



Queensland Rail's 2025 Draft Access Undertaking:

New Hope Group response to QCA Decision of
March 2025

14 April 2025

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1 Background: status of the Decision

Thank you for the opportunity to provide this submission on behalf of New Hope Group (**NHG**) in regard to the QCA's March 2025 Decision on Queensland Rail's proposed draft access undertaking (**DAU3**).

NHG understands that the Decision represents the QCA's final view on all matters except West Moreton coal access terms. NHG's views on other matters have been documented in previous submissions. While we accept the QCA's final decision on those matters and will seek to make the relevant provisions operate effectively for the term of this undertaking, our views on those matters remain unchanged, and if our concerns are validated, we will again raise these issues during the DAU4 process.

This submission is therefore confined to providing comments on West Moreton access terms, particularly in relation to pricing matters. We will refer to the QCA's 'decisions' regarding West Moreton access terms, however, we do understand that these positions are stated to be draft positions and not necessarily final.

2 Reference tariffs and negotiations with QR

NHG welcomes the QCA's decision to approve Reference Tariffs for the West Moreton system. NHG's negotiations with QR regarding West Moreton access terms have been more productive in recent times, resulting in 'in principle' agreement of most matters. However, the process is not complete. In this submission, we provide comments on our understanding of QR's position on certain matters, which we expect will be confirmed in QR's submission. In some cases, QR has provided NHC with drafting which QR will include in its submission. We provide comments on QR's drafting within this submission.

3 West Moreton access terms

NHG accepts that West Moreton Reference Tariffs and associated terms will be designed to provide QR with a reasonable expectation of recovering efficient costs. We consider that our comments on West Moreton access terms are consistent with that approach, while reflecting some consideration of the need for tariffs to be affordable, which we consider is a necessary consideration under at least sections 138(2)(a) (object of Part V), (d) (public interest) and (e) (interest of access seekers). Our proposals, set out in more detail in sections 3.1 – 3.8, are summarised below:

- 3.1: Volumes: QR's "scenario 2" volume forecast ramping up to 7.5 mtpa is reasonable, but a balanced review mechanism is required where volumes vary materially, in either direction, from the forecast.
- 3.2: Capex approval: The drafting provided in the Decision regarding customer consultation on capital expenditure is reasonable, and important to retain, but requires a reduced expenditure threshold for consultation and voting to be effective.
- 3.3: Capital Indicator: We support the Decision, which allows for a Capital Indicator based on QR's estimates, with reductions in the later years which reflect both the uncertainty of requirements in those years and the protection provided to QR by the proposed capex reconciliation mechanism.
- 3.4: Capital expenditure reconciliation: The process documented in the Decision is appropriate, but requires a threshold trigger to operate (the drafting provides for a value, but the value is missing).
- 3.5: Efficiency allowances: NHG continues to consider that a modest efficiency target should be applied to the substantially increased opex and maintenance allowances which QR has proposed.
- 3.6: Recovery of capitalised losses: Recovery should occur in periods in which additional access charges are less likely to cause affordability issues for QR's customers. NHG's proposal

provides a mechanism to achieve this goal, while providing QR with a reasonable expectation of recovery.

- 3.7: Asset Lives / Depreciation: We support the draft decision, which reflects up to date information on the mine life of New Acland Stage 3.
- 3.8: Renewal rights: NHG continues to consider the renewal rights are appropriate for coal carrying train services.

3.1 Volume forecasts and review mechanism

NHG accepts the 7.5 mtpa volume forecasts proposed by QR (scenario 2), as reflected in the Decision. However, we consider that a mechanism is required to adjust tariffs if volumes vary in a material way from these forecasts. The review clause proposed by QR in 2023, which has not been updated, (Schedule D, Clause 3.2) was prepared as part of an undertaking in which tariffs were to be based on volumes reaching 9.6mt. While it may have been appropriate where reference tariffs were based on the highest possible volume (such that there could only realistically be reduction), this is not suitable for the revised tonnage scenario.

