moreton and on reasonable costs for providing that capacity during the 2025 undertaking period. We have had regard to information from Queensland Rail, above-rail operators, and customers and to our consultant's advice on capacity and costs, in forming our own view on indicative volume and cost forecasts.

Based on that information and analysis, we have estimated an indicative cost recovery price of \$40.07/000 gtk, or \$15.54 per net tonne<sup>4</sup>, based on an annual coal volume of 7.5 million tonnes, which is the lower of the two volume forecasts Queensland Rail has included in its collaborative submission. Our price is higher than that proposed by Queensland Rail. This is primarily because of lower volumes compared with Queensland Rail's proposal in the DAU, that outweigh the reduced expenditure forecast. We have also included updated capital expenditure forecasts and estimated capitalised losses for the current (2020–2025) undertaking period. We provide detailed information in Appendix B on how we derived this price, to assist Queensland Rail and its customers in their negotiations.

To achieve Queensland Rail's higher forecast volume of 9.6 million tonnes, we assess that additional capital spending, which is not included in Queensland Rail's 2025 DAU proposal, would be required (see Appendix A). We have not made a precise estimate of the cost of this extra infrastructure, or what would need to be built. However, if it cost a further \$200 million<sup>5</sup> beyond the spending proposed by Queensland Rail, then the resulting price at 9.6 million tonnes would be almost the same as for 7.5 million tonnes, at \$39.59/000 gtk, or \$15.32 per net tonne (see Appendix B).

These are high prices – more than 50% above the price customers are paying under the 2020 undertaking, and significantly higher than any prices customers pay for hauling coal on Aurizon's network in central Queensland.<sup>6</sup>

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<sup>4</sup> Our price is higher than that indicated by Queensland Rail in its collaborative submission, as we have included approved capital expenditure claim for 2022-23 and updated capital expenditure forecasts for the final two years of the 2020 undertaking period. Our price also includes our estimate of the balance of capitalised losses as of 1 July 2025. We have maintained Queensland Rail's inflation data from its initial submission. The below-rail cost for transporting a net tonne of coal to the terminal at the Port of Brisbane will also include \$3.08 for traversing the Metropolitan system.

<sup>5</sup> The \$200 million figure is for illustration only. It reflects a rough estimate of what it might cost to build capacity expansion projects such as extra passing loops, which would add more usable paths. It may be that advanced signalling or above-rail investment in trains with faster braking, for example, are more efficient ways of adding more capacity.

<sup>6</sup> Approved central Queensland prices in 2025 dollars, on Aurizon Network's systems, average \$6.17 per net tonne, and range from \$3.63 per net tonne on the Goonyella system to \$8.74 per net tonne on the Blackwater system. The comparable indicative price on West Moreton, including the cost of traversing the Metropolitan system, is \$18.62 per net tonne.

Stakeholders have said the price proposed by Queensland Rail is unaffordable. If a price that fails to recover a significant majority of Queensland Rail's efficient costs is required to make West Moreton coal haulage viable, it is best that it be set through negotiation between Queensland Rail and its customers. Any subsidy may also be applied by direct fiscal assistance to users or Queensland Rail from the government.

If we attempt to set an affordable price, there will be a significant chance of regulatory error. The most appropriate affordable price is likely to depend on future circumstances and decisions that we do not control and can not predict with any degree of reliability. For example, the price at which Queensland Rail is prepared to provide access for coal services might fall within an affordable range for customers if they assume some or all of the investment risk for capital expenditure during the 2025 undertaking period. And Queensland Rail's owner, the state government, may wish to take into account considerations such as revenue from coal royalties and the net cost of keeping the West Moreton line open to provide services other than coal haulage, which are not part of our assessment of regulated costs or revenues.

We consider a subsidised affordable price that is not agreed with Queensland Rail may, in some circumstances, not promote efficient use and operation of, or investment in, West Moreton rail infrastructure, or provide a return on investment to Queensland Rail that is commensurate with the regulatory and commercial risks of providing access (ss. 138(2)(a), (g) and 168A(a)). And we consider it unlikely we would be able to form the view that a price that fails to recover a significant majority of Queensland Rail's efficient costs meets the criterion of being in the legitimate business interests of Queensland Rail unless it has been proposed by Queensland Rail (s. 138(2)(b)).

Equally, though, if a reference tariff is set at a cost recovery price that is not affordable, it is likely that some or all of the demand required to fund West Moreton investment will not materialise. Investments that cost more than the benefit to users would not be efficient and would be unlikely to be in the interests of access seekers (ss. 138(2)(a) and (c)). A price that customers were unwilling to pay would also increase the risk that existing investments by Queensland Rail will be stranded.

West Moreton coal services are an exception on Queensland Rail's network. For all other lines where prices are subsidised so that the access price is below the full economic cost of providing access, terms of access are negotiated without a reference tariff. This promotes the primacy of negotiated outcomes. Should the parties not be able to agree terms, they have the option of raising a dispute.

Given the above factors and the application of the tests in the QCA Act to those factors, we consider our approach to West Moreton coal should be consistent with that for the rest of Queensland Rail's network. Accordingly, our current view is that it is not likely to be appropriate to approve the 2025 DAU with a West Moreton reference tariff and it is therefore appropriate to amend the 2025 DAU to remove Schedule D.

The exception to this would be if the parties can agree on a West Moreton reference tariff and related provisions. We would need to consider any such proposal against the criteria in section 138(2) of the QCA Act, including having regard to the interests of parties that did not participate in the negotiations. But we would look favourably on a consensus outcome.

In our draft decision, we set out a range of matters that customers and Queensland Rail might need to address to achieve a mutually acceptable outcome (see Box 1).

## Box 1: West Moreton parties' interests

Queensland Rail and its customers will need to consider how to address each other's concerns when negotiating terms of access for West Moreton coal services. In our draft decision, we said:

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.<sup>7</sup>

The collaborative submissions revealed limited progress on the matters for agreement we set out in the draft decision. If the parties are to negotiate a price and other access terms in time for their agreed outcome to be included in the 2025 undertaking when it takes effect, they will need to move quickly toward addressing each other's interests.

One urgent matter for the parties to address is West Moreton capacity. Our analysis shows that it will be difficult to find a way to either achieve Queensland Rail's capacity forecasts, or reduce the unit cost of providing access for coal services. Proposed measures to cut costs are likely to have a significant impact on capacity that more than offsets the cost reduction. And measures to increase capacity will be expensive. A key factor in determining the capacity of the system is the amount of time spent conducting track works. But achieving a given amount of works in less time in order to increase the available capacity will likely increase the cost of performing those tasks. These trade-offs are illustrated in Figure 4 and explained in detail in Appendix A.

Should we find in our final decision that it is appropriate to approve the 2025 DAU without a West Moreton reference tariff, there are still mechanisms to add a reference tariff later. These include agreed amendments to the DAU after our final decision or, if more time is required, a draft amending access undertaking after the 2025 undertaking has commenced.

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<sup>7</sup> OCA, *Queensland Rail's 2025 Draft Access Undertaking*, draft decision, June 2024, p. 94.

To assist the parties with their negotiations, we have provided further information in appendices to this discussion paper.

- Appendix A provides information on sustainable West Moreton capacity.
- Appendix B estimates reasonable costs to provide that capacity.
- Appendix C considers a number of non-price matters where Queensland Rail and its West Moreton customers may be able to achieve consensus positions

# 3 Amendments to the 2025 DAU

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## 3.1 Consensus on amendments to the 2025 DAU

In response to our request for collaborative submissions on our draft decision, we received submissions reflecting consensus between Queensland Rail and the Rail Operators Group on amendments to certain provisions in the 2025 DAU. These amendments included:

- deleting the definition of (and all references to) ad hoc planned possession from the 2025 DAU
- replacing the definition of regular planned possession with the definition of planned possession – as a possession (other than an urgent or an emergency possession) that is entered into the master train plan (MTP) and daily train plan (DTP) and adversely affects the operation of train services
- amending the obligations in the network management principles that require Queensland Rail to notify access holders of proposed updates to the MTP or DTP, to also require that affected nominated rolling stock operators be notified of those updates.<sup>8</sup>

We consider that these proposed amendments to the 2025 DAU are appropriate to approve having regard to the statutory assessment criteria in section 138(2) of the QCA Act.

We consider that amending the definitions of planned possessions clarifies that planned possessions that may adversely affect the operation of train services are to be scheduled into the MTP. Requiring Queensland Rail to schedule planned possessions that affect the operation of train services in accordance with the network management principles provides a predictable and transparent process for scheduling planned possessions – which provides certainty to access holders about the scheduling of train services.

We also consider it appropriate that the 2025 DAU be amended to notify rolling stock operators of updates to the MTP or DTP. This will provide for a more efficient process for notifying those parties that may be affected by changes to the MTP and DTP. We consider this is in the interests of access holders.

The amendments to the 2025 DAU that reflect the consensus positions that we consider appropriate to approve are outlined in Appendix D.

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<sup>8</sup> See Queensland Rail, sub. 27, p. 58 and Rail Operators Group, sub. 28, pp. 27-32.

## Summary 3.1

It is appropriate for Queensland Rail to amend the 2025 DAU to:

- clarify that planned possessions that may adversely affect the operation of train services are to be scheduled into the MTP, in accordance with the network management principles
- oblige Queensland Rail to notify nominated rolling stock operators of proposed updates to the MTP or DTP.

The way in which we consider it is appropriate to amend the 2025 DAU is outlined in Appendix D.

## 3.2 Reporting obligations

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

Part 5 of the 2025 DAU outlines Queensland Rail's reporting responsibilities. Queensland Rail proposed reporting arrangements 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.

In our draft decision, we considered 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.

In response to our draft decision, we received submissions that the information reported by Queensland Rail was not always useful and that there was a benefit in adjusting performance reports to present information that provided more value to stakeholders. However, we did not receive submissions reflecting substantive consensus between Queensland Rail and users on this matter.

Having regard to submissions received in response to our draft decision, we consider it is appropriate to require amendments to Queensland Rail's reporting obligations in the 2025 DAU to provide for the quarterly performance reports to be more informative for end users.

Separately, we also consider it appropriate that the passenger peak periods referred to in Queensland Rail's proposed network management principles should be published on Queensland Rail's website for greater transparency.

### 3.2.1 Quarterly performance reports

Under the 2025 DAU, Queensland Rail is required to publish a quarterly network performance report that contains the following measures relating to Queensland Rail's operational management of the network:

- 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.

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.

In certain instances, access holders may benefit from greater transparency of Queensland Rail’s performance in managing the network. In particular, 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, 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.

As part of our draft decision, we considered that providing further information to better analyse system performance should be further considered by the respective regional user groups. This view reflects the fact that:

- Queensland Rail will incur additional costs where additional reporting obligations are incorporated in the regulatory framework
- the extent that end users value additional performance information may vary, especially because network and customer characteristics for each system vary significantly.<sup>9</sup>

In response to our draft decision, Aurizon Coal and Bulk identified instances where it considered amendments to Queensland Rail’s performance reports would, amongst other things, result in more useful and relevant information being presented to customers and stakeholders (Table 1).<sup>10</sup> Aurizon Coal and Bulk also considered that these amendments were unlikely to impose unreasonable costs on Queensland Rail.<sup>11</sup>

The Rail Operators Group acknowledged that performance and reporting issues were complex, due in part to Queensland Rail’s systems restrictions and legacy issues.<sup>12</sup> In this regard, Queensland Rail submitted that it could not readily amend its reporting systems to provide the additional reports requested by stakeholders.<sup>13</sup>

GrainCorp submitted that it would like to see further progress in improving reporting of on-time performance of the network and speed restrictions. It considered that the consultation process should be continuing.<sup>14</sup> The Rail Operators Group also welcomed further opportunities to develop more meaningful and useful indicators.<sup>15</sup>

<sup>9</sup> For instance, not all systems will suffer from increasing congestion during the upcoming regulatory period.

<sup>10</sup> Consistent with Aurizon Coal and Bulk’s submission, the Rail Operator Group (sub. 22, pp. 14-16) submitted drafting amendments to the proposed reporting obligations in Queensland Rail’s quarterly reports.

<sup>11</sup> Aurizon Coal and Bulk, sub. 24, pp. 22, 25. Aurizon Coal and Bulk considered that collecting this information reflects good industry practice, and it is likely that this information, in many cases, is already collected by Queensland Rail. Consistent with Aurizon Coal and Bulk’s submission, the Rail Operator Group (sub. 22, pp. 14-16) submitted drafting amendments to the proposed reporting obligations in Queensland Rail’s quarterly reports.

<sup>12</sup> Rail Operators Group, sub. 28, p. 13.

<sup>13</sup> Queensland Rail, sub. 27, p. 59.

<sup>14</sup> Graincorp, sub. 25, p. 2.

<sup>15</sup> Rail Operators Group, sub. 28, pp. 13-14. To aid further discussions between Queensland Rail and its stakeholders, the Rail Operators Group asked that we provide a clear direction around the type of KPIs that are required.



For the reasons outlined in Table 1, we consider that it is appropriate to require amendments to Queensland Rail’s reporting obligations in the 2025 DAU to provide for the quarterly performance reports to be more informative for end users.

**Table 1: Consideration of suggested amendments to the quarterly performance reports**

Stakeholder submissions	Our analysis
<p>The 2025 DAU requires Queensland Rail to report the number and percentage of train services that did not reach their destination within the allotted time threshold, as well as to outline whether delays are solely due to rail network issues or due to delays attributed to the rail operator.<sup>16</sup></p> <p>Aurizon Coal and Bulk did not consider that this approach to reporting the reasons for train services not reaching their destination within the allotted time threshold provided useful information for stakeholders. In particular, Aurizon Coal and Bulk submitted that services ran long distances, meaning it was unlikely that there would be a sole cause for a delayed service.<sup>17</sup></p> <p>To understand whether late arrivals were due to the rail operator running late, or because of rail network issues, Aurizon Coal and Bulk considered that outlining the following information would be more useful:</p> <ul style="list-style-type: none"> <li>• the number and percentage of train services for which the operator was running on time (within the agreed time threshold)</li> <li>• of those services for which the operator was running on time, the number and percentage of train services that reached their destination on time</li> <li>• of those services for which the operator was not running on time, the number and percentage that did not deteriorate further.<sup>18</sup></li> </ul>	<p>We consider it appropriate to require amendments to Queensland Rail’s reporting obligations to enable end users to be better informed as to the reasons for delayed services across the network. In particular, amending the reporting obligations in this manner provides a reasonable level of transparency about how Queensland Rail is performing in operating its network and the reliability of scheduled services. We consider that this level of transparency is required to place accountability on Queensland Rail’s performance.</p> <p>From the information provided, we do not consider that requiring these amendments to Queensland Rail’s reporting obligations will impose a significant burden on Queensland Rail, as this data should be readily available to Queensland Rail.</p>
<p>The 2025 DAU requires Queensland Rail to report the average above-rail delay, below-rail delay and unallocated delay in minutes, per 100 train kilometres for aggregated train services.<sup>19</sup></p> <p>Aurizon Coal and Bulk considered that the information provided would be more useful to report the delays in minutes per transit hour, given different components of the network could</p>	<p>We consider it appropriate to require such amendments to Queensland Rail’s reporting obligations to enable end users to better understand the extent, and potential impacts, of delays to services across the network. Amending the reporting obligations in this manner provides a reasonable level of transparency about how Queensland Rail is performing in operating its</p>

<sup>16</sup> 2025 DAU, cl. 5.1.2(a)(ii).

<sup>17</sup> Aurizon Coal and Bulk, sub. 24, pp. 22-23. Aurizon Coal and Bulk noted that over 99% of late services were attributed to being ‘due to any other reason’ in Queensland Rail’s recent quarterly report.

<sup>18</sup> Aurizon Coal and Bulk, sub. 24, pp. 22-23. The Rail Operators Group, (sub. 22, p. 14) also submitted amendments to the 2025 DAU to reflect this position.

<sup>19</sup> 2025 DAU, cl. 5.1.2 (a)(iii).

## Stakeholder submissions

have very different expected transit times. Aurizon Coal and Bulk considered that expressing delays in minutes per transit hour provided a clearer understanding of the impact of each category of delay on the ability for the train service to operate on time.<sup>20</sup>

Additionally, Aurizon Coal and Bulk considered that reporting information on expected and actual transit times over the network would be very useful.<sup>21</sup>

The 2025 DAU requires Queensland Rail to report the number and percentage of planned possessions that start and finish within a certain time of the scheduled time.<sup>22</sup>

In relation to the information on the performance of possessions, Aurizon Coal and Bulk considered that the most important information for stakeholders was the extent that Queensland Rail's possessions impacted scheduled train services.<sup>23</sup> To reflect this, Aurizon Coal and Bulk considered that there was more value reporting the following:

- the number and percentage of train services cancelled or rescheduled for the purpose of network possession – as this provided information on the extent to which Queensland Rail's network possessions impacted the reliable operation of train services on the network
- the percentage of maintenance work (hours) delivered in planned possessions –

## Our analysis

network and the reliability of scheduled services. We consider that this level of transparency is required to place accountability on Queensland Rail's performance.

Importantly, from the information provided, we do not consider that requiring these amendments to Queensland Rail's reporting obligations will impose a significant burden on Queensland Rail, as these amendments require improvements to the way in which data is presented rather than the collection of new datasets.

Separately, we do not consider it appropriate to require additional obligations to report expected and actual transit times over the network. We consider that providing further information on transit time delays is best considered at the respective regional user groups, given: the extent that end users value this information may vary; and that providing this information will impose costs on Queensland Rail.

We consider it appropriate to require such amendments to Queensland Rail's reporting obligations to enable end users to be better informed as to how Queensland Rail is managing possessions across the network. Amending the reporting obligations in this manner provides end users with transparency about how Queensland Rail's management of possessions is affecting the reliability of scheduled services. We consider that this level of transparency is required to place accountability on Queensland Rail's performance in operating its network.

We do not consider that requiring these amendments to Queensland Rail's reporting obligations will impose an unreasonable burden on Queensland Rail, as much of this data should be readily available to Queensland Rail.<sup>25</sup>

Furthermore, the 2025 DAU already requires Queensland Rail to report the number of train services that were cancelled or rescheduled as a

<sup>20</sup> Aurizon Coal and Bulk, sub. 24, pp. 24-25.

<sup>21</sup> Aurizon Coal and Bulk, sub. 24, pp. 25.

<sup>22</sup> 2025 DAU, cl. 5.1.2(a)(x).

<sup>23</sup> Aurizon Coal and Bulk submitted that it would not consider Queensland Rail completing a possession late to be a material issue if there were no train services impacted. Furthermore, Aurizon Coal and Bulk considered that if Queensland Rail was able to successfully align its possessions, then the number of possession hours might not have a strong correlation with the impact on train services.

<sup>25</sup> Aurizon Coal and Bulk (sub. 24, pp. 23-24) submitted that it expected this information would be readily available from Queensland Rail's information systems.

Stakeholder submissions	Our analysis
<p>as this provided a simpler presentation of Queensland Rail’s performance in maintenance planning and execution.<sup>24</sup></p>	<p>result of each of an emergency or urgent possession.</p>
<p>The 2025 DAU requires Queensland Rail to report the number and percentage of train services scheduled in the daily train paths (DTPs) that were cancelled.<sup>26</sup></p> <p>Aurizon Coal and Bulk considered that there was value in clarifying what was meant by a ‘cancellation’ when reporting the number and percentage of train services scheduled in the DTP that were cancelled.<sup>27</sup></p> <p>Queensland Rail proposed to delete this reporting requirement, as it considered it did not provide valuable information.<sup>28</sup></p>	<p>We consider it appropriate to require amendments to Queensland Rail’s reporting obligations to clarify the definition of cancellation. This will enable end users to accurately interpret the information provided by Queensland Rail.</p>

## Summary 3.2

It is not appropriate to approve Queensland Rail’s proposed reporting requirements (Part 5 of the 2025 DAU).

It is appropriate for Queensland Rail to amend the 2025 DAU to provide for the quarterly performance reports to be more informative for end users.

The way in which we consider it is appropriate to amend the 2025 DAU is outlined in Appendix D.

### 3.2.2 Reporting ad hoc planned possessions

In our draft decision, we considered it appropriate for the 2025 DAU to require that Queensland Rail report on ad hoc planned possessions as part of its quarterly report.

As outlined above, in response to our draft decision, Queensland Rail proposed to:

- delete the definition of ad hoc planned possession (and all references to ad hoc planned possessions) from the 2025 DAU
- replace the definition of regular planned possession with the definition of planned possession – as a possession (other than an urgent or an emergency possession) that is entered into the MTP and DTP and adversely affects the operation of train services.

<sup>24</sup> Aurizon Coal and Bulk, sub. 24, p. 24.

<sup>26</sup> 2025 DAU, cl. 5.1.2(a)(iv).

<sup>27</sup> Aurizon Coal and Bulk, sub. 24, pp. 23-24.

<sup>28</sup> Queensland Rail, sub. 27, p. 59.

Queensland Rail submitted that these amendments made it clear that all possessions (other than emergency and urgent possessions) that adversely affect train services were scheduled in the MTP.<sup>29</sup> The Rail Operators Group accepted Queensland Rail's proposed removal of references to ad hoc planned possessions.<sup>30</sup>

Importantly, we consider that Queensland Rail's proposed amendments to the definitions of planned possessions, along with the required amendments to the reporting obligations in the 2025 DAU (see section 3.2.1), will provide interested parties with adequate information on Queensland Rail's performance in scheduling planned possessions.

Therefore, we do not consider that further reporting on planned possessions (including ad hoc planned possessions) is required where the definitions of planned possessions are amended in the way proposed by Queensland Rail.

### **3.2.3 Publishing passenger peak periods**

The 2025 DAU provides for a passenger service to be given priority over any other train service where the network control officer believes it necessary to avoid an on-time passenger service that operates in the Metropolitan system during any peak period from becoming late.<sup>31</sup>

We consider Queensland Rail should be more transparent about the applicable passenger peak periods in the Metropolitan system – given the discretion provided to Queensland Rail to prioritise passenger train services that operate during this time to avoid delays to those services.

Passenger peak periods may vary from time to time to allow Queensland Rail to better manage its network. Aurizon Coal and Bulk submitted that Queensland Rail had informally extended peak periods to those referred to in the network control principles to include time for passenger fleet mobilisation before the morning peak.<sup>32</sup> Aurizon Coal and Bulk considered that it would be highly beneficial for the network management principles to specify the applicable peak periods in the Metropolitan system.<sup>33</sup>

To provide for more transparency, we consider that the passenger peak periods should be published on Queensland Rail's website. This will provide access holders with transparency around the applicable passenger peak periods, while allowing the timing of these periods to be updated without requiring Queensland Rail to submit changes to an approved undertaking for our approval.

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<sup>29</sup> Queensland Rail, sub. 27, p. 61.

<sup>30</sup> Rail Operators Group, sub. 28, pp. 27-28.

<sup>31</sup> 2025 DAU, Sch. F, cl. 3(ii).

<sup>32</sup> Aurizon Coal and Bulk noted that there is variability around the passenger peak periods applied by network control.