The clause, as currently drafted, allows for a review if tonnage is expected to fall below 7.5mt, from the forecast tonnage which was expected to reach 9.6mt. Under this drafting:

- QR was accepting volume risk in the event that contracted tonnages were lower than 9.6mt, but remained at least 7.5m.
- There was no review mechanism to deal with contracted tonnages increasing. However, NHG was not concerned by this, as we did not consider that demand or capacity were ever likely to reach levels above 9.6mt (given that volume was based on all 3 West Moreton coal mines producing at their highest announced tonnage profile).

The review mechanism has not been updated to reflect the revised volume forecasts, and is no longer suitable, because:

- If volumes increase above 7.5mt, there is no mechanism to revise tariffs. Such volumes are likely to require significant capital expenditure, the cost of which will be reflected in reference tariffs, due to the proposed Capital Expenditure Reconciliation process (page 128 of the Decision) passing through as tariff increases where prudent capital expenditure is greater than the Capital Indicator. Customers would then be paying higher tariffs as a result of the increased volumes, while QR would be earning windfall profits.
- A trigger for a tariff review (presumably upward) in the event of volumes falling below 7.5mt is not appropriate to apply to an undertaking in which 7.5mt is the maximum forecast volume, with the early years being based on lower volumes. A minor reduction in expected contracted volumes will trigger the review, in contrast to QR's DAU in which QR accepted 2.1mt of volume risk.

NHG proposes a revised version of Schedule G, clause 3.2, under which a review of reference tariffs would be undertaken if volumes are expected to be more than 1.5mt below, or 1.5mt above, the volumes on which reference tariffs (at the relevant time) are based. We consider that:

- the threshold is appropriate, to reduce the likelihood of the review triggering.
- the downside risk for QR (maximum 1.5mt reduction before a review is triggered) is less than the downside risk to QR of QR's original proposal (2.1mt).
- a reciprocal arrangement is appropriate.

- a review for increased volumes is essential, given that the effects of the associated capital expenditure will flow to Reference Tariffs (without requiring a review).

We also consider that it is appropriate to retain QR's approach to the QCA's powers under the review, reflected in Clause 3.2(b)(ii), which provided that the DAAU would be treated "*as if it were submitted in response to an initial amendment notice*". Clearly, in the case of a material volume increase which is expected to lead to reduced tariffs, it would not be appropriate for the QCA's power to be limited to the rejection of a DAAU. It is appropriate that the QCA retain wide powers in its assessment, including, if appropriate, the power to determine that the Reference Tariff should be discontinued rather than amended.

Our proposed drafting is provided in Attachment A (marked up against the QR DAU version).

We understand that QR will also submit a clause 3.5.2 which provides that Reference Tariffs will no longer apply if only one mine continues to operate. This clause is not appropriate because it would result in discontinuation of the Reference Tariff, with no certainty that the DAAU then submitted by QR (under QR's proposed 3.5.2(c)) will be appropriate, and no power for the QCA to require amendments if the DAAU is not approved. The result may be the removal of the Reference Tariff (which is automatic under the drafting and does not require a DAAU), without any required consequential amendments being made through a DAAU process. We do not agree that QR's proposed clause is required to deal with the single mine scenario, as the review based on volume triggers which NHC proposes (Attachment A) should adequately deal with the issue. However, if there is to be a clause to deal with the single mine case, then it should provide the QCA with the same powers in respect of the DAAU which QR proposed for the volume trigger: that is, to treat the DAAU "*as if it were submitted in response to an initial amendment notice*".

3.2 Consultation on proposed capital expenditure

NHG supports the Decision regarding Changes to Schedule E, clause 2.1, 2.2 and 2.3 which require consultation with customers prior to QR committing to material capital projects.