<sup>33</sup> Aurizon Coal and Bulk, sub. 24, pp. 18-19. Aurizon Coal and Bulk considered that the length of Queensland Rail's peak periods has a significant impact on freight operators – reducing network capacity and rollingstock utilisation and increasing costs to customers.

## Summary 3.3

It is appropriate for Queensland Rail to amend the 2025 DAU to require Queensland Rail to publish the applicable passenger peak periods in the Metropolitan system.

The way in which we consider it is appropriate to amend the 2025 DAU is outlined in Appendix D.

### 3.3 Responding to requests to change train service schedules

In our draft decision, we considered it appropriate to amend the 2025 DAU to provide for Queensland Rail to be more responsive to requests from access holders to change the MTP. Specifically, we considered it appropriate to:

- reduce the notification timeframes for an access holder to request a modification to the MTP to one month, where such a request does not impact other access holders.
- include 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.<sup>34</sup>

No consensus positions were reached in relation to these matters.

In relation to reduced timeframes for an access holder to notify Queensland Rail of a request to modify the MTP, Queensland Rail submitted that the MTP was finalised in its planning systems three months before the day of operation and converted into an indicative DTP.<sup>35</sup> We do not consider it practical to provide for an access holder to request changes to an MTP, where that MTP has already been converted to an indicative DTP. As such, reducing notification timeframes to request a modification to the MTP would also require amending the timeframes associated with converting the MTP into the DTP, providing access holders with the DTP no more than one month in advance of the day of operation.

Importantly, the 2025 DAU provides for an access holder to request a short-term change to the scheduled train service times outlined in the indicative DTP (up to 2 days before the day of operation or until the DTP is scheduled), where another access holder's train service entitlements are not affected.<sup>36</sup> Therefore, we do not consider it is appropriate to require amendments to the 2025 DAU to provide reduced notification timeframes for an access holder to request a modification to the MTP.

In relation to our draft decision to include a process in the network management principles to incorporate changes to contracted paths in between periodic revisions of the MTP, Queensland Rail did not respond to, or propose amendments that would give effect to, our position on this matter.

The 2025 DAU does not prescribe a process whereby Queensland Rail is to periodically revise the MTP on set dates. We remain of the view that only revising the MTP on set dates has the potential to

<sup>34</sup> QCA, *Queensland Rail 2025 Draft Access Undertaking*, draft decision, June 2024, pp. 56-57.

<sup>35</sup> Queensland Rail, sub. 27, p. 60.

<sup>36</sup> See 2025 DAU, Sch. F, cl. 2.2(e).

unnecessarily prolong the timeframes associated with responding to stakeholder requests. As such, we consider it is appropriate to amend the network management principles to make clear that Queensland Rail is to respond to an access holder's request as soon as reasonably possible. Where Queensland Rail does not agree to the access holder's requested changes or considers that insufficient notice of the requested changes was provided, we also consider it appropriate for Queensland Rail to provide the access holder with reasons for its decision to decline the requested changes.

### **Summary 3.4**

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

It is appropriate for Queensland Rail to amend the 2025 DAU to:

- make clear that Queensland Rail is to respond to an access holder's request for changes to contracted paths in an MTP as soon as reasonably possible
- provide the access holder with reasons for any decision to decline an access holder's request for changes to contracted paths in an MTP.

The way in which we consider it is appropriate to amend the 2025 DAU is outlined in Appendix D.

# 4 Standard access agreement

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An access agreement is an agreement between Queensland Rail and an access holder regarding access to Queensland Rail's network. Part 2 of the 2025 DAU sets out the provisions for developing and executing an access agreement. Schedule H of the 2025 DAU provides a standard access agreement (the proposed SAA) that contains the standard terms and conditions on which Queensland Rail proposes to provide access to its declared networks for all access seekers.<sup>37</sup>

Notably, an SAA represents an indicative contractual agreement between Queensland Rail and each access holder. Therefore it should, in advance of parties' further negotiation and finalisation of terms, offer a reasonable or broadly acceptable allocation of responsibilities, obligations and risks.<sup>38</sup> Access agreements must be consistent with the terms of the SAA, unless the parties agree otherwise.<sup>39</sup>

In our draft decision on the proposed SAA, we identified a broad range of areas where amendments to the provisions of the proposed SAA may be appropriate, and we encouraged all parties to discuss these issues and, where possible, reach consensus on them. As noted in our draft decision, amendments settled through negotiation are preferable, as stakeholders are best placed to manage and allocate risks among themselves. As such, we are inclined to support consensus positions as being consistent with section 138(2) of the QCA Act, with our focus being on whether stakeholders not privy to the negotiations are being disadvantaged.

In response to our request for collaborative submissions on our draft decision, we received submissions reflecting consensus between Queensland Rail and users on various issues related to the proposed SAA. Specifically, parties identified consensus positions on particular insurance terms, the dispute resolution process and assignment of Queensland Rail's rights in the proposed SAA. In addition, the submissions outlined a number of unresolved issues where the parties advised that they were yet to reach consensus but were continuing to engage with each other.

After giving further consideration to these matters, including areas of consensus and non-consensus, and having regard to the criteria in section 138(2) of the QCA Act, we have:

- identified drafting amendments that we consider would improve the workability and clarity of
  - the insurance provisions in the proposed SAA
  - the assignment of Queensland Rail's rights under an access agreement
  - the dispute resolution framework in the proposed SAA
- identified areas that are best addressed through negotiations between Queensland Rail and individual access holders
- noted that the mechanisms to improve overall network utilisation and performance are best placed in an access undertaking, rather than being specified in individual access agreements.

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<sup>37</sup> References to clauses and schedules in this chapter are to the proposed SAA in Schedule H of the 2025 DAU, unless otherwise specified.

<sup>38</sup> As noted in our draft decision, we consider it appropriate to place weight on whether the proposed SAA appropriately allocates existing responsibilities and obligations between the rail operator and the end user; and the risk that each party bears is justifiable and appropriate.

<sup>39</sup> 2025 DAU, cl. 2.11.2(a).

## 4.1 Overview of the proposed SAA

Access agreements form the contractual basis between Queensland Rail and an access seeker for the granting and use of access rights to Queensland Rail's network. Notably, access agreements:

- contain the agreed terms and conditions of access to the network
- set out the rights and obligations of each party
- underpin the access rights and operation of train services on the network
- typically include areas such as access and operational rights, payment obligations, risk and indemnities, liabilities, insurance matters, disputes and assignments.

The proposed SAA is consistent with the SAA approved as part of Queensland Rail's 2020 access undertaking (AU2), with the exception of two changes involving:

- the responsibility for insurance coverage of operators' associates and other insured parties
- the circumstances in which Queensland Rail may assign its rights to another party.

In general, we consider that the proposed SAA establishes a reasonably balanced framework for the provision of access to Queensland Rail's network. However, we consider that certain amendments are appropriate, as outlined below.<sup>40</sup>

## 4.2 Insurance provisions

The insurance provisions in the proposed SAA establish a predictable and transparent framework regarding insurance matters, including:

- operators' and access holders' respective obligations to maintain and comply with relevant insurances
- insurer eligibility standards
- essential terms and conditions
- disclosure requirements
- claims notification requirements.<sup>41</sup>

The insurance provisions proposed by Queensland Rail are consistent with those outlined in the SAA approved for the AU2 regulatory period, with the exception of an amendment to the responsibility for coverage of operators' associates.

In general, we consider that the insurance provisions proposed by Queensland Rail appropriately balance the allocation of insurance-related responsibilities and risks between Queensland Rail and users. However, we consider that amendments to certain insurance provisions in Queensland Rail's proposed SAA are required to improve the workability of these provisions (see **Table 2**).

**Table 2: Stakeholder submissions and QCA position – insurance**

Stakeholder submission	QCA position
Queensland Rail proposed requiring operators to ensure that their associates, agents, consultants, contractors and their subcontractors take out their own insurances compliant with clause 16, rather	We consider it important that insurances adequately cover an operator's associates, agents, consultants, contractors and their subcontractors as this helps to avoid critical gaps in coverage against public liability and other

<sup>40</sup> We consider that amendments that we have identified to particular provisions should include any other consequential amendments that may be necessary to give effect to the proposed change.

<sup>41</sup> Clause 16.



Stakeholder submission	QCA position
<p>than requiring operators to maintain insurances covering these parties.<sup>42</sup></p> <p>Stakeholders generally did not oppose this proposal in principle.<sup>43</sup> However, several stakeholders expressed concern that the proposal, as currently drafted, was:</p> <ul style="list-style-type: none"> <li>• unduly burdensome and unfeasible<sup>44</sup></li> <li>• uneconomical and inefficient for operators to fulfill<sup>45</sup></li> <li>• vague in regard to certain terminology<sup>46</sup></li> <li>• excessive in scope.<sup>47</sup></li> </ul>	<p>injury or damage claims. Appropriate allocation of responsibility for maintaining this coverage also supports operational efficiency objectives as it allocates insurance risk to the parties best placed to manage this risk.</p> <p>However, we consider that the drafting of clause 16.1(b) of the proposed SAA may impose impracticable requirements on operators as it is not evident that they have, or can acquire, requisite knowledge of third parties' insurance risk profiles to obtain suitable coverage.</p> <p>Queensland Rail and the Rail Operators Group collaboratively proposed amended drafting for cl. 16.1(b) that requires operators to use their best endeavours to engage third parties on terms that require those parties to hold insurance policies of the same type and value that the operator must hold.<sup>48</sup> Yancoal and New Hope also supported these proposed changes.<sup>49</sup></p> <p>We consider that these changes improve the workability of this provision and are in users' interests by allowing operators more flexibility as to whether they cover third parties under their insurance policy or require those parties to have their own insurance in place. It is appropriate to require amendments to cl. 16.1(b) that oblige the operator to use its best endeavours to engage third parties on terms that require those parties to hold insurance policies of the same type and value that the operator must hold.</p>
<p>Clause 13.2(a) of Queensland Rail's proposed SAA bars claims<sup>50</sup> between parties unless notice and full details of the claim are provided within the prescribed one-year period.</p>	<p>We consider that timely provision of information relating to the details of a claim is consistent with providing for contentious matters to be expeditiously brought forward for formal</p>

<sup>42</sup> Queensland Rail, sub. 1, p. 66. Clause 16.1 sets out the operator's obligation to obtain and maintain insurance, including a requirement for public liability and other insurance that covers the operator and each of its agents, consultants, contractors and their subcontractors.

<sup>43</sup> Aurizon Coal and Bulk, sub. 2, p. 52; New Hope, sub. 5, pp. 29-30 and sub. 19, p. 11, Yancoal, sub. 9, p. 30.

<sup>44</sup> Pacific National, sub. 7, pp. 24-25 and sub. 20, p. 6. Pacific National suggested that it was beyond the logical remit of a rail operator to judge whether the relevant insurances were 'sufficient to protect the interests' of the insured party, as required under the proposal.

<sup>45</sup> New Hope, sub. 5, pp. 29-30; Yancoal, sub. 9, p. 30. These parties suggested that there might be efficiencies in requiring sub-parties to obtain separate cover only to the extent that they were not covered by the operator's insurance.

<sup>46</sup> Pacific National, sub. 7, pp. 24-25 and sub. 20, p. 6 (regarding the term 'ensure'); Yancoal, sub. 9, p. 30 (regarding the term 'sufficient insurance').

<sup>47</sup> New Hope, sub. 5, pp. 29-30; Yancoal, sub. 9, p. 30. New Hope and Yancoal each submitted that the proposed amendments appeared to extend beyond the stated rationale and included other insurances referred to in cl. 16, rather than just the insurances identified in cl. 16(a)(iv) and (vi). Both parties suggested revisions to the proposed amendment to address these concerns.

<sup>48</sup> Queensland Rail, sub. 27, Att. 2; Rail Operators Group, sub. 28, p. 23.

<sup>49</sup> Yancoal, sub. 29, p. 9; New Hope, sub. 26, p. 7.

<sup>50</sup> As defined in cl. 28.1 of the proposed SAA.

Stakeholder submission	QCA position
<p>Pacific National considered that such a provision could be construed as requiring indication of a quantum or final amount that might not be determinable within one year from the occurrence and suggested eliminating the requirement to provide full details of a claim.<sup>51</sup></p>	<p>resolution. Expedient resolution of claims is in the interests of all parties.</p> <p>To remove any ambiguity associated with the drafting of this provision, we consider it is appropriate to require that clause 13.2(a) of the proposed SAA be amended to clarify that only information 'to the extent known' be required to be provided by the parties.<sup>52</sup> Queensland Rail and the Rail Operators Group each confirmed in their collaborative submissions that they support this amendment, and we consider the parties' consensus on this issue to be aligned with users' interests in improving procedural certainty regarding the claims process.<sup>53</sup></p>

Clause 16.9(b) of Queensland Rail's proposed SAA provides for payment, in specified circumstances, of insurance monies to Queensland Rail 'commensurate with the amount to be paid out by Queensland Rail in relation to the damage'.

Pacific National proposed amending clause 16.9(b) to clarify the requirement of access holders and operators to pay insurance monies to Queensland Rail upon settlement of an insurance claim covering damage to the network.<sup>54</sup>

Access holders' and operators' insurance coverage for network damage is limited to the insured's legal liability for causing or contributing to the damage and is subject to the loss adjustment process. Recognising these constraints, we consider that access holders and operators are not positioned to agree on behalf of their insurers to an amount on which Queensland Rail settles a damage claim until the claim is finalised.<sup>55</sup>

To remove any ambiguity associated with the drafting of this provision, we consider it is appropriate to remove reference to 'commensurate with the amount to be paid out by Queensland Rail in relation to the damage' in clause 16.9(b).

A number of stakeholders submitted that further amendments to the insurance provisions in the proposed SAA were appropriate. These amendments included:

- amending the coverage and deductible levels of insurances in clause 16.1(a)<sup>56</sup>
- amending the eligibility standards for access holders' and operators' insurers in clause 16.3<sup>57</sup>

<sup>51</sup> Pacific National, sub. 7, p. 24.

<sup>52</sup> The following stakeholders supported amending the provision in this manner: Pacific National, sub. 20, pp. 5-6; Rail Operators Group, sub. 22, p. 14; New Hope, sub. 19, p. 11.

<sup>53</sup> Queensland Rail, sub. 27, Att. 2; Rail Operators Group, sub. 28, p. 22.

<sup>54</sup> Pacific National, sub. 20, pp. 9-10.

<sup>55</sup> Pacific National submitted (sub. 20, p. 10) that '[t]he insurance of the Access Holders and Operators that cover damage to the Network is limited to covering the insured's legal liability for causing or contributing to such damage and is otherwise subject to the loss adjustment process.'

<sup>56</sup> Aurizon Coal and Bulk, sub. 2, p. 52; Pacific National, sub. 7, pp. 24-25 and sub. 20, pp. 6-7; Rail Operators Group, sub. 22, pp. 12-13. Queensland Rail's and the Rail Operators Group's collaborative submissions (sub. 27, Att. 2 and pp. 44-45; sub. 28, pp. 22-23) identified consensus positions and proposed drafting changes. These proposed changes involving removing (1) the words 'without limitation' in cls. 16.1(a)(ii) and 16.1(a)(iv)(B); (2) the obligation for carrier liability insurance in cl. 16.1(a)(v); and (3) the requirement for a maximum deductible for public liability insurance in cl. 16.1(a)(iv)(D).

<sup>57</sup> Queensland Rail's and the Rail Operators Group's collaborative submissions (sub. 27, Att. 2 and pp. 45-46; sub. 28, pp. 23-24) identified consensus positions and proposed drafting changes. These proposed changes involving replacing the requirement for insurers to hold an insurance financial strength rating of 'A' or better from Standard & Poor's or similar

- amending the terms for exclusions, endorsements or alterations that reduce cover levels in cl. 16.4(b)<sup>58</sup>
- providing greater specificity regarding access holders' and operators' obligations to apprise Queensland Rail of insurance claims under their insurances in clause 16.9(a).<sup>59</sup>

In considering whether amending these provisions appropriately balances the legitimate business interests of Queensland Rail, access seekers and access holders, we note that these amendments reflect consensus positions reached by Queensland Rail and a number of stakeholders.

While applying these changes to the proposed SAA may increase Queensland Rail's exposure to risk, we recognise that the changes may be in the interest of access seekers.

As such, we would be minded to approve an SAA that is amended in this manner, given that Queensland Rail is best placed to assess its exposure to risk with respect to these matters and outline the terms of access that it determines are acceptable.

## Captive insurance companies

In addition to these proposed changes, some stakeholders considered that the proposed SAA should specifically provide for the use of captive insurance companies.<sup>60</sup> Captive insurance companies are insurers that provide insurance for and are owned by a parent company. We consider that this proposed change may also increase Queensland Rail's exposure to risk. Notably, allowance of a specific category of insurer based on their form or corporate structure, rather than their insurance capability, may enable parties that are not suitably qualified to undertake the role. Queensland Rail did not support the proposed change, noting that it was unnecessary in an SAA to prescribe the form of insurer that Queensland Rail is to accept and that the matter was best left for negotiation on a case-by-case basis.<sup>61</sup>

Under the 2025 DAU, Queensland Rail is to negotiate access agreements that are consistent with the terms of the SAA, unless the parties agree otherwise.<sup>62</sup> Therefore, in the absence of consensus amongst the parties, we do not consider it appropriate to require amendments to Queensland Rail's proposed SAA that simply act to change how risk is allocated amongst the parties. We consider the negotiating parties are best placed to negotiate alternative terms on a case-by-case basis, so that access charges are able to appropriately reflect any negotiated changes to the allocation of risk.

Moreover, we acknowledge Queensland Rail's submission that the consensually proposed change to insurer standards in cl. 16.3, as discussed above, may facilitate the engagement of captive insurance companies who meet those standards. We do not consider it appropriate to require amendment to the proposed SAA to specifically provide for the use of captive insurance companies.

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agency, with a requirement that the insurer is a corporation under the Corporations Act and licensed to conduct insurance business in Australia, or otherwise reasonably acceptable to Queensland Rail.

<sup>58</sup> Queensland Rail and the Rail Operators Group (sub. 27, Att. 2 and p. 46; sub. 28, p. 24) identified a consensus position and proposed drafting to replace the requirement for access holders and operators to obtain Queensland Rail's consent for exclusions, endorsements or alterations that adversely amend the insurance cover provided with a requirement preventing reductions of cover below the levels prescribed in cl. 16.

<sup>59</sup> Queensland Rail (sub. 27, Att. 2 and p. 47) and the Rail Operators Group (sub. 28, p. 24) collaboratively proposed amended drafting for cl. 16.9(a) to limit access holders' and operators' requirement to notify and inform Queensland Rail to the extent that the claims affect, relate to or are in connection with the access agreement or any right, liability or real or other property of Queensland Rail, or otherwise affect the ability to claim under the relevant policy of insurances. New Hope and Yancoal (sub. 26, p. 7; sub. 29, p. 9) were also supportive of this proposed amendment.

<sup>60</sup> Aurizon Coal and Bulk, sub. 2, p. 52; Rail Operators Group, sub. 28, pp. 23-24.

<sup>61</sup> Queensland Rail, sub. 27, pp. 59-60.

<sup>62</sup> 2025 DAU, cl. 2.11.2(a).

## Summary 4.1

It is not appropriate to approve Queensland Rail's proposed SAA (Schedule H of the 2025 DAU).

It is appropriate for Queensland Rail to amend the insurance provisions in the SAA to improve their workability and clarity, or to reflect the parties' consensually balanced risks.

The way in which we consider it is appropriate to amend the proposed SAA is outlined in Appendix D.

## 4.3 Assignment of Queensland Rail's rights

Queensland Rail's proposed SAA provides in clause 22.1(a) for the assignment of its rights under an access agreement in circumstances where Queensland Rail ceases, or no longer expects, to have a right to operate all or part of the network.<sup>63</sup>

We acknowledge the importance of enabling Queensland Rail to assign its rights under an access agreement to another party in appropriate circumstances, including where it ceases to have a right to operate all or part of the network.

In general, we consider that the proposed SAA appropriately balances flexibility for parties to transfer their rights and obligations to third parties, while bringing procedural certainty to the assignment process. In particular, the proposed SAA goes some way to establishing a transparent and circumscribed framework under which parties may assign all or part of their respective rights and obligations under the proposed SAA to a third party.

Queensland Rail's ability to assign its rights under the proposed SAA should be predictable, transparent and reasonably balanced with users' legitimate interests in maintaining operational continuity. In circumstances where Queensland Rail will cease to have a right to operate all or part of the network, we consider that procedural certainty and operational continuity related to assignment of rights should be supported, among other things, by:

- clarifying the circumstances in which Queensland Rail can assign its rights, including avoidance of speculative thresholds, such as situations where Queensland Rail's loss of its operational rights is merely expected or not confirmed
- limiting the assignment to the relevant part(s) of the network that Queensland Rail will no longer operate
- providing assurances regarding the assignee's suitability to fulfill its obligations.

New Hope and Yancoal 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, they considered that Queensland Rail's assignment rights in clause 22.1(a) were ambiguous or overly broad and would permit assignments in certain inappropriate circumstances – such as where the parts of the network for which operatorship had changed were irrelevant to the access rights

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<sup>63</sup> Queensland Rail, sub. 1, pp. 66-67.

under the agreement, or where it was uncertain or merely expected that operatorship would change.<sup>64</sup>

Following concerns expressed by some users and further engagement, Queensland Rail, the Rail Operators Group, New Hope, and Yancoal provided collaborative submissions proposing, with suggested drafting, an amended provision that provided for:<sup>65</sup>

- assignments where Queensland Rail 'will no longer have' operational rights
- limiting assignments to the part of the network for which Queensland Rail will no longer provide access
- a 21-day notice period allowing users to seek information regarding the assignee's performance capability
- Queensland Rail's best endeavours to secure the assignee's cooperation to provide requested information and to negotiate an interface agreement.

We acknowledge the parties' broad consensus on this issue. We also consider that the proposed amendments to clause 22.1(a) of the SAA provide procedural certainty regarding the parties' rights and responsibilities, including by clarifying the circumstances in which Queensland Rail can assign its rights and limiting the assignment to relevant parts of the network. It also protects parties' interests in maintaining operational continuity through requirements regarding the assignee's performance expertise and capability, and covenant obligations. As such, we are minded to approve the proposed amendments to this provision to reflect parties' consensus position on these matters.

Additionally, we consider it important that assignees are required to have the relevant accreditations. This requirement supports the parties' interests in ensuring that assignees are suitably qualified to fulfill their role.

New Hope and Yancoal were also concerned about Queensland Rail's proposal to omit references to the QCA Act and access undertaking that were included in the assignment provision in AU2.<sup>66</sup> Queensland Rail did not provide a rationale for eliminating this requirement. An assignee is providing a declared service under the QCA Act, and consequently we consider it is appropriate to include references to the QCA Act and undertaking in this provision.<sup>67</sup>

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<sup>64</sup> New Hope, sub. 5, pp. 30-31 and sub. 19, p. 12; Yancoal, sub. 9, pp. 30-31. New Hope also proposed that in situations where the change in operator concerned only part of the network, the assignee should be required to coordinate train path scheduling with Queensland Rail (sub. 19, p. 12).

<sup>65</sup> Queensland Rail, sub. 27, p. 60; Rail Operators Group, sub. 28, pp. 26, 60-61; New Hope Group, sub. 26, pp. 8-9; Yancoal,

<sup>66</sup> New Hope, sub. 26, pp. 8-9; Yancoal, sub. 29, pp. 10-11. sub. 29, pp. 10-11. See cl. 22.1(a), SAA, Sch. H, AU2 (cl. 22.1(b) of the proposed SAA, 2025 DAU).

<sup>67</sup> Clause 22.1(b).

## Summary 4.2

It is appropriate for Queensland Rail to amend the proposed SAA to provide additional procedural certainty and to balance parties' interests regarding Queensland Rail's assignment of its rights under an access agreement.

The way in which we consider it is appropriate to amend the proposed SAA is outlined in Appendix D.

## 4.4 Network utilisation and performance

Queensland Rail is responsible for scheduling and managing train paths on the network. This is reinforced by the proposed SAA, which outlines that Queensland Rail has exclusive responsibility for network control and may issue network control directions to the operator (and the operator's associates) – subject to the network management principles.<sup>68</sup>

Our view is that the overarching principles and processes that outline how Queensland Rail is to schedule and manage train services on the network are best placed in an access undertaking, rather than being specified in individual access agreements. Where Queensland Rail implements amendments to how it implements network control changes over time, there is a need to ensure consistency across different access agreements and to provide for the benefits of refinements made to these processes to be realised across the network. Moreover, we consider that incorporating these principles and processes in an access undertaking increases transparency for access holders.

The network management principles (Schedule F of the 2025 DAU) govern the way in which Queensland Rail is to schedule and manage train services on the network (see chapter 6 of the draft decision).

### 4.4.1 Mechanisms to provide for improved network utilisation

We consider there may be opportunities to provide Queensland Rail with more flexibility in train operations with respect to train path rescheduling and path resumption. However, as outlined below, we do not consider it appropriate to require amendment to these provisions in the proposed SAA at this time.

With respect to path rescheduling, greater flexibility in certain circumstances may support schedule optimisation and efficient network utilisation.<sup>69</sup> However, we consider that the potential benefits of providing Queensland Rail with further flexibility need to be appropriately balanced with providing certainty to access holders about the scheduling of train services.

Aurizon Coal and Bulk submitted that there was generally limited accountability for rail operators to run to schedule. Moreover, Aurizon Coal and Bulk considered that the scheduling of a new train path might be constrained by an existing train schedule, even where the existing access holder did not reliably operate services to that schedule. To support schedule optimisation and improve

<sup>68</sup> SAA, cl. 7.2; 2025 DAU, cl. 4.1 and Sch. F.

<sup>69</sup> For instance, the 2025 DAU does not outline principles for train path rescheduling in situations where an access holder has consistently poor reliability performance.

network utilisation, Aurizon Coal and Bulk considered that the proposed SAA should be amended to enable:

- Queensland Rail to reschedule train paths where an operator had consistently poor reliability performance and require the operator to use its best endeavours to negotiate variances to entry and exit times that facilitated the varied schedule
- train service levels to be specified in a way that allows some flexibility for train scheduling in accordance with the train service level, rather than fixed network entry or exit times.<sup>70</sup>

We consider that this proposed amendment to the regulatory framework would be better implemented in an approved access undertaking, rather than in the SAA, noting as outlined above that it is unclear to what extent efficiency improvements would be realised in practice if current access holders were not subject to those arrangements.

We received collaborative submissions on train path rescheduling from Queensland Rail, Rail Operators Group, New Hope and Yancoal.<sup>71</sup> Although no consensus has been reached on this issue, Queensland Rail submitted that it agreed that it would be appropriate to amend the treatment of train path scheduling. We understand that the parties are engaging further on this issue, with details and drafting under discussion.

We also encourage stakeholders to continue to discuss and, where possible, reach consensus on incorporating additional mechanisms as part of the network management principles in an approved undertaking to provide for improved network utilisation. We note that such mechanisms may have implications for access rights already negotiated by current access holders.

With respect to path resumption, the proposed SAA sets out the circumstances in which Queensland Rail may reduce an access holder's access rights to address the access holder's underutilisation of its scheduled train paths.<sup>72</sup> Path resumption provides a means of reallocating train paths to meet commercial needs and avoid operational inefficiencies associated with network underutilisation.

Aurizon Coal and Bulk suggested amendments to the path resumption requirements in the proposed SAA on the basis that these changes would strengthen Queensland Rail's ability to address network underutilisation. Amongst other things, Aurizon Coal and Bulk proposed to change the path resumption triggers and to remove access holders' entitlement to contest resumptions that met the underutilisation threshold.<sup>73</sup>

We consider there may be merit in improving Queensland Rail's ability to effectively address path hoarding, as strengthening Queensland Rail's ability to address network underutilisation provides for the efficient operation of the network.

We understand from collaborative submissions that consensus is yet to be reached on this issue<sup>74</sup> but that Queensland Rail concurs that it would be appropriate to modify utilisation thresholds and to add new resumption triggers and that the parties are engaging further on this issue.

Although we welcome the parties' collaboration on this issue, again, we consider that amendments to Queensland Rail's rights and principles that govern the way it is to schedule and manage train services on the network are best placed in an access undertaking. It is unclear to what extent

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<sup>70</sup> Aurizon Coal and Bulk, sub. 2, pp. 47-48. The Rail Operators Group (sub. 22, pp. 7-8, 10-11) supported Aurizon Coal and Bulk's submission on these matters and proposed amendments to the proposed SAA to reflect them.

<sup>71</sup> Queensland Rail, sub. 27, Att. 2; Rail Operators Group, sub. 28, p. 25; New Hope, sub. 26, p. 8; Yancoal, sub. 29, p. 9.

<sup>72</sup> Clause 21.1.

<sup>73</sup> Aurizon Coal and Bulk, sub. 2, pp. 48-50. The Rail Operators Group (sub. 22, pp. 8-10 and sub. 28, pp. 25-26) supported Aurizon Coal and Bulk's submission on these matters and proposed amendments to the proposed SAA to reflect them.

<sup>74</sup> Queensland Rail, sub. 27, Att. 2; Rail Operators Group, sub. 28, pp. 25-26; New Hope, sub. 26, p. 8; Yancoal, sub. 29, p. 10.

efficiency improvements would be realised in practice if current access holders were not subject to those arrangements.

Queensland Rail's regulatory framework includes charging arrangements that may disincentivise path hoarding, such as take-or-pay and relinquishment fees. We encourage stakeholders to discuss and, where possible, reach consensus on incorporating additional mechanisms to further address the risk of path hoarding in an approved undertaking (or as part of a review of current contractual arrangements). We note that amending path resumption requirements for access holders may require revisions to current contractual arrangements between Queensland Rail and access holders.

#### **4.4.2 Responding to a request for ad hoc train services**

The regulatory framework provides for access holders to request, and Queensland Rail to schedule, ad hoc train services to support network utilisation. Ad hoc train services are services additional to the number of services provided for in the access agreement, that are agreed to by Queensland Rail.<sup>75</sup>

While the proposed SAA provides for access holders to request ad hoc train services, Queensland Rail is not obliged to schedule an ad hoc train service in the DTP. This reflects that requested ad hoc services may not be able to be scheduled without implications for other, already scheduled, train services. The regulatory framework does not specify timeframes for Queensland Rail to respond to requests for ad hoc services.

Pacific National considered that the proposed SAA should be amended to specify timeframes for Queensland Rail to respond to an access holder's request for ad hoc train services on the basis that this would reduce variability in response times and improve certainty and efficiency for operators.<sup>76</sup> We consider that it is in the interest of all parties to enhance the timeliness, predictability and certainty in pathing request outcomes.

However, we are concerned that imposing restrictive timeframes for Queensland Rail to respond to an ad hoc train service request may be unnecessary and merely serve to limit Queensland Rail's ability to provide these services. There may be good reasons for variability in response timeframes, whereas there are no restrictions on when an access holder is able to request an ad hoc train service. We consider restrictions may have implications for efficient utilisation of the network.

We do not consider that the flexibility afforded to Queensland Rail to manage and schedule train paths on the network should be unnecessarily reduced. We consider that Queensland Rail is incentivised to schedule additional ad hoc train services on the network, where possible, as additional freight train services contribute to the recovery of the fixed costs of operating the network.

We encourage stakeholders to discuss and consider the extent that amendments to improve the timeliness in responding to requests for ad hoc train services would have implications for Queensland Rail in managing and scheduling train paths on the network.

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<sup>75</sup> Clause 28.1.

<sup>76</sup> Pacific National, sub. 7, pp. 23-24 and sub. 20, p. 5. New Hope (sub. 19, p. 11) supported a short, specified response time for ad hoc service requests.



### 4.4.3 Individual performance indicators

Under the proposed SAA, Queensland Rail is to provide monthly reports to an access holder, documenting Queensland Rail's performance with respect to the performance indicators outlined in the access agreement.<sup>77</sup>

Aurizon Coal and Bulk and the Rail Operators Group considered that the list of performance indicators in the proposed SAA should be replaced with indicators that were consistent with reporting on aggregate system performance. Specifically, Aurizon Coal and Bulk submitted that the list of indicators in the proposed SAA did not provide the most useful information for assessing performance under an access agreement for regularly scheduled train services.<sup>78</sup>

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 lacked the commercial leverage to require Queensland Rail to include performance obligations in individual access agreements.<sup>79</sup>

The Rail Operators Group's collaborative submission indicated that the parties had not yet adequately addressed this issue but that they agreed that there was opportunity for additional engagement.<sup>80</sup>

In the absence of an appropriate consensus position on this issue, we do not consider it appropriate to require amendment of the performance level indicators in the proposed SAA.

Effective reporting and performance indicators will place accountability on Queensland Rail's performance and provide for greater levels of transparency for access holders. However, any benefits that may be obtained from reporting and compliance monitoring need to be balanced with the associated costs imposed on Queensland Rail. The extent to which end users value additional performance information may vary, especially because network and customer characteristics for each system vary significantly.

Regarding the suggestion that individual rail operators lack the commercial leverage to require Queensland Rail to include performance obligations in individual access agreements, we consider that this concern is mitigated by the proposed SAA's specific allowance for parties who are unable to reach agreement on additional performance levels to seek resolution of the dispute under the SAA's dispute resolution process.<sup>81</sup>

We consider that the proposed SAA provides adequate flexibility, in the interests of all parties, to agree on additional performance indicators beyond the performance indicators outlined in Schedule 5 of the SAA.<sup>82</sup> As such, we do not consider it appropriate to require specific performance indicators be included in the proposed SAA at this time.

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<sup>77</sup> Clause 6.7(a).

<sup>78</sup> Aurizon Coal and Bulk, sub. 2, pp. 44-45. Aurizon Coal and Bulk also considered 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.

<sup>79</sup> Rail Operators Group, sub. 15, pp. 5-6. The Rail Operators Group also 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.

<sup>80</sup> Rail Operators Group, sub. 28, pp. 2, 26-27.

<sup>81</sup> Clause 6.7(e).

<sup>82</sup> Clause 6.7 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) after the SAA's commencement date.

## Summary 4.3

It is not appropriate, at this time, to require amendments to the proposed SAA to incorporate further mechanisms that seek to facilitate improvements in network utilisation and performance.

## 4.5 Consistent dispute resolution processes

The proposed SAA includes a procedural framework for resolving disputes, complaints or questions that arise between the parties in relation to their access agreement,<sup>83</sup> including a process and timeframes for escalating those disputes for resolution.<sup>84</sup> We consider that a fair, timely and effective dispute resolution regime under the proposed SAA supports all parties' interests by establishing procedural certainty to resolve contentious matters.

The dispute resolution process under the proposed SAA is distinct from the dispute resolution process under the 2025 DAU, which applies to disputes between Queensland Rail and an access seeker regarding the undertaking, an access request or the negotiation of an access agreement.<sup>85</sup> Queensland Rail has not proposed to change the dispute resolution framework in the proposed SAA from that approved in the 2020 undertaking SAA. Pacific National proposed that the dispute resolution escalation process in the proposed SAA should mirror the escalation timeframes and processes in the 2025 DAU. Pacific National suggested that this change would improve clarity and understanding of requirements.<sup>86</sup>

Some similarities exist between the dispute resolution processes and timeframes under the proposed SAA and the 2025 DAU.<sup>87</sup> There are also some notable differences between the two processes, such as provision for expert resolution under the proposed SAA<sup>88</sup> and for referrals to the QCA under the 2025 DAU.<sup>89</sup> We consider that these procedural differences are reasonably justified at present, including on the basis that:

- the different legal and commercial contexts in which disputes occur under an access agreement versus an undertaking mean that identical processes are not necessarily equally effective in both contexts<sup>90</sup>
- given the QCA's dispute resolution role, not every type of dispute is suitable for referral to us for resolution.<sup>91</sup> Notably, the QCA Act precludes notification of access disputes to us if an access agreement is in place between the parties to the dispute.<sup>92</sup>

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<sup>83</sup> Clause 19.

<sup>84</sup> Clause 19.2.

<sup>85</sup> 2025 DAU, cl. 6.1.

<sup>86</sup> Pacific National, sub. 7, p. 26 and sub. 20, p. 10. New Hope (sub. 19, p. 11) supported the alignment of dispute resolution timeframes between the SAA and undertaking and suggested that the 20-business-day timeframe in cl. 19.2(d) be reduced to 10 business days.

<sup>87</sup> For example, both processes involve escalation from parties' representatives to senior management within identical timeframes and both processes provide for recourse to the courts.

<sup>88</sup> Clause 19.3.

<sup>89</sup> 2025 DAU, cl. 6.1.4.

<sup>90</sup> For instance, we consider that expert resolution involving specialised technical or rail expertise can be particularly well-suited to address disputes between access holders and Queensland Rail that can involve more technical or operational concerns than those faced by a party seeking to acquire access.

<sup>91</sup> For additional information, see QCA, *Access disputes under the QCA Act*, summary guide, 2019, pp. iv, 2.

<sup>92</sup> QCA Act, s. 112(1)(b).

Queensland Rail and the Rail Operators Group indicated in their respective collaborative submissions that they reached consensus on the timeframes for resolution in the proposed SAA and DAU. Specifically, they agreed to reduce the timeframe for CEO resolution from 20 days to 10 days in clauses 19.2(c) and (d), which corresponds to the timeframe in the 2025 DAU.<sup>93</sup> Noting the parties' consensus on this issue, we consider that this timeframe is reasonable and supports the timely escalation and resolution of disputes. We consider that it is appropriate to require amendment of the timeframe in clauses 19.2(c) and (d) for CEO resolution to 10 days.

## Summary 4.4

It is appropriate for Queensland Rail to amend the proposed SAA to reduce the timeframe provided for CEO resolution of a dispute under an access agreement.

The way in which we consider it is appropriate to amend the proposed SAA is outlined in Appendix D.

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<sup>93</sup> 2025 DAU, cl. 6.1.3(c).

# Appendix A: West Moreton capacity and volumes

Queensland Rail has proposed reference tariffs 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.

Queensland Rail calculated its original proposed reference tariffs based on a forecast that coal volumes would increase to 9.6 million tonnes per annum (mtpa) during the DAU3 period (in its collaborative submission, it refers to this as 'scenario 1a').

Our draft decision was that it was not appropriate to approve Queensland Rail's proposed reference tariff. A key consideration in this decision was the substantial uncertainty over the forecast coal volumes. We encouraged Queensland Rail and its customers to agree on a pricing approach, including appropriate volume forecasts.

After discussion with users, Queensland Rail has proposed a second, lower volume, scenario with forecast coal volumes peaking at 7.5 mtpa ('scenario 2'), while also retaining its 9.6 mtpa forecast as a possible outcome (Table 3).

**Table 3: Queensland Rail's coal volume forecasts (mtpa)**

Scenario	2025-26	2026-27	2027-28	2028-29	2029-30
<b>1a</b> (9.6 mtpa) <sup>a</sup>	8.2	9.5	9.6	9.6	9.6
<b>2</b> (7.5 mtpa)	6.0	6.0	7.5	7.5	7.5

a. Scenario 1a is an updated version of original tonnage estimate in Queensland Rail's DAU. Source: Queensland Rail, sub. 27, p. 12.

We have provided more information on sustainable volumes here and more information on costs to provide those volumes in Appendix B.

## Addressing volume uncertainty

A reliable estimate of expected volumes is central to calculating a building blocks price that is appropriate to approve. In our draft decision, faced with both uncertainty about demand and concerns about whether Queensland Rail's forecast volume could be delivered if it was contracted, we said it was not appropriate to approve Queensland Rail's proposed West Moreton reference tariff. We said the uncertainty would best be addressed by information exchange and negotiation:

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.<sup>94</sup>

<sup>94</sup> QCA, *Queensland Rail 2025 Draft Access Undertaking*, draft decision, June 2024, p. 76.

We still encourage Queensland Rail and its customers to negotiate a tariff, and note that there have been ongoing discussions between the parties, including a new proposal from Queensland Rail for a second scenario with a lower 7.5 mtpa coal volume forecast.

To assist parties in reaching agreement on negotiated access terms, we have used the substantial time provided for comment on our draft decision to seek further advice on the capacity of the network and on the efficient costs of delivering that capacity.

To this end we engaged Arcadis to conduct an analysis of Queensland Rail's 9.6 mtpa and 7.5 mtpa scenarios, as well as provide advice on what a sustainable volume for the West Moreton system as it is currently configured might be. The advice was prepared with input from Queensland Rail and its customers. As set out in this Appendix A, Arcadis found that Queensland Rail's capacity forecasts were unlikely to be achieved.

We recognise that Queensland Rail undertakes network planning and analysis, and expect it is sharing relevant information on capacity and related matters with its customers. However, we do not want to be seen to be endorsing – explicitly or implicitly – any capacity estimates that we have been advised are unlikely to be sustainable.

## **Sustainable volume and efficient costs**

Queensland Rail's volume forecasts are either unlikely to be achieved as presented, or will be challenging to achieve. We have based our indicative cost build-up in Appendix B on Queensland Rail's scenario 2 (tonnages peaking at 7.5 mtpa), with additional assumptions regarding possession times, and our assessment of expenditure programs proposed by Queensland Rail. We have had regard to submissions from stakeholders, including Queensland Rail, and to advice from Arcadis in forming our view on a sustainable volume.

We recognise that much of the forecast demand during the term of the 2025 undertaking under both of the scenarios put forward by Queensland Rail remains uncontracted. Clarity about pricing may help address this lack of certainty for Queensland Rail and its customers, by giving users confidence to sign longer-term access agreements.

Should 9.6 million tonnes of capacity (scenario 1a) be required, we encourage Queensland Rail to discuss with its customers whether and how to complete the capital expenditure necessary to achieve that volume.

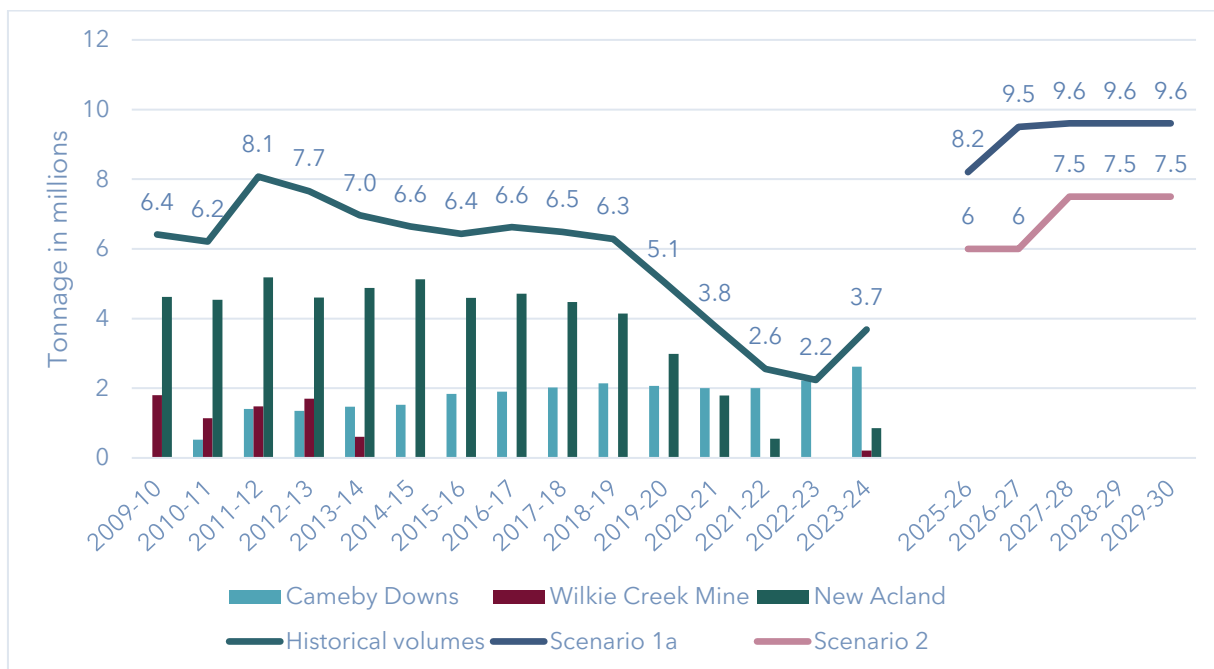
## **Coal capacity**

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.<sup>95</sup> Despite significant engineering challenges, the West Moreton system has in the past been able to support volumes from three coal mines operating on the line, transporting a peak of 8.1 mtpa in 2011–12 (see Figure 1).

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<sup>95</sup> For example, in 2021–22 more than 70% of train paths and 80% of net tonnes carried on the West Moreton system were coal services. See Queensland Rail, sub. 1, Attachment 5, p. 4.

**Figure 1: Historical and forecast coal volumes on the West Moreton system**



The historical figures differ from the draft decision paper and reflect the disclosure of more data in the dataset. Figures for 2025-26 to 2029-30 are Queensland Rail’s forecast volume in DAU3. Source: Queensland Government, [Coal industry review statistical tables](#), Coal production data by mine, coal type and financial year, Open Data Portal, accessed 4 October 2024.

Queensland Rail originally projected that coal volumes will rise to 9.6 mtpa of contractable capacity during the DAU3 period (referred to as scenario 1a in Queensland Rail’s collaborative submission). This is much higher than the volume the West Moreton system currently carries, and more than the peak volume the system has carried previously (see Figure 1). In its collaborative submission, Queensland Rail also presented a scenario where coal volumes are projected to rise to 7.5 mtpa (‘scenario 2’ – see Table 3 **Error! Reference source not found.**).