However, the threshold value for seeking customer acceptance of capital expenditure, being \$20m in the QCA's drafting, would result in the vast majority of QR's proposed capital program bypassing this clause. It may also lead to disagreement regarding whether particular projects below this threshold are actually part of a larger program of works which ought to be considered a single project: a problem which is less relevant with a lower threshold.

We note that, under Aurizon Network's Access Undertaking for the Central Queensland Coal Network, the entire renewals budget is subject to review and voting by the Rail Industry Group, while customer consultation processes also apply to all expansion capital, and to 'transitional' arrangements: therefore, 100% of capital expenditure goes through some form of customer consultation. NHG considers that a threshold no higher than \$4m is required in order to ensure that a meaningful portion of the value of the program is subject to consultation. It is our understanding that QR supports this threshold.

QR provided NHC with its proposed drafting on this issue, with Appendix C showing what we understand to be a comparison between the drafting from the QCA Decision and that proposed by QR. While we have only had a limited time to review that drafting, we have not identified any material concerns other than how the voting is calculated.

In that regard, we instead support the QCA drafting which provides that, where the Access Holder is an Operator, the relevant Customer will be considered the West Moreton User, not the Operator (for the purposes of voting). This is consistent with the voting processes for the Rail Industry Group in Central Queensland. More importantly, it reflects the reality that Customers, not operators:

- ultimately bear the cost of Access Charges;

- most directly bear the consequences in terms of the trade-offs that may exist between additional capital expenditure and reliability of services (whether through lost sales, demurrage, or higher haulage charges);
- make the decisions to renew (or not renew), Access Agreements (including where these are held by Operators); and
- make decisions to continue or discontinue mining, or to vary volumes: decisions which can be influenced by the level of access charges and which are critical to the utilisation of the infrastructure.

3.3 Capital indicator

NHG's understanding is that the tariff contained in the Decision is based on acceptance of QR's proposed capital expenditure budget (as a Capital Indicator) for the 7.5mt case, but with a 20% reduction applied to the amounts proposed for the final three years of the term. NHG supports this approach.

NHG encourages QR to continue its efforts to rationalise the capital expenditure program, while continuing to meet safety and performance objectives. We note that some of the program, particularly projects scheduled for delivery in the later years of the undertaking period, are at early stages of assessment. Our hope is that a rigorous process (including the customer consultation process reflected in the Decision, as discussed above) may result in identification of more cost-effective alternatives for some of these projects. The reduction to the capital indicator for the final three years reflects this hope. We understand that, under the capital expenditure reconciliation process (discussed below), QR will be made whole in the event that these savings cannot be achieved, as there will be a true-up process, largely within the undertaking period, for differences between the value of the capital indicator and actual capex approved for inclusion in the RAB. The reduction in the capital indicator therefore represents no cost or risk to QR, but is likely to set expectations at a reasonable level and provide greater transparency to assist in prudency assessment if there are overruns.

3.4 Capital expenditure reconciliation

NHG supports the QCA's proposed Clause 7 of Schedule E (Capital Expenditure Reconciliation). This clause ensures that, in the event that actual approved capital expenditure is materially higher or lower than the capital indicator, Reference Tariffs can be updated within the term of the undertaking, rather than carried over for recovery in a future undertaking period. We note that item (n) of the clause requires a value for the threshold variance above which the clause will apply, which is blank in the drafting. NHG is comfortable with (and understands that QR supports) a threshold of \$30m cumulative variance.

The clause, as drafted, reconciles Approved Capital Expenditure against the capital indicator. We would be comfortable with a revised clause which reconciles against amounts which have been submitted by QR for approval, but which have not yet been approved, provided that there is a subsequent adjustment carried into a future year for any variance between the submitted and approved amounts. Given the timing of the submission and approval of capital expenditure within each year, this change could have the effect of bringing forward the reconciliation adjustments by a full year and further reducing the quantum of any carry-overs into the next regulatory period.