In our draft decision, we noted that there was such doubt over the forecast coal volumes that it might not be appropriate use them as a basis for a decision regarding reference tariffs. The uncertainty stemmed from both whether the originally forecast level of capacity was, or could be made, available in the West Moreton system. Beyond issues with the West Moreton system itself, we also noted that legal and financial challenges faced by two of the mines cast doubt over whether these volumes would be contracted if system capacity was available.

While the West Moreton system has supported 7.5 mtpa or more in the past, this was only for two years. And, as noted by HoustonKemp in its report for Queensland Rail, it has been more than a decade since the West Moreton system has supported 8.1 mtpa, and it has not supported sustainably more than 4 mtpa since 2019-20.<sup>96</sup> Queensland Rail has stated that the system assets have aged and some would require replacement.<sup>97</sup>

## Arcadis capacity analysis

It is more than a decade since the last capacity estimate for West Moreton,<sup>98</sup> and stakeholders raised concerns about the coal volumes the system could carry. So, to assist our consideration of West Moreton pricing and potentially provide information to inform negotiations between Queensland

<sup>96</sup> Queensland Rail, sub. 21, Attachment 1, p. 16.

<sup>97</sup> Queensland Rail, sub. 21, p.5.

<sup>98</sup> B&H Strategic Services, [Review of Queensland Rail’s DAU 2015](#), September 2015.

Rail and its customers, we commissioned Arcadis to analyse the indicative capacity of the network.<sup>99</sup> Arcadis' analysis is based on:

- the current configuration of the West Moreton system including signalling, curve and gradient data from Queensland Rail
- block section, running time, and other constraint information provided by Queensland Rail
- non-contractable passenger peak periods for the Metropolitan system provided by Queensland Rail
- rolling stock characteristics and capabilities provided by the above-rail operator
- loading capacity, availability and load times for mine sites provided by users.

The assumptions, which are available in Appendix A of Arcadis' report, were reviewed by Queensland Rail, the above-rail operator and users.

This first step of the modelling produced an absolute theoretical capacity for the West Moreton system if it were able to run at 100% capacity, solely for coal traffic, 24 hours per day, 365 days per year.

## Track availability

The next step in the analysis was to establish a realistic number of hours that the network could be available for traffic. Rail networks are routinely closed for certain periods to allow for capital and maintenance works, as well as to address safety concerns such as weather events.

Arcadis' starting point for determining track availability for rolling stock was Queensland Rail's forecast for DAU3, based on its plan to increase the number of personnel, or number of teams, completing track work.<sup>100</sup> The aim of this staff increase is to markedly reduce the number of hours the track is unavailable to traffic compared to current practices. In the 9.6 mtpa scenario, this involves halving possession hours – from a peak of approximately 6,800 hours a year (19 hours a day) in 2022–23 to an average of 3,102 hours a year (8.5 hours a day) across the DAU3 period (see Figure 2). A more modest track work program is proposed for the 7.5 mtpa scenario.

Taking these programs into account, as well as the change in capacity and other factors affecting track availability, Arcadis has estimated an average track unavailability (i.e. possession hours) of 3,102 hours per year under the 9.6 mtpa scenario and 4,161 hours per year under the 7.5 mtpa scenario.

While we consider these estimates reasonable, we also note that there is a risk that these forecast track availability estimates may not be reflected in the real-world operation of the West Moreton system during the DAU3 period, as:

- it is commonplace for large capital projects (of any type) to be subject to delays and require more resources than originally envisaged
- the West Moreton System is regularly subject to slowdowns and shutdowns due to heat as well as shutdowns for inspections and/or repairs due to weather events
- geotechnical issues on the Toowoomba Range have seen multiple shutdowns lasting 6 weeks or more in the past decade<sup>101</sup>

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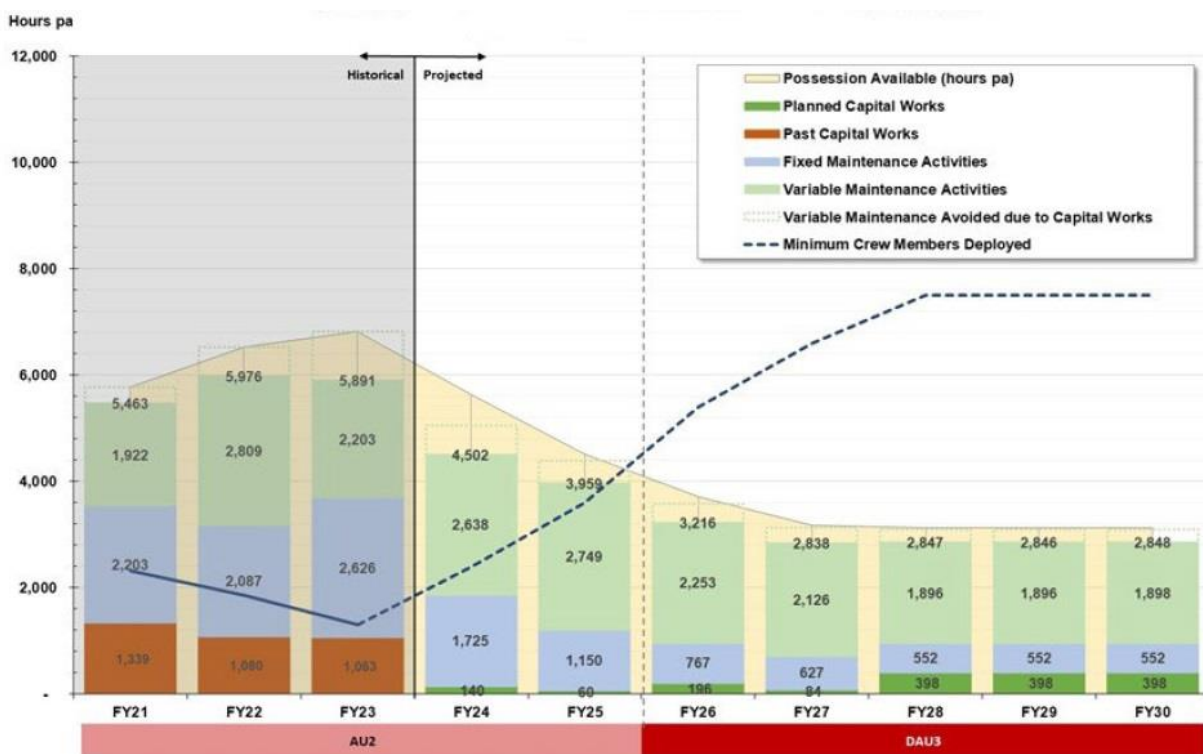
<sup>99</sup> The analysis did not model the operation of the Metropolitan system itself as this could not be completed in the DAU3 process timeframe and would be rendered largely out of date when the operation of the Metropolitan system changes significantly to accommodate the cross-river rail system. However, the analysis did take into account the interaction with the Metropolitan system at Rosewood.

<sup>100</sup> Queensland Rail, sub. 1, p. 40.

<sup>101</sup> Queensland Rail, sub. 1 Attachment 2, p. 15.

- the change to operating procedures is a major change in a resource-constrained environment and, as with all major changes, there is a chance that it does not deliver the full benefits forecast.

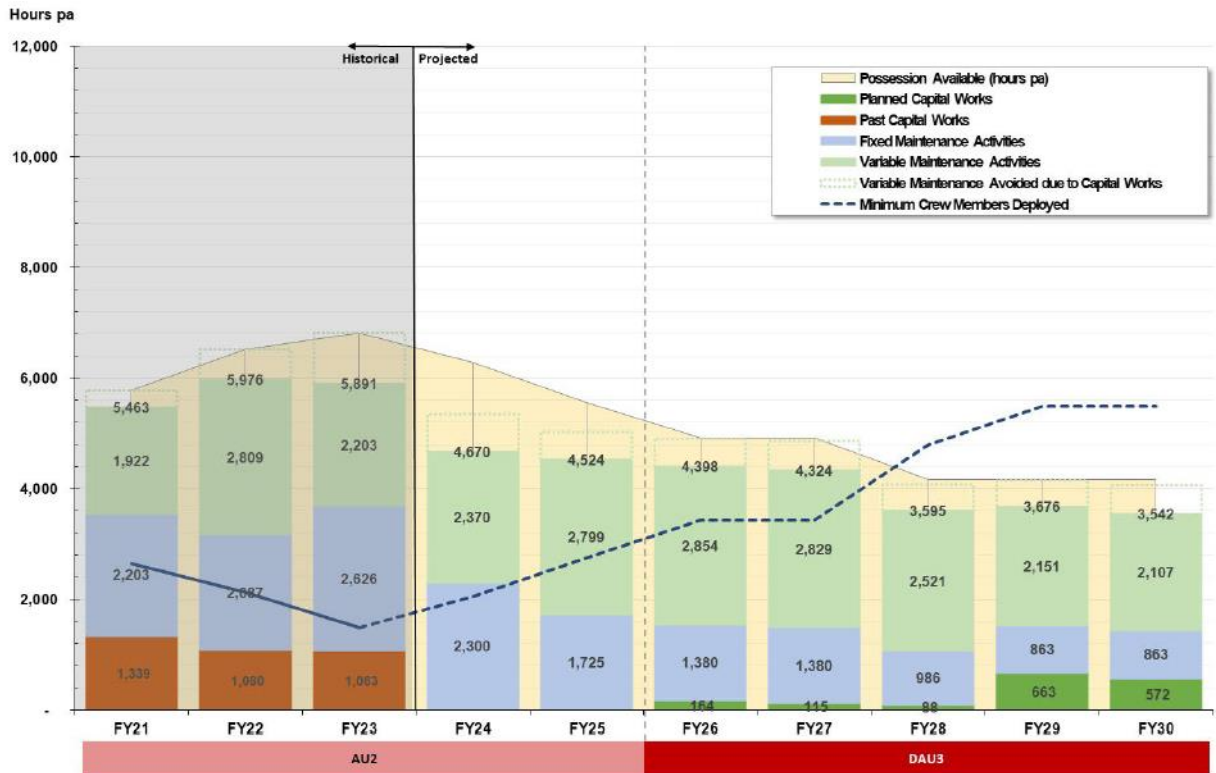
**Figure 2: Current and forecast possession hours – 9.6 mtpa scenario (partially redacted)**



Source: Queensland Rail, sub. 27, p. 35 (partially redacted).



**Figure 3: Current and forecast possession hours – 7.5 mtpa scenario (partially redacted)**



Source: Queensland Rail, sub. 27, p. 37 (partially redacted).

### Contractable capacity

The next step in the analysis was to determine a reasonable utilisation level as, in practice, railway systems are not run at 100% of theoretical capacity. The international standard for a mixed-traffic system such as the West Moreton system is to run at 67% utilisation level. However, the West Moreton system has a high proportion of coal and freight.<sup>102</sup> Arcadis' advice is that the West Moreton system services are, from a scheduling and engineering perspective, more homogenous than those considered in the international standard<sup>103</sup> and therefore should be capable of running at a higher utilisation level of 75%. Table 4 shows the number of paths available to coal traffics under each scenario.

**Table 4: Coal capacity scenarios based on Queensland Rail forecast possession hours – international standard and Arcadis estimate**

	Scenario 1a	Scenario 2
Utilisation level	Net tonnage (mtpa)	Net tonnage (mtpa)
International mixed use system utilisation standard (67%) <sup>a</sup>	5.9	4.5
Arcadis West Moreton estimate (75%)	6.8	5.1

a. International standard Union Internationale des Chemins de fer 406.

Source: Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 – Addendum*, p. 13, Table 1-1.

<sup>102</sup> Only 2 paths per week are reserved for passenger services.

<sup>103</sup> International standard Union Internationale des Chemins de fer 406.

The estimates by Arcadis are broadly consistent with edition 3 of the QR Network Coal Rail Infrastructure Master Plan (see Box 2). While this analysis was published in 2009, it is still relevant given the West Moreton system continues to operate with largely the same configuration, and the QR Network master plan findings in relation to the need for track strengthening and heavier rail are consistent with the capital expenditure proposals from Queensland Rail.

Based on this information we consider 5.9–6.8 mtpa to be a reasonable estimate of capacity that can be contracted for coal services on a sustainable basis on the West Moreton system in its current configuration for the purposes of this paper.

Arcadis considers that sustainably achieving the forecast tonnages under Queensland Rail’s 9.6 mtpa and 7.5 mtpa scenarios would require significant reductions in possession hours compared to those forecast by Queensland Rail in its collaborative submission. Figure 4 shows the trade-offs between possession hours and utilisation levels which could deliver the tonnages forecast by Queensland Rail.

**Figure 4: Capacity utilisation by hours of operation**

Daily Operating Hours	Annual Possession Hours	Capacity Utilisation %												
		100%	95%	90%	85%	80%	75%	70%	67%	65%	60%	55%	50%	45%
24	0	15.87	14.93	14.10	13.16	12.32	11.49	10.55	10.02	9.71	8.77	7.94	7.10	6.16
23	365	15.14	14.20	13.37	12.53	11.69	10.86	10.02	9.50	9.19	8.35	7.52	6.68	5.85
22	730	14.41	13.57	12.74	11.90	11.17	10.34	9.50	9.08	8.77	7.94	7.10	6.37	5.53
21	1095	13.68	12.84	12.11	11.28	10.55	9.82	8.98	8.56	8.25	7.52	6.68	5.95	5.22
20	1460	12.95	12.22	11.49	10.75	10.02	9.29	8.56	8.04	7.83	7.10	6.37	5.64	4.91
19	1825	12.22	11.49	10.75	10.13	9.40	8.67	8.04	7.62	7.31	6.58	5.95	5.22	4.49
18	2190	11.49	10.75	10.13	9.50	8.77	8.14	7.52	7.10	6.79	6.16	5.53	4.91	4.18
17	2555	10.75	10.13	9.50	8.88	8.25	7.62	7.00	6.58	6.37	5.74	5.12	4.49	3.86
16	2920	10.02	9.40	8.77	8.25	7.62	7.10	6.47	6.16	5.85	5.33	4.70	4.18	3.55
15.5	3102	9.61	9.08	8.46	7.94	7.31	6.79	6.16	5.85	5.64	5.12	4.49	3.97	3.34
15	3285	9.29	8.67	8.14	7.62	7.10	6.47	5.95	5.64	5.43	4.91	4.28	3.76	3.24
14	3650	8.56	8.04	7.52	7.00	6.47	5.95	5.43	5.12	4.91	4.39	3.86	3.45	2.92
13	4015	7.83	7.31	6.79	6.37	5.85	5.43	4.91	4.59	4.49	3.97	3.55	3.03	2.51
12.6	4161	7.52	7.00	6.58	6.06	5.64	5.22	4.70	4.49	4.28	3.76	3.34	2.92	2.40
12	4380	7.10	6.58	6.16	5.74	5.33	4.91	4.39	4.18	3.97	3.55	3.13	2.71	2.19
11	4745	6.37	5.95	5.53	5.12	4.70	4.28	3.86	3.65	3.55	3.13	2.71	2.30	1.88
10	5110	5.64	5.22	4.91	4.49	4.18	3.76	3.45	3.13	3.03	2.71	2.30	1.98	1.57
9	5475	4.91	4.49	4.18	3.86	3.55	3.24	2.92	2.71	2.51	2.19	1.88	1.57	1.25
8	5840	4.18	3.86	3.55	3.24	2.92	2.71	2.40	2.19	2.09	1.78	1.46	1.25	0.94
7	6205	3.45	3.13	2.92	2.61	2.40	2.09	1.88	1.67	1.57	1.36	1.04	0.84	0.63
6	6570	2.71	2.40	2.19	1.98	1.78	1.57	1.36	1.25	1.15	0.94	0.73	0.52	0.21
5	6935	1.98	1.78	1.57	1.36	1.25	1.04	0.84	0.73	0.63	0.52	0.31	0.10	0.00
4	7300	1.25	1.04	0.94	0.73	0.63	0.52	0.31	0.21	0.21	0.00	0.00		
3	7665	0.52	0.31	0.21	0.10	0.00	0.00							
2	8030													
1	8395													
0	8760													

Source Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail’s DAU3 – Addendum*, p 13.

Arcadis concludes that reducing possession hours to accommodate 7.5 mtpa sustainably could potentially be achievable. However, it advises that ‘9.6 mtpa cannot be sustainably hauled’<sup>104</sup> as it would require operating the system at 90–100% utilisation with no contingency for weather disruptions.

Based on the analysis by Arcadis, we consider it may be feasible for the West Moreton system to sustainably transport up to 7.5 mtpa with a suitable program to reduce track possession hours. However, it is uncertain that Queensland Rail can sustainably transport the tonnages forecast under either the 7.5 or 9.6 mtpa scenarios based on the possession hours it currently proposes.

It is likely that this capacity estimate can be refined through further analysis by Queensland Rail and its customers. Among other things, the effect of constraints in the Metropolitan system, including passenger peak periods, could be modelled in more detail (see discussion under heading ‘Interaction with the Metropolitan system’).

<sup>104</sup> Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail’s DAU3 – Addendum*, 2024 p. 12

## Box 2: Coal Rail Infrastructure Master Plan

A past study of West Moreton capacity by a predecessor company of Queensland Rail suggested substantial investment would be required for the infrastructure to carry more than 9 million tonnes of coal a year.<sup>105</sup>

The [2009 Coal Rail Infrastructure Master Plan](#) (CRIMP) was prepared by QR Network, which was then the operator of what are now Queensland Rail's below-rail assets, including West Moreton. The CRIMP looked at multiple tonnage scenarios and the potential capacity expansion programs to deliver the required export tonnage

Export tonnage (mtpa)	Expansion requirements
6.3	None
7.4	Capacity enhancements required including: <ul style="list-style-type: none"> <li>• a balloon loop at the Fisherman's Island port to increase holding capacity and reduce turning time</li> <li>• additional holding tracks and a crossover at Fisherman's Island</li> <li>• track strengthening including replacement of wooden sleepers, heavier rail for main track as well as turnouts, concrete sleepers on tight curves and rail welding</li> <li>• formation strengthening between Gowrie and Macalister</li> <li>• elimination of short timber bridges West of Toowoomba</li> <li>• lengthening of passing loops between Macalister and Miles</li> </ul>
9.5	In addition to the works described for the 7.4 mtpa scenario, 3 passing loops on the Toowoomba range would need to be constructed as well as: <ul style="list-style-type: none"> <li>• Option 1 – implement 20 tonne axle loading capability for wagons</li> <li>• Option 2 – increase train length to 940 m (from 655 m)</li> <li>• Option 3 – for above rail operators to implement close coupled wagons and trains</li> </ul>

### Ad hoc capacity

In addition to the paths coal services can contract, there are 16 paths per week that are preserved for non-coal traffic. The majority of these paths are used by trains carrying agricultural products which are seasonal. As a result, a significant number of these preserved paths are not used each year and can be made available for coal services on an ad hoc basis.

While the volume of agricultural produce varies considerably between years, recent averages indicate there could be approximately 0.7 mtpa of ad hoc capacity available to coal services each year to help compensate for shortfalls due to unforeseen events such as heat, weather, or shutdowns of the range crossing.

<sup>105</sup> QR Network, *2009 Coal Rail Infrastructure Master Plan*, pp. 81–88.

Even considering potential ad hoc capacity, the capacity available for coal services will be considerably lower than the peak demand levels of 9.6 mtpa Queensland Rail has forecast in scenario 1a for the DAU3 period. Queensland Rail might consider updating the previous analysis and working with users to identify whether there are opportunities for system expansion that would result in better outcomes.

## Interaction with the Metropolitan system

From an engineering perspective, the major bottleneck of the West Moreton system is the Toowoomba Range crossing, as it is a single-line section that would be expensive to duplicate. However, at times the Metropolitan system does not allow the full potentially contractable capacity of the West Moreton system to pass through to port, acting as an additional bottleneck for West Moreton services.

The most obvious Metropolitan system constraint is during commuter peak hours, when there is no contractable capacity available for freight and coal services,<sup>106</sup> either for loaded trains from the West Moreton system, or empty trains returning from the port.

**Table 5: Non-contractable periods in the Metropolitan system (at Rosewood)**

	Loaded trains	Empty (returning) trains
<b>Morning peak</b>	04:21 am to 07:37 am (3h 16m)	05:44 am to 10:07 am (4h 23m)
<b>Evening peak</b>	15:27 pm to 17:12 pm (1h 45m)	16:37 pm to 19:45 pm (3h 8m)

Source: Queensland Rail advice.

Achieving the volumes estimated by Arcadis also relies on the Metropolitan system delivering the full capacity of the West Moreton system outside of non-contractable hours. While the Metropolitan system was not modelled as part of this assessment, users and operators raised a number of concerns about the operation of the Metropolitan system that they considered might restrict the ability of the West Moreton system to achieve its volumes.

In general, users considered that real-world losses meant that capacity in the Metropolitan system was below that currently scheduled. They stated the reasons for these real-world losses were:

- maintenance possessions specific to the Metropolitan system
- possessions related to building Cross River Rail
- variability in the times where peak restrictions were imposed, and delays of several hours that were possible where a service missed the pre-peak period
- passenger services being provided priority beyond statutory requirements causing delays even where freight services were on time.

Users also expressed concern that they had not been given a capacity assessment or information on contractable paths available and peak periods once Cross River Rail would be operational.

In addition to capacity concerns, in discussions with the QCA stakeholders expressed concern that decisions on how freight traffic in the Metropolitan system was managed, particularly with regard to delays, were impacting the capacity and cost of above-rail services. In turn, these impacts potentially had flow-on effects to the viability of users beyond their impact on the reference tariff. Above-rail operators and users also said changing some management practices could potentially create further capacity, or could reduce the risk that capacity was not delivered. This would effectively give a 'free

<sup>106</sup> We understand, however, that coal trains may be allowed to pass through the Metropolitan system on an ad hoc basis should a suitable path be available.

lunch’ of additional capacity, at little to no cost to Queensland Rail or to users. This may offer an opportunity to deliver additional capacity with less capital spending, or to render capital spending more effective.

We encourage Queensland Rail to work with its users to enable the Metropolitan system, to the extent possible, to support the delivery of the full capacity of the West Moreton system and minimise the risk that capacity is not delivered.

## Engineering capacity

While the West Moreton system has previously carried a peak of 8.1 mtpa (see Figure 1), Queensland Rail advised that the network had ‘aged materially’<sup>107</sup> since 2011-12, when this level was achieved, and required significant capital expenditure to deliver tonnages even below this level.<sup>108</sup>

Although Arcadis has not assessed the current engineering capacity of the network, it appears clear that it is significantly below the capacity required. This view is based on statements made by Queensland Rail that the system requires significant investment even at lower levels of traffic,<sup>109</sup> reinforced by statements from Queensland Rail’s consultant, AECOM, that derailment risk is too high even with a reduced tonnage projection.<sup>110</sup>

However, for the purposes of this capacity analysis, Arcadis has assumed that the extensive capital works proposed by Queensland Rail to rectify this situation will succeed in providing an engineering capacity capable of supporting volumes of 7.5mtpa.

## User demand

Table 6 shows our understanding of user demand, which is based on discussions with users and publicly available information.

**Table 6: QCA West Moreton volume forecasts**

Mine	2025 DAU demand (mtpa)
Cameby Downs	2.5 <sup>a</sup>
Wilkie Creek	2.1 <sup>b</sup>
New Acland	Ramping up to 5.0 <sup>c</sup>
<b>Total (peak)</b>	<b>9.6</b>

a Demand figure that Yancoal provided to the QCA.

b Inferred from demand information on Cameby Downs and New Acland.

c New Hope, *Annual Report 2024*, p. 9.

However, as discussed in our draft decision, due to mine-specific and market factors, there is significant uncertainty over the level of user demand over the period of the 2025 DAU and beyond. Wilkie Creek went into receivership earlier this year and the New Acland mine remains subject to a legal challenge regarding a water licence. Aurizon Coal and Bulk, which operates the coal trains on

<sup>107</sup> Queensland Rail, sub. 21, p. 5.

<sup>108</sup> Queensland Rail, sub. 21, Attachment 1, p. 12.

<sup>109</sup> Queensland Rail, sub. 21, p. 5.

<sup>110</sup> Queensland Rail, sub. 21, Attachment 2, p. 2.

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'.<sup>111</sup>

Given the contractable capacity estimate for West Moreton is significantly below the demand forecast by Queensland Rail, for the purposes of this paper we have assumed the estimated capacity available is fully contracted by users.

## Coal volumes

Based on the information available, including Queensland Rail forecasts, views of stakeholders and advice from Arcadis, we estimate the sustainable contractable capacity of the West Moreton system, as it is currently configured, to be 7.5 mtpa. This is the volume we have used for calculating an indicative cost recovery price.

The 7.5 mtpa forecast is in line with scenario 2 as proposed by Queensland Rail in its collaborative submission. However, achieving 7.5 mtpa would require the proposed works programs to be completed within fewer possession hours than proposed by Queensland Rail in its collaborative submission. Arcadis has advised such a reduction in possession hours is feasible.

It may be possible to exceed 7.5 mtpa of coal haulage in a given year by reducing maintenance and capital possessions beyond the already significant reductions forecast by Queensland Rail, without changes to the way the works programs are executed. However, this would result in either a further deterioration in the condition in the network, or an increased number of maintenance and capital possession hours in future years reducing future capacity, or both.

For example, as shown in Arcadis' sensitivity analysis of possession hours, 9.6 million tonnes could theoretically be achieved with 730 possession hours in a year.<sup>112</sup> But this would be unrealistic – maintenance and other tasks would need to be completed in significantly less than the already sharply reduced possession times proposed by Queensland Rail under the 9.6 mtpa scenario 1a for the 2025 undertaking period. Arcadis advises that volumes based on those extremely low levels of maintenance would be unlikely to be sustainable, as a maintenance deficit would accumulate quickly.

While additional capacity may also be available on an ad hoc basis, this cannot be contracted by coal services and therefore does not form part of the volume forecast.

Taking all information available into account we consider that with a plan that sufficiently reduces possession hours, the West Moreton system may be capable of supporting 7.5 mtpa in its current configuration. Arcadis' analysis shows that potential trade-offs could be made in terms of the utilisation level and the number of possession hours required to complete works programs (see Figure 4).

While a higher utilisation level, i.e. planning for the use of a higher percentage of the theoretically available paths, would mean a smaller reduction in possession hours would be needed, it would also increase the risk that the capacity may not be delivered in the real world. We encourage Queensland Rail to continue to work with users to formulate a suitable plan balancing risks and operational reliability to achieve the volume level they end up agreeing.

Overall, the West Moreton system appears unlikely to be able to sustainably support 9.6 mtpa without a capital investment program that includes capacity expansion projects not proposed in the

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<sup>111</sup> Aurizon Coal and Bulk, sub. 2, p. 70.

<sup>112</sup> Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 – Addendum*, p. 13.

2025 DAU submission. Should this capacity be needed, we encourage Queensland Rail to work with users to identify potential measures to expand the capacity of the network to address any shortfall. The need for mechanisms to cooperate on capacity and investment planning is discussed further in Appendix C.

# Appendix B: Tariff building blocks

Given the uncertainty about both contracted volumes and available capacity at the time of our draft decision (discussed in chapter 2), we did not consider it appropriate 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.

For this discussion paper, we have provided an indicative view on each of the building blocks to calculate an indicative price based on what we consider to be a sustainable volume for the West Moreton system, and associated estimates of reasonable costs.

This information may assist Queensland Rail and its customers in working towards agreed positions for West Moreton, including a capital and maintenance strategy.

This Appendix is provided for information and illustrative purposes only. It should not be taken as setting out a methodology that would be applied by us were we asked to resolve an access dispute and determine a price for access.

## West Moreton building blocks – summary

Item	Queensland Rail scenario 1a	Queensland Rail scenario 2	QCA indicative estimate
Coal volumes	Volumes building to 9.6 mtpa. <sup>113</sup>	Volumes building to 7.5 mtpa. <sup>114</sup>	Volumes building to 7.5 mtpa.
Opening regulatory asset base	Opening West Moreton regulatory asset base (RAB) <sup>115</sup> of \$535.2m, <sup>116</sup> of which \$446.2m allocated to coal services. <sup>117</sup>	Opening West Moreton RAB <sup>118</sup> of \$535.2m, of which \$446.2m allocated to coal services. <sup>119</sup>	Opening West Moreton RAB of \$598.7m, of which \$500.7m allocated to coal services.
WACC	7.39% <sup>120</sup>	7.39% <sup>121</sup>	7.39%
Capital expenditure	\$346.9m <sup>122</sup>	\$256.6m <sup>123</sup>	\$256.6m
Asset lives	New assets to be depreciated over 14 years indexed 1 July 2025, and existing assets over 19 years. <sup>124</sup>	New assets to be depreciated over 14 years indexed 1 July	New assets to be depreciated over 14 years indexed 1 July 2025, and existing assets over 19 years.

<sup>113</sup> Queensland Rail, sub. 1, p. 9.

<sup>114</sup> Queensland Rail, sub. 27, p. 9.

<sup>115</sup> As at 1 July 2025.

<sup>116</sup> Unless stated otherwise, all figures in this chapter are expressed in 2025–26 dollars and exclude interest during construction where applicable.

<sup>117</sup> Queensland Rail, sub. 1, p. 12.

<sup>118</sup> As at 1 July 2025.

<sup>119</sup> Queensland Rail, sub. 1, p. 12.

<sup>120</sup> Queensland Rail, sub. 1, p. 10.

<sup>121</sup> Queensland Rail, sub. 27, p. 9.

<sup>122</sup> Queensland Rail, sub. 1, p. 10.

<sup>123</sup> Queensland Rail, sub. 27, p. 9.

<sup>124</sup> Queensland Rail, sub. 1, pp. 10–11.



Item	Queensland Rail scenario 1a	Queensland Rail scenario 2	QCA indicative estimate
		2025, and existing assets over 19 years. <sup>125</sup>	
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. <sup>126</sup>	The RAB should be escalated by inflation, forecast to be 3%, reducing to 2.5% for the final 2 years of the AU3 period.	The RAB should be escalated by inflation, forecast to be 3% reducing to 2.5% for the final 2 years of the AU3 period.
Maintenance expenditure	\$172.5m <sup>127</sup>	\$141.3m <sup>128</sup>	\$141.3m
Operating expenditure	\$85.3m <sup>129</sup>	\$74.6m <sup>130</sup>	\$74.6m
Metropolitan system reference tariff	Escalate the existing Metropolitan system reference tariff by CPI. <sup>131</sup>	Escalate the existing Metropolitan system reference tariff by CPI.	Escalate the existing Metropolitan system reference tariff by CPI.
Allowable revenue	\$501.4m	\$428.6m	\$450.6m

## Opening regulatory asset base

Queensland Rail's asset base reflects historical regulatory treatment of long-lived capital investments. Since the AU1 decision in 2016, the asset base methodology has remained largely unchanged, including how assets are categorised and the technical life of the assets. Queensland Rail has proposed significantly shorter asset lives (see Appendix C); however, this does not change the underlying RAB methodology, nor the historical character of the RAB.

Approximately two-thirds of the West Moreton opening RAB reflects the depreciated actual cost of assets built from 2013-14 onwards (see Figure 5). By 2025-26, long-life assets whose values were estimated in the 2013 depreciated optimised replacement cost (DORC) analysis will contribute 15% of the West Moreton RAB. This proportion will fall to approximately 8% by the end of the 2025 undertaking period.<sup>132</sup>

<sup>125</sup> Queensland Rail, sub. 27, p. 10.

<sup>126</sup> Queensland Rail, sub. 1, p. 11.

<sup>127</sup> Queensland Rail, sub. 1, p. 11.

<sup>128</sup> Queensland Rail, sub. 27, p.10.

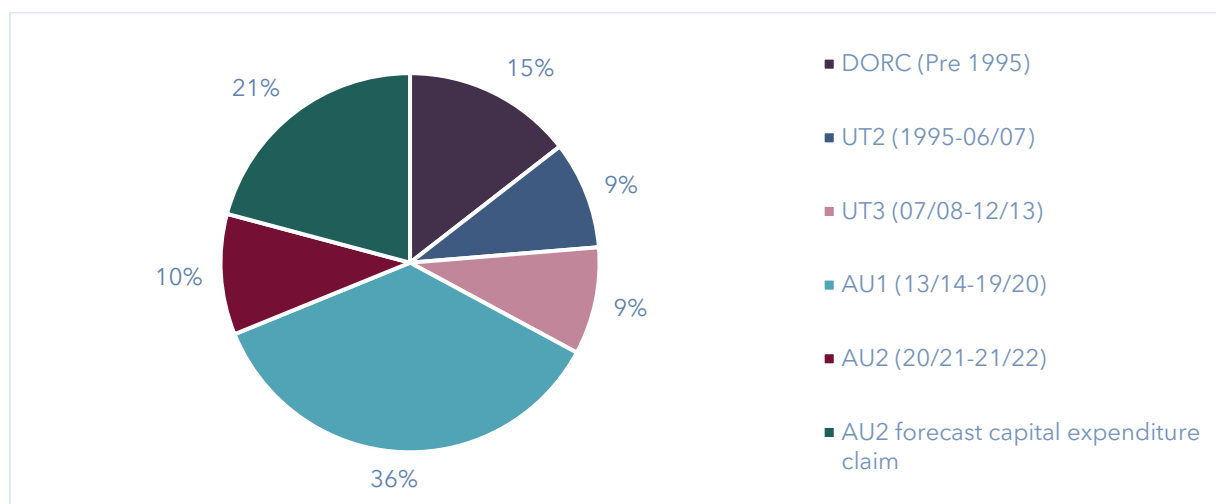
<sup>129</sup> Queensland Rail, sub. 1, p. 11.

<sup>130</sup> Queensland Rail, sub. 27, p. 10.

<sup>131</sup> Queensland Rail, sub. 1, p. 59.

<sup>132</sup> Under Queensland Rail's DAU3 submission, an accelerated depreciation schedule is used (see section 3.5), because this is applied consistently across the asset base which incorporates broadly similar asset types, any adjustment to the scheduling of depreciation makes only minor changes to the historical make-up of the RAB. For example, the DORC diminishes to 9% in 2029-30 under a technical life schedule.

**Figure 5: Composition of the West Moreton common system RAB in 2025-26**



Source: QCA analysis; Queensland Rail 2025 DAU submission.

Queensland Rail proposed an opening coal allocated RAB of \$446.2 million for the 2025-26 financial year based on the 2020 undertaking capital indicator amounts for the 2022-23, 2023-24, and 2024-25 financial years. However, Queensland Rail’s actual expenditure for 2022-23 and planned spending for the remaining two years exceeds those capital indicator amounts.

The approved capital expenditure for 2022-23 exceeded the capital indicator by \$21.3 million, and Queensland Rail has increased its forecast capital expenditure amounts in 2023-24 and 2024-25 to \$24.3 million and \$51.3 million (including interest during construction (IDC)) respectively). The additional spending is because Queensland Rail has already started replacement capital expenditure in anticipation of higher demand during the 2025 undertaking period. Overall, the spending during the 2020 undertaking period (AU2) is now forecast to exceed by \$62.8 million the AU2 capital indicator that was used to calculate Queensland Rail’s proposed DAU3 opening asset value (see Table 7).

**Table 7: Revised capital spending forecasts for West Moreton, 2023-25**

	2020 AU capital indicator (\$m)	New forecast/ actual (\$m)	Difference (\$m)
2022-23	23.6	44.9	21.3
2023-24	16.9	24.3	7.4
2024-25	17.2	51.3	34.1
<b>Total: 2023-25</b>	<b>57.7</b>	<b>120.5</b>	<b>62.8</b>

Note: Values are nominal and include IDC.

Source: QCA analysis; Queensland Rail 2025 submission.

For the purposes of this paper, we have derived an opening common regulated asset base of \$598.7 million. This figure is based on actual capital expenditure for 2022-23, the AU2 capital indicator and Queensland Rail’s additional forecast capital expenditure from its explanatory document during the AU2 period of \$62.8 million. It also includes a placeholder value for capitalised losses. While it is not clear what the final amount of the loss capitalisation account will be, Queensland Rail has advised that the balance as at 30 June 2024 was \$23 million, which is a minor increase over the figure for the previous year. For the purposes of calculating an indicative tariff

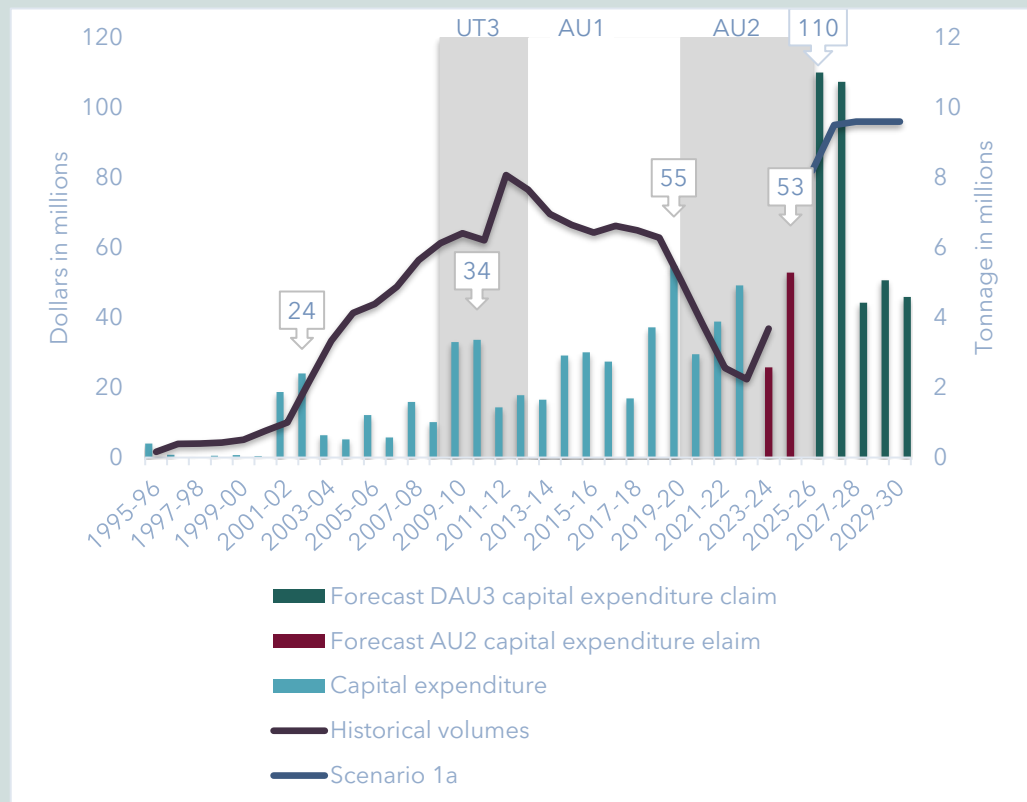
estimate we have derived a carryover loss capitalisation amount for DAU3, by using Queensland Rail’s projected net tonnes for the final year of AU2 to generate the indicative loss capitalisation balance.<sup>133</sup>

From this common regulated asset base, we have derived an asset base of \$500.7 million allocated to coal traffics, allocated according to an estimated capacity of 97 coal paths available from the total of 113 paths available to all traffic.<sup>134</sup>

## Asset base history

The West Moreton system includes Queensland’s oldest rail route, built in the 1860s. It was not designed as a heavy haul bulk railway. When modern-era coal services began in the mid-1990s, they were small scale. Capital investment to support coal services was negligible in the early years. But the amount spent on replacing the old infrastructure has increased steadily, particularly over the past five years (see Figure 6). Queensland Rail is proposing record capital investment during the 2025 undertaking period.

**Figure 6: West Moreton capital spending and volumes, 1995-2030**



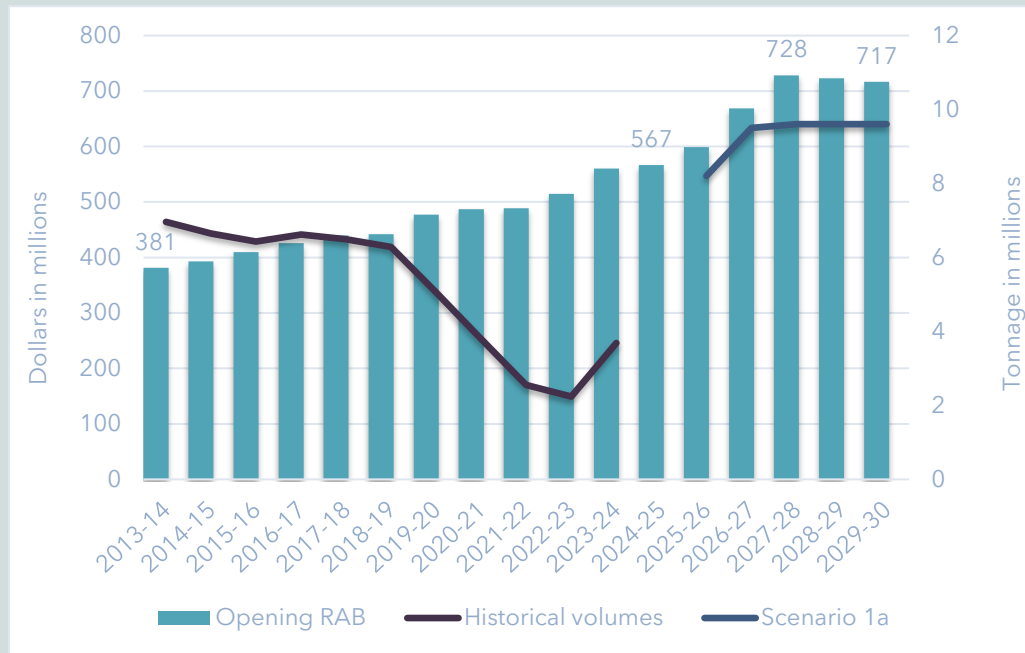
Source: QCA analysis; historical volume data sourced from Queensland Government Open Data Portal and derived from previous draft undertaking investigations; Queensland Rail 2025 DAU submission.

<sup>133</sup> Queensland Rail, sub. 27, p. 11.

<sup>134</sup> An updated capacity analysis shows there to be a total of 78 paths available on the West Moreton system, with 62 of those paths available to coal traffic (see section 6.1). We consider that these path numbers should be used for allocation of investments added to the RAB for the DAU3 period.

The capital spending has led to a sustained long-term increase in the real value of the regulatory asset base, from \$381 million (in 2025-26 dollars) in 2013 to an estimated \$567 million in 2024. Queensland Rail has proposed spending to achieve annual coal volumes of 9.6 million tonnes that will bring the RAB to \$728 million in 2027-28 – almost double the inflation-adjusted RAB value in 2013 (see Figure 7). Queensland Rail’s proposed spending for volumes of 7.5 million tonnes, set out in its collaborative submission, brings the RAB to \$619 million in 2027-28, which is still a significant increase.

**Figure 7: Real West Moreton regulatory asset base over time (\$m, 2025-26)**



Source: QCA analysis; Queensland Rail 2025 DAU submission.

This steady rise in the real value of the RAB – without any increase in the stated capacity of the West Moreton rail infrastructure – reflects factors such as new assets replacing infrastructure that has been fully depreciated, and rising construction costs. It also helps explain why prices approved in past undertakings were within the range access holders were willing to pay, while the customers are now saying the prices proposed by Queensland Rail are not affordable.

## Rate of return

We consider that Queensland Rail’s proposed indicative rate of return of 7.39% is reasonable for assessing indicative prices (and potentially a reference tariff agreed between the parties) to apply to the coal handling services operating on the West Moreton and Metropolitan systems.

In our draft decision, we outlined that 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 in our draft decision.

We remain of the view that it is appropriate to update Queensland Rail's proposed WACC, consistent with the approach outlined in our rate of return review.<sup>135</sup> Importantly, our rate of return guideline has recently been updated to correct our method for extrapolating the cost of debt to 10 years using publicly available data, based on new information received from the RBA.<sup>136</sup>

## Capital expenditure

The capital indicator is an ex ante estimate of the capital spending 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 of our draft decision). Rather, at the end of each year, Queensland Rail is required to provide us with a capital expenditure claim, which we then assess. 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 (excluding IDC) for AU3, more than double the AU2 total capital indicator of \$149.0 million (excluding IDC)<sup>137</sup>. 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.

In the Arcadis draft report that accompanied our draft decision, Arcadis advised that while the majority of programs were reasonable, the capital works programs between Macalister and Columboola programs might not be prudent. Overall, Arcadis estimated a total capital indicator of \$225.8 million to be prudent, a reduction of \$121.1 million from Queensland Rail's forecast.

In our draft decision we did not consider the forecast volumes and, by extension, the capital works programs based on these volumes, to be appropriate to approve at the time due to the level of uncertainty. The efficient levels of capital expenditure estimated by Arcadis were published in the interests of providing information to assist negotiations between Queensland Rail and its users.

In its collaborative submission Queensland Rail proposed an additional option (scenario 2) with coal volumes building to 7.5 mtpa, along with a revised capital program totalling \$256.6 million.<sup>138</sup> Yancoal supported the 7.5 mtpa scenario,<sup>139</sup> considering it was more realistic, while being concerned over the level of costs associated with the 7.5 mtpa scenario presented during consultation with Queensland Rail.<sup>140</sup>

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<sup>135</sup> QCA, *Rate of return review*, final report, version 4, September 2024.

<sup>136</sup> See QCA, *Rate of return review*, final report, version 4, September 2024, section 5.5.4.

<sup>137</sup> Values are in \$FY2026

<sup>138</sup> Queensland Rail, sub. 27, p. 10.

<sup>139</sup> Yancoal, sub. 29, p. 3

<sup>140</sup> Yancoal, sub. 29, p. 4.

## Arcadis analysis

As discussed in Appendix A, we have considered indicative volume forecast for the West Moreton system. Given Arcadis' advice that the tonnage forecast under scenario 1a (9.6 mtpa) cannot be sustainably hauled<sup>141</sup>, we asked Arcadis to assess the maintenance program proposed for scenario 2 (7.5mtpa) in Queensland Rail's collaborative submission.