QR provided NHC with its proposed drafting which is of that nature, with Appendix C showing what we understand to be a comparison between the drafting from the QCA Decision and that proposed by QR. While we have only had a limited time to review that drafting, we have not identified any material concerns.

3.5 Efficiency allowances

QR proposed (and the Decision appears to accept) substantial increases in operating and maintenance costs. Some increases are to be expected given the higher forecast volumes, however, the extent to which costs will vary with volumes, and the extent to which the capex program will lead to maintenance

costs savings, is difficult to estimate. NHG considers that a reasonable efficiency target should be built into the opex and maintenance costs. We suggest a target of 0% for FY26 (given that resources and plans may be partially locked in for that period), 1% for FY27, increasing by 1% in each subsequent year of the term. We consider that these are modest targets, particularly given that they represent small reductions to very large increases, rather than absolute reductions, and that QR ought to be able to pursue improvement programs to meet the targets, so that the approved allowances are sufficient (or more than sufficient) to recover actual costs.

An efficiency allowance of this nature is consistent with the QCA Act pricing principle, including that the price for a service should provide incentives to reduce costs or otherwise improve productivity (s 168A(d) and s 138(2)(g)).

3.6 Recovery of capitalised loss

Our understanding is that the tariff contained in the Decision provides for the recovery of the expected AU2 capitalised loss over the term of AU3 (although we note that QR is unable to reconcile with the QCA's tariff number of this basis). NHG does not consider that this approach is consistent with stakeholder expectations, at the time of the approval of AU2, regarding recovery of the capitalised loss. The expectation reflected in the last undertaking decision was that increasing volumes would allow repayment of the capitalised loss, while maintaining tariffs at an affordable level. This expectation has not come to fruition due to the very high capital expenditure program which QR has now indicated is needed.

NHG proposes a recovery mechanism which provides QR with a reasonable level of confidence that the capitalised loss will be recovered, but which will not further increase tariffs during phases of the coal market during which a Recovery Charge is likely to be unaffordable. Our mechanism provides QR with a reasonable expectation of recovering the loss, while reducing the risk of making tariffs unaffordable, by ensuring that the timing of repayments do not align with periods of low coal prices. We understand that QR is supportive of this approach and will be proposing drafting. Annexure B contains our suggested mark-up to what we understand will be proposed. . We also note that Recovery Charges should first be offset against Rebate Capitalisation Accounts, where balances exist in respect of user-funded assets.

3.7 Asset lives / depreciation

NHG supports the Decision which allows for asset lives of 19 years (or less based on the technical life of certain classes of assets). QR's proposal, which involved asset lives of as little as 14 years for AU3 capex, would increase QR's asset stranding risk by making tariffs less affordable, and was based on a mine life of 14 years for the New Acland stage 3 mine, which is now out of date, given the reporting of additional coal reserves for the project.

3.8 Renewal rights

NHG had indicated to QR that it was willing to forego renewal rights for coal carrying train services as part of the package of measures which included each of the items discussed above, plus improvements to reporting and provisions regarding disputes in relation to the MTP. It was not our view that an undertaking lacking renewal rights was appropriate or optimal. It remains our view that mining companies, which are making significant long-term investments which are dependent on access to the West Moreton System, should have a 'first right' to renew expiring access agreements, provided that the renewal is confirmed a reasonable period ahead of expiry (e.g. 12 months), and is for a significant term: we suggest the shorter of 10 years or remaining mine life. Similar renewal rights exist in the CQCN and we are not aware of any circumstances which justify a different approach in the West Moreton system.

It is our understanding that QR supports renewal rights for coal carrying train services and will submit drafting to give effect to these principles. NHC has reviewed the draft contained in Annexure D that QR provided and supports it.