Taking into account views expressed in submissions, as well as further information provided by Queensland Rail since our draft decision, Arcadis advised that the capital expenditure programs proposed for scenario 2 were reasonable for volumes of 7.5mtpa, and that the \$256.6 million capital indicator proposed by Queensland Rail for that volume was prudent.

## Capital expenditure

We consider \$256.6 million to be a reasonable estimate of efficient capital expenditure for the purpose of calculating an indicative estimate of a cost recovery price for the 2025 undertaking period. This reflects additional information Queensland Rail provided since our draft decision, views expressed in submissions, and advice from Arcadis.

## Asset lives

In its 2025 DAU, Queensland Rail proposed an accelerated depreciation profile based on forecast mine lives estimated by AME, whereby:

- existing assets would be depreciated over a maximum of 19 years, with assets having a shorter technical life depreciated over the remainder of that life
- DAU3 capital expenditure would be depreciated over 14 years, indexed to 1 July 2025.

Stakeholders did not suggest alternative asset lives to those proposed by Queensland Rail.

We retain our preliminary position that the asset lives proposed by Queensland Rail may be appropriate to approve, and we have calculated the indicative price on this basis.

Generally, the impact on the building blocks of a shorter depreciation schedule is a faster return of assets, which results in higher annual revenue and increased prices (assuming no change in volumes). Faster depreciation, based on economic rather than technical asset lives, makes it more likely Queensland Rail will recover its investments, assuming it can retain its customers.

## Appreciation

Queensland Rail proposed to continue escalating the RAB, maintenance costs and operating costs by inflation each year. 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, with these figures to be updated with actual inflation each year when the RAB is rolled over. Queensland Rail's proposal was supported by New Hope.<sup>142, 143</sup>

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<sup>141</sup> Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 - Addendum*, p. 12.

<sup>142</sup> New Hope, sub. 12, p. 2.

<sup>143</sup> 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.

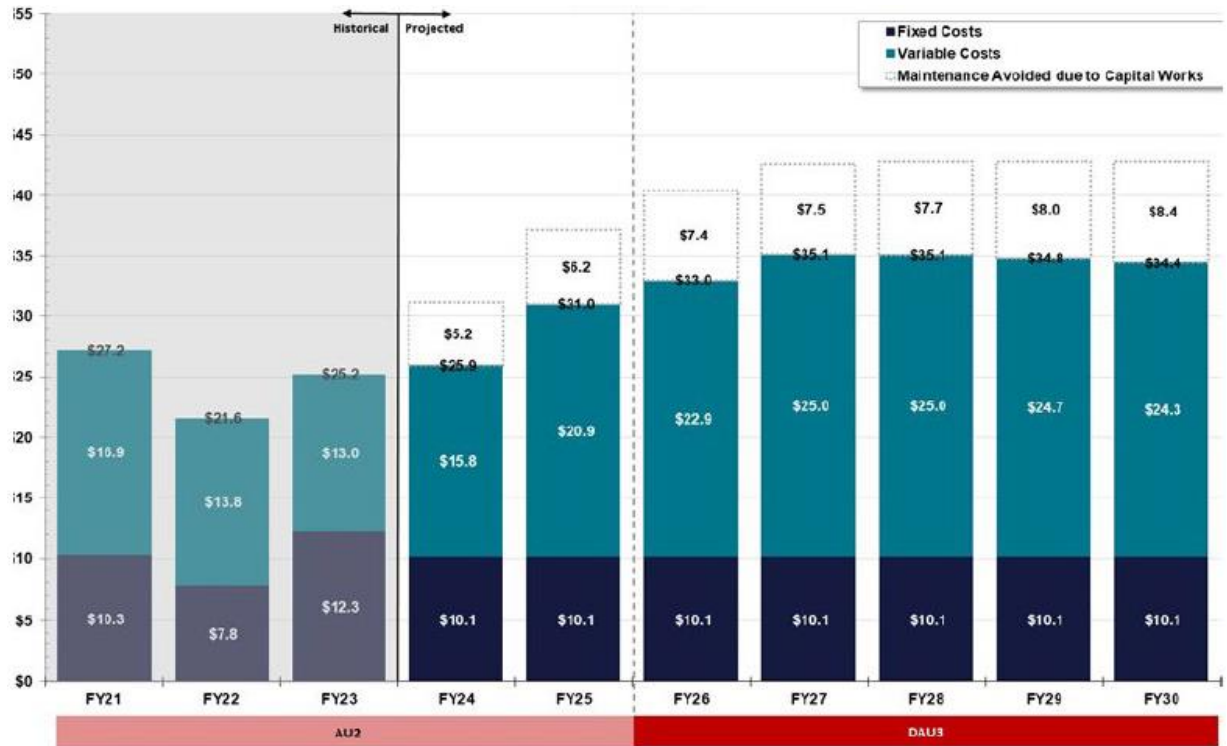
Given indexation is a well-established regulatory approach to managing the real value of a RAB, and the submissions were supportive, we have calculated the indicative estimate of the cost recovery price in line with this position.

## Maintenance expenditure

In the material that accompanied Queensland Rail’s original 2025 DAU submission, Queensland Rail proposed a significant increase in maintenance expenditure to \$172.5 million, driven primarily by the need to accommodate West Moreton coal volumes of as much as 9.6 mtpa. In our draft decision we did not consider that at the time it was appropriate to approve the forecast volumes and, by extension, the maintenance works programs based on these volumes – due to the level of uncertainty. The efficient levels of maintenance expenditure estimated by Arcadis were published in the interests of providing information to assist negotiations between Queensland Rail and its users.

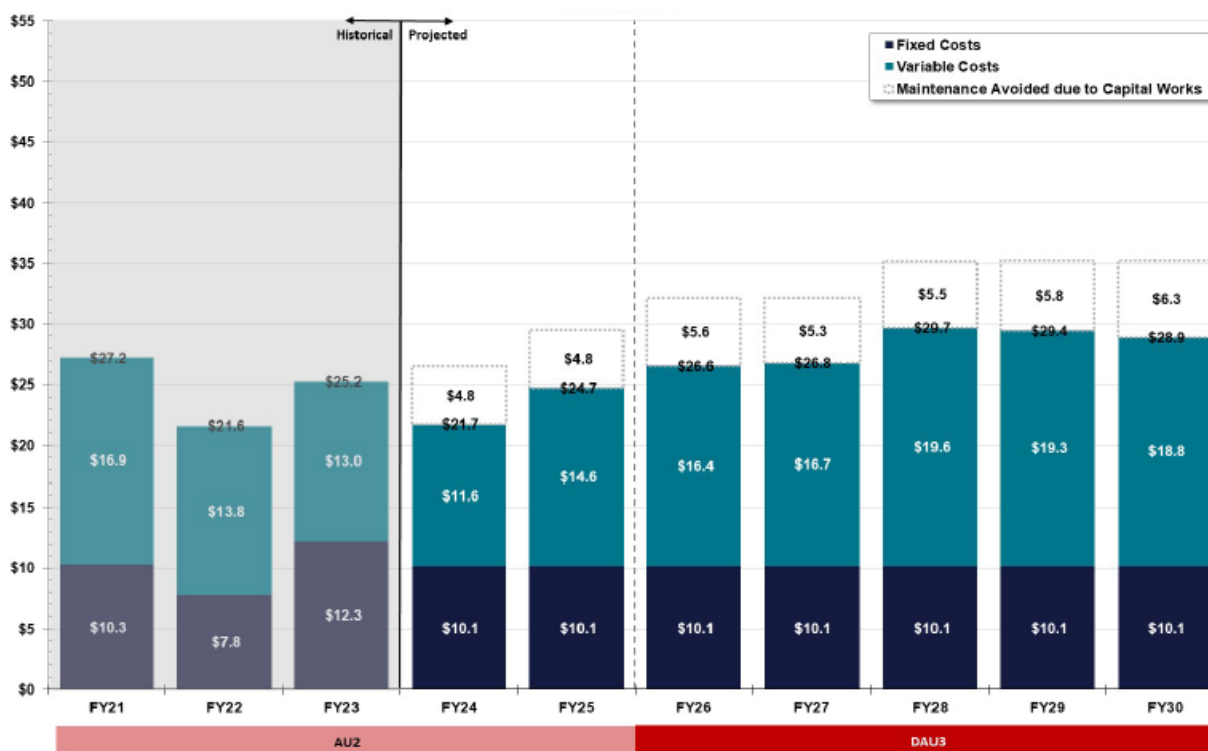
In its collaborative submission, Queensland Rail provided updated maintenance costs for transporting 9.6 mtpa during the DAU3 period, as well as a second scenario based on volumes of 7.5 mtpa during the DAU3 period.

**Figure 8: Maintenance expenditure under scenario 1a, 2020-21 to 2029-30**



Source: Queensland Rail, sub. 27, p. 38.

**Figure 9: Maintenance expenditure under scenario 2, 2020-21 to 2029-30**



Source: Queensland Rail, sub. 27, p. 39.

As with capital expenditure programs, maintenance expenditure is highly dependent on forecast demand. In addition, the required level of maintenance is closely linked to the proposed capital works, as upgraded or renewed sections of track generally require less maintenance.

### Arcadis analysis

As discussed in Appendix A, we have considered indicative volume forecasts for the West Moreton system and have received further information from Queensland Rail. Given Arcadis’ advice that the tonnage forecast under scenario 1a (9.6 mtpa) cannot be sustainably hauled,<sup>144</sup> we asked Arcadis to assess the maintenance program proposed for scenario 2 (7.5 mtpa) in Queensland Rail’s collaborative submission.

Taking into account views expressed in submissions and further information provided by Queensland Rail since our draft decision, Arcadis advised that most of the maintenance programs proposed were reasonable for the proposed volumes under scenario 2. The exception was repairs, where it considered \$5.5 million in proposed expenditure was not prudent. Arcadis considered an overall (pre-allocation) maintenance cost allowance of \$135.8 million for scenario 2 (7.5mtpa) was prudent.

### Maintenance expenditure

Based on the information provided by Queensland Rail and advice from Arcadis, for the purposes of calculating an indicative estimate of a cost recovery price at 7.5 mtpa, we consider an allowance of

<sup>144</sup> Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail’s DAU3 – Addendum*, p. 12.



\$141.3 million<sup>145</sup> to be reasonable for maintaining the system. While Arcadis considered \$5.5 million of the proposed expenditure was not prudent, this reduction will not have a material impact on the price calculations and, as such, we consider the maintenance costs proposed by Queensland Rail to be reasonable for calculating an indicative cost-recovery price.

While we have provided an indicative maintenance expenditure allowance, we remain of the opinion that the objectives of the QCA Act are best achieved by Queensland Rail and its customers working towards agreed approaches, particularly considering that the planning of these programs will need to be revised to so they can be delivered in possession windows that enable annual coal volumes of 7.5 million tonnes.

## Operating expenditure

In its material accompanying the original 2025 DAU, Queensland Rail proposed operating expenditure of \$85.3 million, which was an 89% increase (in real terms) in operating expenditure compared to AU2. Queensland Rail said the cost increases were due to it revising its approach to forecasting operating costs. It said the methodologies employed in AU1 and AU2 underestimated long-term operating costs.<sup>146</sup> The proposed operating expenditure in the DAU included annual corporate overheads of \$3.2 million, which is an 87% increase compared with 2020–21.

For the draft decision, Arcadis advised that Queensland Rail's operating cost forecasts were reasonable for 8 of 9 activities. However, Arcadis concluded there was insufficient information to consider the proposed 87% increase in the corporate overhead allowance reasonable.

In our draft decision, we did not consider the forecast volumes and, by extension, the operating expenditure based on these volumes, to be appropriate to approve at the time due to the level of uncertainty. The advice from Arcadis was published in the interests of providing information to assist negotiations between Queensland Rail and its users.

In its collaborative submission Queensland Rail provided a second option (scenario 2), based on coal volumes increasing to 7.5 mtpa. It proposed an operating cost allowance of \$74.6 million.

## Arcadis analysis

As discussed in Appendix A, we have considered indicative volume forecasts for the West Moreton system and have received further information from Queensland Rail. Given Arcadis' advice that the tonnage forecast under scenario 1a (9.6 mtpa) can not be sustainably hauled<sup>147</sup> we asked Arcadis to assess the proposed operating expenditure for scenario 2 (7.5 mtpa) in Queensland Rail's collaborative submission.

Taking into account views expressed in submissions and further information provided by Queensland Rail since our draft decision, Arcadis advised that Queensland Rail's proposed operating cost allowance of \$74.6 million was reasonable for the volumes forecast under scenario 2.

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<sup>145</sup> \$120.8 million in maintenance costs are allocated to coal services. This figure takes into account the updated allocation of fixed costs in line with Arcadis' capacity estimate.

<sup>146</sup> Queensland Rail, sub. 1, p. 48.

<sup>147</sup> Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 – Addendum*, p. 12.

## Operating expenditure

Based on the information provided by Queensland Rail, views expressed in submissions and the expert assessment by Arcadis, we consider the estimates by Arcadis are reasonable operating cost forecasts for the purposes of calculating an indicative price estimate.

While we have provided an indicative operating expenditure allowance, we hold the same view here as we do for capital expenditure and maintenance, that the objectives of the QCA Act are best achieved by Queensland Rail and its customers working towards agreed approaches. Given the significant price impact of these programs, we encourage Queensland Rail to continue engaging with users and above-rail operators so that they may be able to agree on programs that minimise costs through greater consideration of the interaction between service levels and above-rail costs.

## Metropolitan system reference tariff

As discussed in our draft decision, we considered it may be appropriate to approve Queensland Rail's proposal to maintain the existing Metropolitan system tariff in real terms, escalating the current tariff charges by CPI, on the basis that this 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.

## Indicative price and allowable revenue

There is considerable uncertainty in the factors that are relevant to setting an access price for the West Moreton system, particularly in an environment where there are disagreements about the capacity of the system and mine volumes. Nevertheless, we have calculated an indicative cost recovery price that may assist Queensland Rail and its customers in negotiating access terms for West Moreton.

Key building block estimates include:<sup>148</sup>

- annual volume of 7.5 million tonnes
- capital spending of \$256.6 million over the five-year undertaking period
- maintenance spending of \$141.3 million over the five years
- operating spending of \$74.6 million.

The indicative weighted average cost of capital (WACC) estimate of 7.39% is the same as that used in the draft decision. It will be updated in the final decision, if necessary, to reflect changed time-variant parameters and any shifts in the risk balance, having regard to stakeholder comments.

These building blocks generate a price of \$40.07/000 gtk, or \$15.54 per net tonne.<sup>149</sup> This is 23% more than the reference tariff proposed by Queensland Rail in its DAU (largely a result of lower volumes), and more than 50% above the affordable price in the 2020 undertaking.<sup>150</sup> Indicative allowable revenue at 7.5 mtpa is \$450.6 million.

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<sup>148</sup> Unless otherwise noted, all figures are in 2025-26 dollars, escalated at forecast CPI. See the section in this appendix headed 'Appreciation'.

<sup>149</sup> The below-rail cost for transporting a net tonne of coal to the terminal at the Port of Brisbane will also include \$3.08 for traversing the Metropolitan system.

<sup>150</sup> The 2020 undertaking also included a higher ceiling price that was used to calculate loss capitalisation amounts.

## High volume scenario

Our indicative price for annual volumes of 7.5 million tonnes reflects estimated costs to provide a volume the West Moreton system can deliver consistently in its current configuration. The difficulty is that substantial capital spending is required simply to enable the infrastructure to continue to deliver volumes that have been achieved in the past. None of the capital investment proposed by Queensland Rail provides an increase in capacity that might enable West Moreton to achieve Queensland Rail's higher volume forecasts on a sustainable basis.

To assist Queensland Rail and its customers in considering different price options, we have prepared an indicative estimate of what the cost recovery price would be if an extra \$200 million of capital expenditure was required to achieve 9.6 million tonnes of annual capacity. This expansion investment, beyond that proposed by Queensland Rail in its material accompanying the 2025 DAU, might be for new passing loops or other projects to provide more train paths.

**Table 8: West Moreton below-rail expansion cost scenarios**

Description	Volume (mtpa)	Expansion capital scenario	Indicative price	
			\$/'000 gtk	\$/net tonne
<b>Scenario 2</b>	7.5	0	\$40.07	\$15.54
<b>Scenario 1a</b>	9.6	+\$200m	\$39.59	\$15.32

Source: QCA analysis.

This high volume scenario is not intended to be a forecast, or indication of a price we would find appropriate to approve. However, we consider it provides an indication of the challenges faced by Queensland Rail and its customers in negotiating a price that reconciles their sometimes conflicting revenue, cost, service, investment and capacity objectives.

# Appendix C: West Moreton non-price matters

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There are a number of matters not directly related to price-setting for West Moreton coal services, which form part of the terms of access. These include cooperation on capacity assessment and investment planning, as well as ways to reflect government policy and address asset stranding risk.

This appendix considers those access-related matters that were discussed in chapter 8 of our draft decision, having regard to new information, including stakeholders' submissions.

We continue to encourage a consensus approach that reflect the interests of all parties. The commentary in this appendix is intended to assist with negotiated outcomes.

## Negotiated outcomes

There is no requirement that an undertaking include a reference tariff. Section 137 of the QCA Act provides that:

An access undertaking for a service may include details of the following–

- (a) how charges for access to the service are to be calculated;

Notably the section provides an undertaking 'may' include details of how charges are calculated not 'must'.

Reference tariff is only referred to in section 101 of the QCA Act. The reference is permissive and allows us to approve pricing and costing information being given in the form of a reference tariff (see Box 3).

### Box 3: Purpose of a reference tariff

The QCA Act provides for a reference tariff to be approved by us 'to set the basis for negotiation of the price for access to the service under an access agreement'. Section 101(2) of the QCA Act requires that the access provider give the access seeker, among other things:

- a. information about the price at which the access provider provides the service, including the way in which the price is calculated;
- b. information about the costs of providing the service, including the capital, operation and maintenance costs;
- c. information about the value of the access provider's assets, including the way in which the value is calculated

The QCA Act also provides in section 101(4) that:

Despite subsection (2), the authority may allow the matters mentioned in subsection (2)(a) to (c) to be given in the form of a reference tariff.

A reference tariff is optional and whether one should be set is to be determined by us having regard to the criteria in the QCA Act. As noted earlier in this paper, given the uncertainties around capacity and demand and other factors, we consider it is not appropriate for the Authority to determine a reference tariff for West Moreton. Given this, we encourage Queensland Rail and its West Moreton customers to seek to reach agreement on a price that could be included in the undertaking. We are unlikely to be minded to require amendments to the 2025 DAU to establish a reference tariff that does not recover Queensland Rail's efficient costs, unless it is proposed by Queensland Rail. However, we will look favourably on a subsidised price if it is agreed by all parties, including Queensland Rail.

Terms of access to Queensland Rail's network for all services except West Moreton coal are already negotiated and do not have prices approved by us through a reference tariff.

The Dalrymple Bay Coal Terminal (DBCT) access undertaking also provides a precedent for an undertaking to be approved by us without a reference tariff. In our decision on the 2017 DBCT DAU, we emphasised the primacy of negotiated outcomes where these could be achieved:

As a general principle, we consider that it is preferable for parties to negotiate price and non-price terms and conditions of access as opposed to us imposing them. This is because there will be differences in business operations between individual users and access seekers, and ultimately, parties know what is of most value to them and what they are willing to trade away.<sup>151</sup>

We said imposing a reference tariff had the potential to stifle negotiations between DBCT and its customers, and if the parties could not agree, they had access to arbitration to settle their differences.

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<sup>151</sup> QCA, *DBCT 2019 draft access undertaking*, final decision, March 2021, p. 46.

A negotiated outcome promotes efficient use of the West Moreton system, enabling access charges that encourage customers to use the network, while maximising the revenue that Queensland Rail can recoup, up to the standalone cost of providing access.

## Consensus and coordination

In our draft decision, we said West Moreton coal services would benefit from a reasoned and prudent strategy agreed on a consensus basis between Queensland Rail and its customers. We said this should include appropriate targets, such as expected capacity and reliability, and a framework for achieving those goals. Key areas where agreement and coordination will help deliver this strategy include:

- a capacity assessment process
- capital investment and maintenance planning.

## Capacity assessment process

In our draft decision, we encouraged Queensland Rail and its customers to address independent capacity reviews as part of their discussions on overall West Moreton tariff matters and work toward an agreed approach.

If the customers are to underwrite the capital investment required to maintain and potentially increase the capacity of the network, it is reasonable for them to expect to know what they are getting for their money.

In their collaborative submissions, New Hope and Yancoal provided suggested drafting for a capacity review process.<sup>152</sup> However, Queensland Rail said that capacity reviews would create uncertainty and add cost and complexity.<sup>153</sup>

New Hope and Yancoal said the proposed capacity review process was based on similar provisions in Aurizon Network's undertaking, but was shorter and simpler, and had fewer 'teeth' or consequences. The companies said:

a transparency measure of this type is an important step to facilitate QR and other West Moreton supply chain participants having more informed discussions about the network, how it operates and future capital investment, and hopefully finding more common ground on those issues.<sup>154</sup>

The drafting proposed by New Hope and Yancoal provides a sensible framework for a coordinated capacity review by Queensland Rail and its West Moreton customers. The matters set out in the proposed clause 4A.2 provide a good basis for determining the sustainable capacity of the system. The resulting information will also be an important input to discussions on how to manage capital investment and maintenance.

Accordingly, we would be minded to consider that the proposed amendment is appropriate to be included in the 2025 DAU.

However, while a capacity assessment process in the access undertaking would be a step forward, we consider it is best that the parties make early engagement on achievable capacity a priority, as that will inform much of their ongoing discussion on costs and, ultimately, prices. Waiting until the

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<sup>152</sup> Yancoal, sub. 29, pp. 13, 15-18; New Hope, sub. 26, pp. 11, 14-17.

<sup>153</sup> Queensland Rail, sub. 27, pp. 53-54.

<sup>154</sup> New Hope, sub. 26, p. 11; Yancoal, sub. 29, p. 13.

undertaking is approved may be too slow. There is nothing in the companies' proposed drafting that could not be implemented by way of a memorandum of understanding (or similar instrument) and acted on as a matter of urgency.

In the short term, we encourage Queensland Rail and its customers to review the analysis in Arcadis' report and revisit the QR Network analysis from 2009 (see Appendix A). One of the first actions of any independent capacity review would be an update of the coal rail infrastructure master plan to reflect changes since 2009.<sup>155</sup> We note, for example, that the coal export terminal at Fisherman's Island was upgraded in 2022 to an annual capacity of 12 million tonnes.<sup>156</sup>

## Capital and maintenance spending review 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. It has not proposed any involvement by other stakeholders in capital or maintenance planning for West Moreton.

In our draft decision, we said Queensland Rail and its West Moreton customers should consider a collaborative approach for capital and maintenance planning, akin to the Rail Infrastructure Group (RIG) established by Aurizon Network for the Central Queensland coal network in the 2017 access undertaking. The RIG has been operating successfully for several years.

We therefore welcome the indications by both Queensland Rail and its customers that they are working toward a mechanism for consulting on proposed capital expenditure.

New Hope said Queensland Rail had recently provided greater transparency on current and future capital projects, but it was yet to consistently apply the four elements of a robust business case that we set out in our draft decision. New Hope said:

NHG strongly advocates that a transparent consultative approach is required. Under our proposed approach, final decisions on all matters relating to the capital expenditure program will remain with QR, so that efforts to obtain customer support for projects cannot put capacity, efficiency or safety at risk.<sup>157</sup>

Yancoal said it continued to seek customer involvement in planning and approving capital expenditure. It said Queensland Rail was 'potentially open' to such a mechanism where it remained possible for Queensland Rail to ask the QCA to assess the prudence of projects not supported by coal users.<sup>158</sup>

Queensland Rail said in its collaborative submission that consultation on capital expenditure would 'address stakeholder concerns about capacity'. It said it would continue to work with stakeholders to agree that mechanism.<sup>159</sup>

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

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<sup>155</sup> QR Network, *2009 Coal Rail Infrastructure Master Plan*, pp. 81–88.

<sup>156</sup> Queensland Bulk Handling, *About us*, QBH website, viewed 16 October 2024.

<sup>157</sup> New Hope, sub. 26, p. 6.

<sup>158</sup> Yancoal, sub. 29, p. 12.

<sup>159</sup> Queensland Rail, sub. 27, p. 54.

## Affordability, allocation and capitalised losses

The low volumes and high costs of operating the West Moreton system have always made access prices for coal services relatively high.<sup>160</sup> The West Moreton users have argued that access charges at the levels proposed by Queensland Rail for the 2025 undertaking period are unaffordable. In this regard, we have considered the:

- views of customers and Queensland Rail on affordable prices
- policies adopted by Queensland Rail's shareholder, the state government
- limits on the effectiveness of a capitalised loss approach.

### Affordability

West Moreton customers said Queensland Rail's proposed prices would be economically unviable and likely beyond their willingness to pay.<sup>161</sup> Yancoal said:

Yancoal considers an affordability based tariff is an absolute necessity for DAU3 to be appropriate, and there is a material risk that in the absence of being provided with certainty that will occur, Cameby Downs will consider ceasing operations and all related contracting of access when its current access agreement expires<sup>162</sup>

New Hope said:

Establishing a tariff which aims to provide full 'cost' recovery for QR, but results in declining volumes, will ultimately result in worse outcomes for QR and customers than if an affordable tariff was established.<sup>163</sup>

Queensland Rail, on the other hand, said that recent coal prices meant its proposed West Moreton tariff was affordable for the miners.<sup>164</sup> Queensland Rail's consultant, Houston Kemp, assessed affordability as part of its analysis of asset lives and accelerated depreciation. It compared estimates of net present value of the customers' mines with and without accelerated depreciation and said that, even with the higher price proposed in the 2025 DAU, including shorter asset lives, 'all three mines remain financially viable'.<sup>165</sup>

The clearest test of whether the price is affordable will be when the customers decide whether or not to renew their access agreements and keep operating. But it is probably better for all parties if they negotiate in good faith and reach a mutually acceptable outcome before that decision point arrives. Given both Queensland Rail and its customers are likely to need to make substantial investments to keep operating, the negotiation will be similar in character to that for a greenfields project, with neither side committing until they have agreed satisfactory terms. In such circumstances, if the agreed price is above incremental costs of providing access, but below standalone costs, it is likely to be efficient and appropriate to approve, having regard to the criteria in section 138(2) of the QCA Act.

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<sup>160</sup> The 2020 undertaking West Moreton affordable price is \$26.42/000 gtk or \$12.42 per net tonne in 2025 dollars. The below-rail cost for transporting a net tonne of coal to the terminal at the Port of Brisbane will also include \$3.08 for traversing the Metropolitan system. These West Moreton costs compare with approved central Queensland prices in 2025 dollars, on Aurizon Network's systems, that average \$6.17 per net tonne, and range from \$3.63 on the Goonyella system to \$8.74 on the Blackwater system.

<sup>161</sup> See New Hope, sub. 19, p.5; Yancoal, sub. 23, pp. 7-8.

<sup>162</sup> Yancoal, sub. 23, p. 2.

<sup>163</sup> New Hope, sub. 19, p. 6.

<sup>164</sup> Queensland Rail sub. 1, pp. 54-56.

<sup>165</sup> Queensland Rail, sub. 1, Attachment 5, p. 23.



We encourage Queensland Rail and its customers to continue to discuss affordability and reach a consensus position.

## Government policy and allocation

It is appropriate for our regulatory approach to reflect clearly stated government policy. For example, the Queensland Government has long allocated capacity between different types of trains that use West Moreton rail services, 'preserving' a proportion of the paths for non-coal freight trains and passenger trains, so that they are not available to be contracted by coal-carrying customers.<sup>166</sup> The government has also placed restrictions on the times that freight services are able to traverse the Metropolitan system to reach the port.<sup>167</sup>

When assessing the West Moreton tariff in previous undertakings, we have recognised these government policies by applying an allocation approach.<sup>168</sup> The basis for allocating costs between coal and non-coal traffics has been:

- for assets, the proportion of capacity, measured in train paths, that is available to be contracted for coal services
- for maintenance, the proportion of wear and tear on the network (generally measured in gross tonne kilometres) that can be attributed to coal services
- for operating costs, a mixture of capacity- and usage-based allocation, which is split based on fixed and variable costs.

These allocations reflect both the preserved paths for non-coal services and the effect of the passenger peak periods on the Metropolitan system.

The government also applies other policy measures for West Moreton, which we understand include subsidised prices for non-coal traffics.<sup>169</sup> There is no reference tariff for those non-coal services, and no disputes have been brought to us in relation to pricing or other matters for those services.

We consider that a subsidy for coal services would be a policy decision by the government, having regard to its objectives, including economic and social considerations. As with the allocation approach, we will have regard to any stated government policy objectives for affordability when assessing West Moreton pricing.

## Capitalised losses

One way of addressing affordability can be loss capitalisation. This has been applied for West Moreton coal services during the 2020 undertaking period, to reflect the difference between an assessed ceiling revenue (the 'approved ceiling revenue limit') and the revenue received from the affordable tariff actually charged by Queensland Rail.

The loss capitalisation mechanism was introduced in the 2020 undertaking amid expectations that West Moreton volumes would fall to 2.1 mtpa – 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

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<sup>166</sup> See the 2025 DAU, Schedule D, cl. 3.1(g). The preserved paths are generally available to be used for coal services on an ad hoc basis, where they are not taken up by the traffics for which they are preserved.

<sup>167</sup> Freight services are prevented from contracting paths for up to 7 hours a day during weekday peak hours. See Queensland Transport Infrastructure Act 1994, s. 266A, and QCA, *Queensland Rail's Draft Access Undertaking*, decision, June 2016, pp. 150-153.

<sup>168</sup> The allocation approach was applied in assessing the tariffs in the 2008 QR Network access undertaking, that applied for Queensland Rail between 2009 and 2013, and for the 2016 and 2020 Queensland Rail undertakings.

<sup>169</sup> See Queensland Rail, sub. 21, Attachment 1, p. 31.

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. The 2020 undertaking also includes a requirement that Queensland Rail submit a revised reference tariff if it expects annual contracted volumes will exceed 4.1 million tonnes during the term of the undertaking.

Queensland Rail expected that with the increased contracted tonnage from the reopened New Wilkie mine, West Moreton volumes would exceed 4.1 million tonnes in 2023-24 and therefore intended to lodge a DAAU to reset the reference tariff and address the treatment of the loss capitalisation account.

However, due to the reduction in coal volumes when the Wilkie Creek mine went into receivership, Queensland Rail advised the 4.1 million tonne per annum threshold was not reached in 2023-24, and it no longer expected it to be reached during the AU2 period. We expect Queensland Rail will propose amendments to the 2025 DAU to address the treatment of the loss capitalisation account.

Queensland Rail said in its submissions during our investigation of its 2020 DAU that it was prepared to take the risk of capitalising losses, with the expectation that demand would recover to a level that allowed for recouping those amounts.<sup>170</sup> In our final decision on the 2020 DAU, we said it was appropriate to approve measures to record the accumulated capitalised losses but the mechanism for them to be recouped would need to be addressed when more information was available.

Should volumes rise in the way Queensland Rail and its customers predict, the details of the tariff approach, including recovery of capitalised losses, can be settled with the benefit of a clearer profile of demand growth, for example. It is also reasonable to assume that the existing or new customers will only have signed for increased or extended access if Queensland Rail has provided some sort of contractual commitment to prices no higher than required to make their planned investment viable.<sup>171</sup>

As it turns out, the losses over the 2020 undertaking period are set to be at the low end of possible outcomes, given average annual railings have substantially exceeded the 2.1 million tonne forecast used when assessing the 2020 undertaking reference tariff. The capitalised losses represent the difference between:

- the incremental cost of providing access (the affordable tariff) – calculated based on a forward-looking cost buildup that included forecast capital, maintenance and operating expenditure but excluded recovery of the sunk costs in the opening RAB, and
- a full cost recovery price – calculated from all the building blocks including a return on and of the sunk costs in the opening RAB.

The capitalised amounts are therefore, in effect, deferred return on and of the opening RAB that existed at 30 June 2020, but was not included in the calculation of the affordable tariff.

In theory, if demand rebounds as anticipated, to the point where there is sufficient volume that it may be possible for Queensland Rail to recover the capitalised amounts, it is appropriate that those accumulated losses be included as a recoverable amount in the 2025 undertaking period building blocks.

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<sup>170</sup> See QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, pp. 19-21.

<sup>171</sup> QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, p. 20.

However, the circumstances of the West Moreton system create challenges for the capitalised loss approach. New Hope set out the difference between expectation and outcomes in its collaborative submission:

The expectation, at the time of implementing the capitalisation of losses under AU2, was that if volume increases of the magnitude which are now likely were to eventuate, revenues would be sufficient to provide QR with full cost recovery, plus recovery of capitalised losses over a period of time, with tariffs remaining at the 'affordable' level determined under AU2 (or lower).<sup>172</sup>

Queensland Rail said:

Given the increase in thermal coal prices since AU2, Queensland Rail believes that coal companies can also afford to repay the loss capitalisation account that has accumulated during AU2 during the first four years of AU3.<sup>173</sup>

We are not opposed in principle to Queensland Rail recovering the accumulated capitalised losses. However, should Queensland Rail form a view that its business interests are best served during the 2025 undertaking period by applying an affordable tariff that does not recover its full costs of providing access, it may choose to forgo recovery of those past losses. As long as there is a question of whether a price can be found that retains the customers that might underwrite past and future capital expenditure, the recovery of past capitalised losses would seem to be a secondary consideration, and potentially a distraction.

Should Queensland Rail and its customers find it is feasible to provide for recovering capitalised losses, a pragmatic approach is appropriate. One of the access holders benefited from being able to rail at a time of record coal prices, and all customers benefit from the option to contract for access, without having given long-term guarantees to Queensland Rail. Therefore, our position is that the capitalised losses might be applied in proportion to future use of the network, as an addition to the overall smoothed tariff. This would be easier to implement if any unrecovered amount from the 2020 undertaking period is included in the opening calculations for the 2025 undertaking tariff. However, we are open to any agreement between Queensland Rail and its customers that closes out the capitalised losses during the remainder of the 2020 undertaking period.

## Future of loss capitalisation

We found a loss capitalisation approach was appropriate to approve in the 2020 undertaking, having regard to the factors in section 138(2) of the QCA Act. At the time, Queensland Rail had proposed the measure and stakeholders had given in principle support. We said:

Loss capitalisation is typically used for lumpy assets such as dams, where there is a reasonable expectation that demand will build over time to a level where the capitalised losses can be recouped. The 2020 DAU West Moreton tariff is an unusual application of loss capitalisation, in that forecasts of future demand depend on assumptions about a small number of discrete events, rather than a demographic or statistical assessment.<sup>174</sup>

We retain the view that West Moreton is an unusual instance for applying loss capitalisation. At some point, where there is no realistic prospect of accumulated losses being recovered, it is time to consider alternative approaches. And based on Queensland Rail's 2025 DAU proposal and our

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<sup>172</sup> New Hope, sub. 26, p. 5.

<sup>173</sup> Queensland Rail, sub. 27, p. 56.

<sup>174</sup> QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, pp. 19-20.

analysis, it appears unlikely that higher volumes will bring about a reduction in the building blocks price, compared with the affordable price included in the 2020 undertaking.

Where there is no realistic prospect of accumulated losses being recovered, it is time to consider alternative approaches. While we were prepared to approve a loss capitalisation regime in the 2020 undertaking, we are concerned that the circumstances of the West Moreton system, as revealed in Queensland Rail's 2025 DAU submission and subsequent material, may make applying loss capitalisation less viable in future as a way of achieving affordability.

Queensland Rail has not proposed in the 2025 DAU to capitalise any difference between efficient costs and actual revenue. We consider that if expected revenue continues to fall short of the efficient cost of providing the West Moreton service, the parties may want to negotiate a compromise approach to affordability that does not rely on unpredictable future events such as increased volumes.

## Depreciation, underwriting and renewal rights

Queensland Rail proposed in its material accompanying the 2025 DAU that West Moreton coal assets be depreciated over their expected economic lives rather than their technical lives.<sup>175</sup> In many cases, Queensland Rail's proposed economic lives are much shorter than the technical lives of the assets. The resulting accelerated depreciation is a significant contributor to the increase in Queensland Rail's proposed reference tariff, compared with the price customers have been paying under the 2020 undertaking.

In our draft decision on the 2025 DAU, we said it may be appropriate to use the asset lives proposed by Queensland Rail instead of the technical lives used to assess prices in previous undertakings. However, we said that it was not straightforward that accelerated depreciation would mitigate Queensland Rail's asset stranding risk. This was because faster depreciation would raise prices, potentially bringing forward the date at which assets ceased to be used.<sup>176</sup> We said:

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 reduce the likelihood that Queensland Rail would be unable to recover its infrastructure investments.<sup>177</sup>

We also said that Queensland Rail might agree to some form of renewal rights or security of access for West Moreton customers, in return for measures that reduced its asset stranding exposure.

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 ... But as a broad principle, the more the risk is transferred to the customers, the more certainty over security of access they should receive.<sup>178</sup>

In the remainder of this section, we consider accelerated depreciation and the potential ways to address asset stranding and security of access.

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<sup>175</sup> The exception would be assets where the technical lives are shorter than the economic lives of the mines.

<sup>176</sup> QCA, *Queensland Rail 2025 Draft Access Undertaking, draft decision*, June 2024, p. 84.

<sup>177</sup> QCA, *Queensland Rail 2025 Draft Access Undertaking, draft decision*, June 2024, pp. 84-85.

<sup>178</sup> QCA, *Queensland Rail 2025 Draft Access Undertaking, draft decision*, June 2024, pp. 86-87.

## Accelerated depreciation

In their submissions after our draft decision, Yancoal and New Hope opposed accelerated depreciation. New Hope said the shorter proposed asset lives contributed \$6.48 to Queensland Rail's proposed tariff of \$37.86/000 gtk at annual coal volumes of 7.5 million tonnes.<sup>179</sup> New Hope and Yancoal said the higher prices might have the opposite effect to that Queensland Rail intended, by driving West Moreton mines to shut down. Yancoal said it was 'deeply concerned that accelerated depreciation can lead to an economic death spiral of the West Moreton coal producers'.<sup>180</sup>

In our decision on the 2016 DAU, we accepted Queensland Rail's proposed approach of depreciating assets over their technical lives.<sup>181</sup> Technical lives were also used in assessing the West Moreton tariffs, in the 2020 DAU, although we suggested that 'we would be amenable to accepting an appropriate accelerated depreciation profile' if proposed by Queensland Rail to address longer-term asset stranding risks.<sup>182</sup>

There are precedents from other businesses we regulate and from other regulators, for applying asset lives that are shorter than the technical lives.<sup>183</sup> Both Aurizon Network and DBCT have applied accelerated depreciation. For Aurizon Network (then known as QR Network), the change from technical lives to 20-year asset lives came in UT3 (the 2009 access undertaking). We said:

The Authority recognises that QR Network has proposed a significant capital expenditure program in order to provide increased and more secure capacity for its customers. Indeed, the capital expenditure proposed over the term of the 2009 undertaking of \$1.35 billion represents around 42% of the opening asset value for the 2009 regulatory period, and this does not include significant allowances for expenditure on major projects such as GAPE, Wiggins Island or Surat Basin. As such, the Authority can understand, to an extent, QR Network's reasons for wanting to reduce the risk that it will not recover such costs.<sup>184</sup>

In our decision on the 2019 access undertaking for DBCT, we found:

The economic life represents an estimate of the period over which the asset remains productive and can generate a return. We have previously held the view that the economic life of the Terminal is best estimated with reference to the expected life of the underlying coal resource.<sup>185</sup>

We consider a similar approach, of aligning asset life with expected remaining mine life, is reasonable for Queensland Rail's rail assets used to provide West Moreton coal services. However, accelerated depreciation only benefits Queensland Rail if it is able to charge a price that includes the resulting depreciation amounts (the 'return of capital' in the building blocks). If Queensland Rail opts to charge an 'affordability' tariff that does not recover its full cost of providing access, it may find its interests are better served by not applying accelerated depreciation.

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<sup>179</sup> New Hope, sub. 26, p. 5.

<sup>180</sup> Yancoal, sub. 23, p. 5.

<sup>181</sup> QCA, *Queensland Rail's Draft Access Undertaking*, decision, June 2016, p. 222.

<sup>182</sup> QCA, *Queensland Rail 2020 draft access undertaking*, decision, February 2020, p. 50.

<sup>183</sup> For a survey of approaches to depreciation and asset lives, see Frontier Economics, *Economic life for the purposes of setting the regulatory depreciation allowance*, report prepared for Sydney Desalination Plant, September 2022. The report concludes that regulated businesses would be unable to recover the full efficient cost of their regulated assets if the economic life of the assets is shorter than that assumed by the regulator.

<sup>184</sup> QCA, *QR Network 2009 Draft Access Undertaking*, draft decision, December 2009, p. 36

<sup>185</sup> QCA, *DBCT 2019 draft access undertaking*, final decision, March 2021, p. 171.

## Capital underwriting and renewal rights

In their submissions after our draft decision, neither New Hope nor Yancoal proposed any alternatives to accelerated depreciation for mitigating Queensland Rail's asset stranding risk. They reiterated their desire for renewal rights.<sup>186</sup>

Queensland Rail said it was 'appropriate to provide renewal rights to West Moreton coal access holders, applying to access agreements that are for a period of at least ten years, or for the remainder of mine life (whichever is earlier)'.<sup>187</sup> It said it would work with the coal access holders to agree a mechanism for implementing those rights.

Our positions in the draft decision remain valid.

Queensland Rail, as an owner of regulated assets, is unlikely to have an incentive to invest in new infrastructure if it does not have a reasonable expectation it will recover that investment, including a return that reflects the regulatory and commercial risks of owning the asset.<sup>188</sup> This reassurance for Queensland Rail could come in the form of measures such as long-term contracts or capital underwriting.

Equally, customers are unlikely to be prepared to assume some or all of the risk and cost of Queensland Rail's investments unless they have an expectation they will receive rail access for long enough to justify their own investments, which will include the cost of assuming those risks.

However, we consider that the reassurance on investment sought by Queensland Rail and the renewal rights sought by its customers are best achieved through negotiated contractual terms.

## Investment triggers and reconciliation

Review provisions can be an effective way of dealing with uncertainty. Queensland Rail and its customers have each proposed review provisions to address the wide range of potential demand levels on West Moreton, and any associated variation in required investment.

- Queensland Rail's 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.<sup>189</sup>
- New Hope and Yancoal proposed an annual reconciliation or true-up to address any under- or overspend of the capital indicator, with tariffs adjusted during the term of the undertaking.<sup>190</sup>

Both proposals are ways of addressing a circumstance where the capital indicator reflects potential projects that may end up not being required or completed.

We recognise that uncertainty about future demand makes it difficult for Queensland Rail to plan its capital investments. It also provides less comfort to Queensland Rail that it will recover those investments, let alone achieve a long-term return commensurate with the regulatory and commercial risks.

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<sup>186</sup> New Hope, sub. 19, p. 14; Yancoal, sub. 23, p. 9.

<sup>187</sup> Queensland Rail, sub. 27, p. 57.

<sup>188</sup> There is also an associated concept of a regulatory compact, whereby the regulator prevents the owner of the monopoly asset from using its market power to make large profits, but also protects the regulated business from a range of losses. See, for example, the discussion of 'the implicit regulatory compact' in JG Sidak and WJ Baumol, 'Stranded costs', *Harvard Journal of Law & Public Policy*, vol. 18, 1995, pp. 840-41.

<sup>189</sup> Schedule D, cl. 3.2.

<sup>190</sup> New Hope, sub. 5, pp. 26, 36-38; Yancoal, sub. 9, pp. 15, 28-29 and sub. 16, p. 7.

However, we also observe that capital spending is planned well in advance and is unlikely to vary immediately based on fluctuations in contracted volumes. Therefore, on balance, we consider it is appropriate to approve the reconciliation or true-up process suggested by New Hope and Yancoal. This is an effective alternative to Queensland Rail's proposal for triggers and enables the revenue and prices to be adjusted to reflect actual spending, without the parties having to wait for the subsequent undertaking period for the adjustments to take effect.

While a reconciliation or true-up process may in some ways erode certainty about future pricing and investment, it will tend to promote a return on investment for Queensland Rail that is commensurate with the regulatory and commercial risks of providing access.

It will be in the interests of access holders too, as it will lessen the degree to which they pay a tariff that includes indicator amounts for assets that may not be built. Further, the true-up mechanism should give customers an incentive to contract early enough, and for long enough, so that Queensland Rail has the certainty it needs to undertake capital investment in time to provide the access the customers require.

We also observe that given a reconciliation or true-up mechanism is essentially a risk-sharing measure, it will work best in concert with a consultative approach.

# Appendix D: Drafting amendments to the 2025 DAU

Our preliminary assessment of Queensland Rail’s 2025 DAU, having regard to the matters mentioned in section 138(2) of the QCA Act and the stakeholder submissions received to date, is set out in detail throughout our draft decision and this discussion paper. As part of our preliminary assessment, we have outlined the way in which we consider it is appropriate to amend the 2025 DAU.

Appendix D proposes specific drafting amendments to the 2025 DAU that, we consider, will give effect to those positions outlined in the draft decision and discussion paper. We consider that amendments that we have identified to particular provisions should include any other consequential amendments that may be necessary to give effect to the proposed changes.

**Table 9: Drafting amendments required to the 2025 DAU**

2025 DAU clause	Proposed amended provision
5.1.2(a)	A quarterly report published under clause 5.1.1 will contain the following information:
Quarterly performance report	...
	(ii) for Train Services that operated in the subject Quarter:
	(A) the number and percentage of Train Services that reached their destination within the Allotted Time Threshold;
	<del>(B) the number and percentage of Train Services that did not reach their destination within the Allotted Time Threshold:</del>
	<del>(1) due solely to the acts or omissions of Queensland Rail in its capacity as the Railway Manager;</del>
	<del>(2) due solely to delays attributed to an Access Holder or a Nominated Rolling Stock Operator; and</del>
	<del>(3) due to any other reason; and</del>
	(B) the total number of Train Services;
	(C) <u>the number and percentage of On-time Train Services;</u>
	(D) <u>of those On-time Train Services, the number and percentage of Train Services that reach their destination within the Allotted Time Threshold;</u>
(E) <u>the number and percentage of Train Services that are not On-time Train Services, which are running late only due to causes within the Network (but only where the root cause is outside the Access Holder or Rolling Stock Operator’s control);</u>	
(F) <u>of those Train Services that are not On-time Train Services, the number and percentage of Train Services that do not deteriorate further;</u>	
...	
	(iii) the average Above Rail Delay, Below Rail Delay and Unallocated Delay, in minutes, per <del>100 train kilometres transit hour</del> for the aggregate of the Train Services that operated in the subject Quarter;
...	



(iv) the number and percentage of Train Services scheduled in the DTPs relating to the subject Quarter that were cancelled<sup>5</sup> in each of the following circumstances:

- (A) where that cancellation can be solely attributed directly to Queensland Rail in its capacity as the Railway Manager;
- (B) where that cancellation can be solely attributed directly to an Access Holder or a Nominated Rolling Stock Operator; and
- (C) where that cancellation occurred for any other reason;

<sup>5</sup> A cancellation is defined as a service cancelled from Origin to Destination and includes all cancellations regardless of whether they are in the planned MTP to DTP or unplanned.

...

(x) the number and percentage of Regular Planned Possessions for the subject Quarter that:

- ~~(A) started within 15 minutes of the scheduled time and finished within 15 minutes of the scheduled time;~~
- ~~(B) started between 15 minutes and two hours later than the scheduled time;~~
- ~~(C) finished between 15 minutes and two hours earlier than the scheduled time;~~
- ~~(D) finished between 15 minutes and two hours later than the scheduled time;~~
- ~~(E) started more than two hours later than the scheduled time;~~
- ~~(F) finished more than two hours earlier than the scheduled time;~~
- ~~(G) finished more than two hours later than the scheduled time;~~

the number of Regular Planned Possessions for the subject Quarter, and the number of Train Services that have been cancelled or rescheduled for the purpose of accommodating those types of Possession;

...

(xii) the percentage of maintenance work (hours) delivered in Regular Planned Possessions and Ad Hoc Planned Possessions.

**Part 7**

**Defining On-time Train Service**

On-time Train Service means a Train Service that presents to the Network within the Allotted Time Threshold and operated in a manner consistent with the Train Service Description detailed in its Access Agreement.

**Part 7**

**Consensus drafting to define planned possessions**

~~Ad Hoc Planned Possession means a Possession (other than an Urgent Possession, or an Emergency Possession) that is not entered into the MTP because it is not a Regular Planned Possession, and adversely affects the operation of Train Services~~

...

Planned Possession means a Possession (other than an Urgent Possession or an Emergency Possession) where such Possession is entered into the MTP and DTP and adversely affects the operation of Train Services;

...

Regular Planned Possession means a Possession (other than an Ad Hoc Planned Possession, Urgent Possession or an Emergency Possession) where such Possession is entered into the MTP and DTP and adversely affects the operation of Train Services;

2025 DAU clause	Proposed amended provision
<p data-bbox="244 226 416 293"><b>Sch. F, cl. 2.1</b></p> <p data-bbox="244 338 416 663"><b>Consensus drafting to notify rolling stock operators of proposed updates to the MTP or DTP</b></p>	<p data-bbox="416 226 1465 293">(a) Queensland Rail will:</p> <p data-bbox="416 293 1465 315">...</p> <p data-bbox="416 315 1465 427">(iii) update the Supply Chain Calendar at least once per calendar month and notify all Access Holders, <u>Nominated Rolling Stock Operators</u> and other parties whose activities may be affected by the proposed Possession.</p> <p data-bbox="416 427 1465 450">...</p> <p data-bbox="416 450 1465 808">(d) Queensland Rail will notify all Access Holders, <u>Nominated Rolling Stock Operators</u> and any other parties whose activities may be affected (for example, parties that are affected by the availability of access to the Network including operators of rail and port facilities) by any modifications to a MTP, <del>or the scheduling of an Ad Hoc Planned Possession</del>, at least three months prior to the commencement of the modification (except in the case of an Urgent Possession or Emergency Possession).<sup>28</sup> However, despite the foregoing, Queensland Rail is only required to notify parties (other than Access Holders <u>and Nominated Rolling Stock Operators</u>) who have notified Queensland Rail that they require to be notified in relation to changes.</p> <p data-bbox="416 808 1465 965">(e) Subject to clause 2.1(f), an Access Holder <u>or Nominated Rolling Stock Operator</u> must give Queensland Rail sufficient notice of any requested changes to a MTP to enable Queensland Rail to consider the requested changes and, if Queensland Rail agrees to the making of those modifications, to comply with clause 2.1(d).</p> <p data-bbox="416 965 1465 1077">(f) A notice given by an Access Holder <u>or Nominated Rolling Stock Operator</u> under clause 2.1(e) must be given no less than:</p> <p data-bbox="416 1077 1465 1099">...</p> <p data-bbox="416 1099 1465 1211">(g) Except as otherwise provided in an Access Agreement, the cancellation of a Train Service does not excuse either Queensland Rail, or an Access Holder <u>or Nominated Rolling Stock Operator</u> from any relevant obligations under that Access Agreement.</p> <p data-bbox="416 1211 1465 1234">...</p> <p data-bbox="416 1234 1465 1480">(i) Despite clause 2.1(h), an Access Holder, <u>their Nominated Rolling Stock Operator</u> or their Customer may (acting reasonably) request a copy of the current MTP or Supply Chain Calendar from Queensland Rail, from time to time, and if Queensland Rail receives such a request Queensland Rail will provide a copy of the relevant MTP or Supply Chain Calendar to that Access Holder, <u>Nominated Rolling Stock Operator</u> or Customer as soon as reasonably practicable.</p>
<p data-bbox="244 1503 416 1570"><b>Sch. F, cl. 2.2</b></p> <p data-bbox="244 1615 416 1939"><b>Consensus drafting to notify rolling stock operators of proposed updates to the MTP or DTP</b></p>	<p data-bbox="416 1503 1465 1570">(b) A DTP represents an expected performance target that, subject to variations to the DTP permitted by this schedule F:</p> <p data-bbox="416 1570 1465 1592">...</p> <p data-bbox="416 1592 1465 1727">(ii) each Access Holder and <u>its Nominated Rolling Stock Operator</u> must comply with for its Train Services, for a particular day of operation for a specified part of the Network.</p> <p data-bbox="416 1727 1465 1794">(c) Queensland Rail will:</p> <p data-bbox="416 1794 1465 1816">...</p> <p data-bbox="416 1816 1465 2018">(ii) At least one Business Day prior to the Day of Operation, Queensland Rail will schedule a DTP and provide all relevant Access Holders, <u>Nominated Rolling Stock Operators</u> and Infrastructure Service Providers and any other parties whose activities are affected (including for example, relevant operators of rail and port facilities) with an extract of the DTP specifying the</p>

relevant Train Services. However, despite the foregoing, Queensland Rail is only required to notify parties (other than Access Holders and Nominated Rolling Stock Operators) who have notified Queensland Rail that they require to be notified in relation to changes. For clarity, the DTP provided will be complete and will not be redacted in any way.

(d) Except as otherwise provided in an Access Agreement, the cancellation of a Train Service does not excuse either Queensland Rail, or an Access Holder or a Nominated Rolling Stock Operator from any relevant obligations under an Access Agreement.

(e) A DTP must be developed by Queensland Rail from, and except as provided in this schedule F, be consistent with, the applicable MTP and Supply Chain Calendar. However, a DTP may be scheduled in variation to a MTP by Queensland Rail:

~~to accommodate an Ad Hoc Planned Possession scheduled in accordance with the requirements of clauses 2.1(l) and (m); or~~

(i) at least two Business Days prior to the Day of Operation, and prior to the DTP being scheduled, in circumstances where any of the following apply:

(A) an Access Holder or its Nominated Rolling Stock Operator requests a short-term change to the times at which any of its Train Services, as scheduled in the MTP, operate;

(B) an Access Holder or its Nominated Rolling Stock Operator requests to run an Ad Hoc Train Service; or

(C) Queensland Rail modifies the times at which any of its passenger Train Services, as scheduled in the MTP, operate; and

provided that the variation does not result in any other Access Holder's scheduled Train Services not being met in accordance with the Access Holder's Train Service Entitlement.

...

(j) Queensland Rail may make modifications to a scheduled DTP on a case by case basis:

(i) where:

(A) before the Day of Operation, Queensland Rail receives a request from an Access Holder or its Nominated Rolling Stock Operator to run an Ad Hoc Train Service; or

(B) before a Train Service commences operation, the Access Holder or its Nominated Rolling Stock Operator requests a change to the time at which its Train Service will operate and that change is within the scope of the Access Holder's Train Service Entitlement,

provided that the modification does not result in any other Access Holder's scheduled Train Services not being met; or

(ii) where, before the commencement of a relevant Train Service, Queensland Rail notifies the Access Holder and its Nominated Rolling Stock Operator that an Emergency Possession is required; and

**Sch. F,  
cl. 2.1**

(e) Subject to clause 2.1(f), an Access Holder must give Queensland Rail sufficient notice of any requested changes to a MTP to enable Queensland Rail to consider the requested changes and, if Queensland Rail agrees to the making of those modifications, to comply with clause 2.1(d). Queensland Rail will use its best

**Responsive**

2025 DAU clause	Proposed amended provision
<b>to requests to change the MTP</b>	<u>endeavours to provide a response as soon as possible to an Access Holder regarding its requested changes under this clause. Where Queensland Rail does not agree to the Access Holder’s requested changes or considers that insufficient notice of the requested changes was provided, Queensland Rail will provide to the Access Holder reasons for its decision to decline the requested changes, including, if applicable, why the period of notice provided was insufficient.</u>
<p data-bbox="244 454 443 521"><b>Sch. F, cl. 3(i)</b></p> <p data-bbox="244 566 443 633"><b>Publishing peak periods</b></p>	<p data-bbox="443 454 1465 633">It is necessary for Network Control Officers to have sufficient discretion to take into account the varying objectives of different traffic types, and the circumstances of a particular part of the Network, in assessing the priority to be given to Train Services and other activities on the Network. Network Control Officers will apply the following principles in managing deviations from a DTP:</p> <p data-bbox="443 656 1465 678">...</p> <p data-bbox="443 701 1465 790">(ii) subject to clause 3(i)(i), passenger Train Services may be given priority over other Train Services if the Network Control Officer reasonably believes that this is necessary to seek:</p> <ul style="list-style-type: none"> <li data-bbox="499 813 1465 880">(A) to bring a “Late” passenger Train Service back to being “On Time” or closer to being “On Time”;</li> <li data-bbox="499 891 1465 913">(B) to prevent that “Late” passenger Train Service becoming “Later”; or</li> <li data-bbox="499 925 1465 1059">(C) to avoid an “On Time” or “Ahead” passenger Train Service that is operating, is scheduled to operate, or will be scheduled to operate in the Metropolitan System during any peak period<sup>30</sup> from becoming a “Late” passenger Train Service;</li> </ul> <p data-bbox="443 1081 1465 1171"><sup>30</sup>The time periods: <del>(a) from 6:00am to 9:00am, and (b) from 3:30pm to 6:30pm, on Business Days or as otherwise notified by Queensland Rail (acting reasonably) and published on Queensland Rail’s website from time to time.</del></p>

**Table 10: Drafting amendments required to the Standard Access Agreement**

SAA clause	Proposed amended provision
<p><b>13.2</b> <b>Limitation on Claims</b></p>	<p>A Party must not make any Claim against the other Party under, in relation to or arising out of this agreement or its subject matter including any breach of this agreement by, or any act or omission of, the other Party unless:</p> <p>(a) notice and, <u>to the extent known</u>, full details of the Claim have been given to the other Party within one year after the occurrence of the event or circumstance out of which such Claim arises; and</p> <p>...</p>
<p><b>16.1</b> <b>Operator's Obligation to obtain and maintain Insurance</b></p>	<p>(a) The Operator must:</p> <p>(i) effect, or cause to be effected, before the Commitment Date (or, if applicable, the earliest Commitment Date); and</p> <p>(ii) maintain, or cause to be maintained, until both the expiry of the Term and the Operator having fully complied with clause 15.11, insurances in accordance with Prudent Practices having regard to the Operator's activities, works, obligations and responsibilities under this agreement (including insurances covering all risks of an insurable nature in respect of which the Operator is obliged to indemnify Queensland Rail under this agreement) provided that such insurances must include <del>(without limitation):</del></p> <p>...</p> <p>(iv) a public liability policy of insurance:</p> <p><del>(A) that covers the Operator</del></p> <p><del>(B) (A) for an amount of not less than \$350 million per occurrence;</del></p> <p><del>(C) (B) the coverage of which includes (without limitation):</del></p> <p>(I) the rights, interests and liability in respect of any Claim against an Insured Party arising out of:</p> <p>(1) any damage or loss occurring to any property; and</p> <p>(2) injury (including death) to any person,</p> <p>arising out of or in connection with <del>any thing done or omitted to be done in the performance or purported performance of this agreement</del> <u>the business activities of the Operator;</u> <del>and</del></p> <p><del>(II) — the Operator's operations and activities on the Network; and</del></p> <p><del>(D) that has a maximum deductible for any one claim of \$500,000;</del></p> <p><del>(v) a carrier liability policy of insurance:</del></p> <p><del>(A) that covers the Operator's liability in relation to goods being transported by Train Services;</del></p> <p><del>(B) for an amount of not less than \$10 million per occurrence; and</del></p> <p><del>(C) that has a maximum deductible for any one claim of \$500,000; and</del></p> <p>(vi) <u>(v) all other insurances that the Operator or the Operator's agents, consultants, contractors and their sub-contractors are required by Law to hold in relation to or in connection with the exercise of rights or the performance of obligations under this agreement.</u></p> <p>(b) <del>The Operator must ensure that each of the Operator's Associates, agents, consultants, contractors and their subcontractors take out and maintain insurance referred to in this clause 16, sufficient to protect the interests of those Associates, agents, consultants, contractors and their subcontractors (as the case may be):</del> <u>The Operator agrees to use its best endeavours to engage its agents, consultants and contractors involved in the provision of services relevant to the performance</u></p>

SAA clause	Proposed amended provision
	<p><u>of the Operator’s functions under this Agreement on terms that require those agents, consultants and contractors to hold the same types and values of insurance policies that the Operator is obliged to hold under this Agreement, to the extent relevant to the particular service being provided by the consultant or contractor.</u></p>
<p><b>16.3</b> <b>Insurer</b></p>	<p>The Access Holder and the Operator must ensure that their respective Insurance, effected and maintained in accordance with clause 16.1 or 16.2, is with an insurer having an insurance financial strength rating of “A” or better by Standard &amp; Poor’s or, if Standard &amp; Poor’s ceases to exist or to provide such ratings, the rating which most closely corresponds to that rating by another agency or person which is recognised in global financial markets as a major ratings agency:</p> <p><u>The Access Holder and the Operator must ensure that their respective insurance, effected and maintained in accordance with clause 16.1 or 16.2, is with an insurer that is:</u></p> <ul style="list-style-type: none"> <li>(a) <u>a corporation (as defined in the Corporations Act); and</u></li> <li>(b) <u>licensed to conduct insurance business in Australia; or</u></li> <li>(c) <u>otherwise reasonably acceptable to Queensland Rail.</u></li> </ul>
<p><b>16.4(b)</b> <b>Essential terms and conditions</b></p>	<p>The Access Holder and the Operator must ensure that, for their respective Insurances, to the extent permitted by Law, all Insurances effected and maintained in accordance with clause 16.1 or 16.2 must:</p> <p>...</p> <ul style="list-style-type: none"> <li>(b) <u>not contain any exclusions, endorsements or alterations which adversely amend reduce the cover provided below that which is required by clause 16 of this agreement without the written consent of Queensland Rail (which consent must not be unreasonably withheld or delayed).</u></li> </ul>
<p><b>16.9</b> <b>Claims</b></p>	<ul style="list-style-type: none"> <li>(a) In addition to any other obligation on the Access Holder or the Operator, the Access Holder and the Operator respectively must: <ul style="list-style-type: none"> <li>(i) notify Queensland Rail as soon as practicable after the occurrence of any claim under their respective Insurance (including providing reasonable details of the claim relevant to or arising out of the subject matter of this agreement); and</li> <li>(ii) keep Queensland Rail informed of subsequent developments concerning any claim</li> </ul> <p><u>to the extent that such claims affect, relate to or are in connection with this agreement or any right, liability or real or other property of Queensland Rail or otherwise affect the ability to claim under the relevant policy of insurances.</u></p> </li> <li>(b) Upon settlement of a claim under any Insurance covering damage to the Network, if Queensland Rail is entitled to payment in respect of such damage, the Insurance monies received must be paid to Queensland Rail <del>commensurate with the amount to be paid out by Queensland Rail in relation to the damage</del> unless the Access Holder or the Operator has already partially or totally indemnified Queensland Rail for the relevant damage (including in respect of the amount of any deductible), in which case the monies will be paid to the Access Holder or the Operator (as applicable) but only to the extent that Queensland Rail has been indemnified.</li> </ul>

SAA clause	Proposed amended provision
<p><b>19.2</b></p> <p><b>Resolution by escalation</b></p>	<p>...</p> <p>(c) If the Dispute is not resolved under clause 19.2(b), the Dispute must be referred to each Party's chief executive officer (or his or her nominee - who, for a Party, must be more senior than that Party's representative(s) referred to in clauses 19.2(a) and (b)) for resolution; <u>and who must use reasonable endeavours to resolve the Dispute within ten Business Days (or such longer period as agreed by the parties) after the Dispute has been so referred.</u></p> <p>(d) If the Dispute is not resolved under clause 19.2(c) within <del>20</del><u>10</u> Business Days after the <del>Dispute Notice Date</del><u>dispute has been so referred</u> (or such other time as agreed between the Parties), the relevant Dispute:</p> <p>(i) unless otherwise agreed by the Parties to the Dispute (in each Party's absolute discretion), must, where this agreement requires referral to an Expert; and</p> <p>(ii) may, by agreement of the Parties to the Dispute (in each Party's absolute discretion) in any other case,</p> <p>be referred for resolution by an Expert in accordance with clause 19.3.</p> <p>...</p>
<p><b>22.1</b></p> <p><b>Assignment by Queensland Rail</b></p>	<p>(a) <del>If Queensland Rail no longer has or expects to no longer have a right to operate the Network or any part of the Network, it may Assign all or part of its rights or obligations under this agreement to an Assignee who has the expertise, the financial resources and other relevant resources to enable it to provide the relevant Access Rights without the prior consent of the other Parties provided that Queensland Rail procures the Assignee to covenant by deed with the other Parties to provide the Access Rights to the extent of the rights and obligations Assigned to the Assignee.</del></p> <p><u>(a) If Queensland Rail will no longer have a right to operate the Network or any part of the Network relevant to providing the Access Rights under this Agreement it will Assign all or part of its rights or obligations under this agreement corresponding to the parts of the Access Rights which Queensland Rail can no longer provide to an Assignee who:</u></p> <p>(i) <u>will have the right to operate the relevant parts of the Network; and</u></p> <p>(ii) <u>has the expertise (including accreditation), the financial resources and other relevant resources to enable it to provide the relevant Access Rights,</u></p> <p><u>without the prior consent of the other Parties, provided that Queensland Rail procures the Assignee to covenant by deed with the other Parties to provide the Access Rights to the extent of the rights and obligations Assigned to the Assignee.</u></p> <p>(b) Queensland Rail may Assign all or part of its rights or obligations under this agreement to an Assignee who has the expertise, the financial resources and other relevant resources to enable it to discharge the obligations of Queensland Rail under <u>the QCA Act, the Access Undertaking and</u> this agreement without the prior consent of the other Parties provided that Queensland Rail procures the Assignee to covenant by deed with the other Parties to be bound by and to perform the obligations of Queensland Rail under <u>the Access Undertaking and</u> this agreement to the extent of the rights and obligations Assigned to the Assignee.</p> <p>(c) <u>Before exercising its right under clause 22.1(a) or 22.1(b), Queensland Rail will:</u></p>

SAA clause	Proposed amended provision
	(i) <u>give the Access Holder and the Operator no less than 21 Business Days notice; and</u>
	(ii) <u>use its best endeavours to secure the cooperation of the Assignee to:</u>
	(A) <u>provide information requested by the Access Holder or the Operator to confirm that it has the expertise, financial resources and other relevant resources to enable it to provide the relevant Access Rights; and</u>
	(B) <u>negotiate and enter into an interface agreement (as defined in the RSNL) with the Operator.</u>
<p>(c) (d)</p>	<p>On the Assignee entering a deed required under clause 22.1(a) or clause 22.1(b), and subject to that deed becoming effective in accordance with its terms, Queensland Rail is released and discharged from further liability under this agreement in respect of the obligations which the Assignee has undertaken to be bound by and to perform.</p>



# Appendix E: List of submissions

Submission	Number
<b>Queensland Rail initial submission</b>	
Queensland Rail's DAU3 explanatory document	1
<b>Submissions in response to the DAU</b>	
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
<b>Responsive submissions</b>	
Glencore	11
Mount Isa Line Users	17
New Hope Group	12
Pacific National	13
Queensland Rail	14
Rail Operator Group	15
Yancoal	16
<b>Submissions in response to the draft decision</b>	
Aurizon Coal and Bulk (Aurizon Operations) <sup>191</sup>	24
MMG	18
New Hope Group	19
Pacific National	20
Queensland Rail	21
Rail Operator Group	22
Yancoal	23

<sup>191</sup> Aurizon Group's above-rail bulk freight businesses submitted under two different names at different times. We have opted to use the first name the business used, Aurizon Coal and Bulk, for references in this document.

Submission	Number
<b>Collaborative submissions</b>	
GrainCorp	25
New Hope	26
Queensland Rail	27
Rail Operator Group	28
Yancoal	29

# Glossary

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AU1	Queensland Rail's 2016 access undertaking
AU2	Queensland Rail's 2020 access undertaking
cl., cls.	clause, clauses
CPI	consumer price index
DAU	draft access undertaking
DAU3	Queensland Rail's 2025 draft access undertaking
DBCT	Dalrymple Bay Coal Terminal
DORC	depreciated optimised replacement cost
DTP	daily train plan
gtk	gross tonne kilometre
IDC	interest during construction
MTP	master train plan
mtpa	million tonnes per annum
OTCI	overall track condition index
RAB	regulatory asset base
s., ss.	section, sections
SAA	standard access agreement
sch	schedule
WACC	weighted average cost of capital

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