Attachment A: Review of Reference Tariffs for volume variance

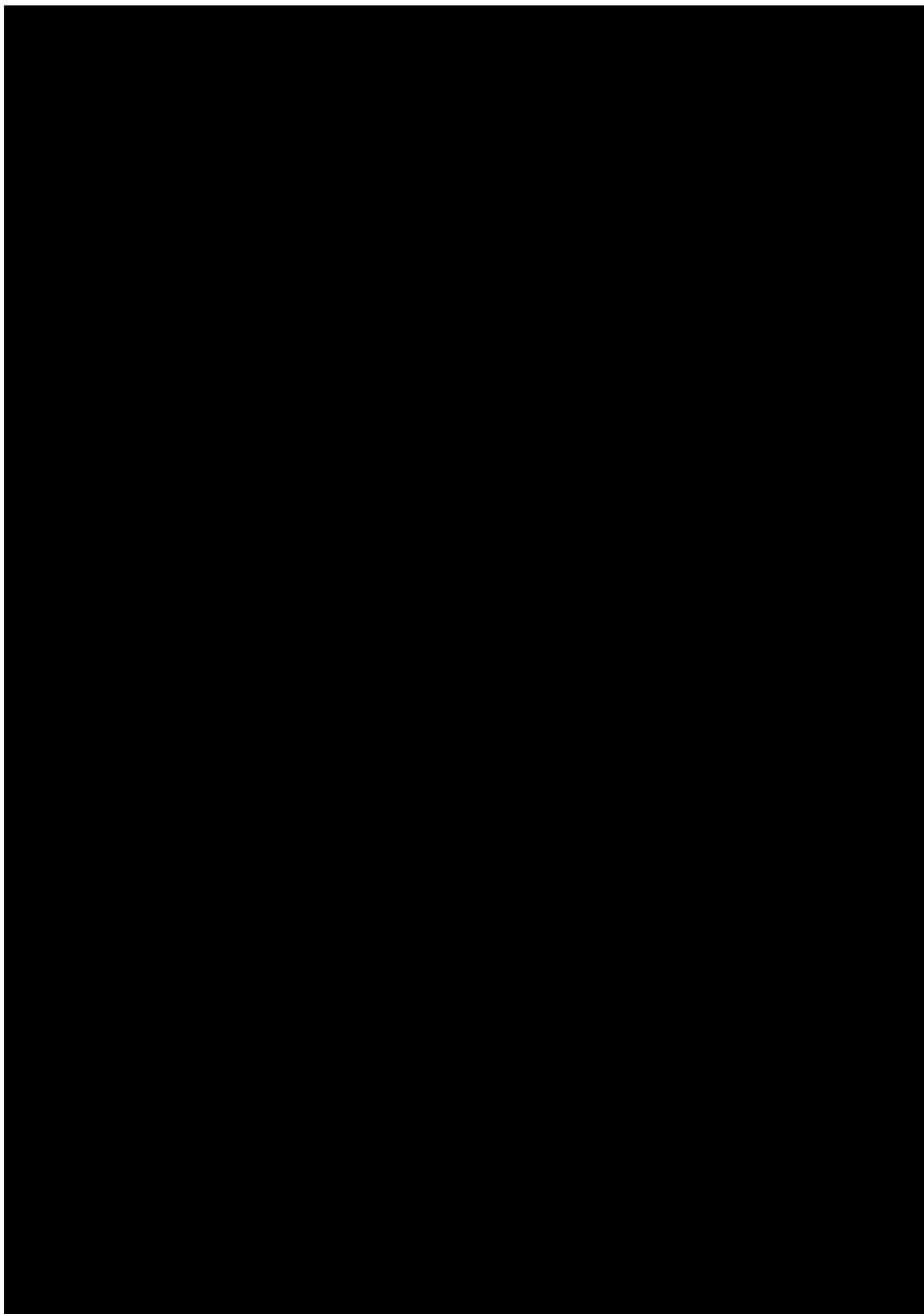
NHG proposed drafting, marked up against QR DAU

Schedule G, Clause 3.2

- (a) If at any point Queensland Rail, based on its contracted volumes, reasonably believes the annual aggregate contracted coal tonnages for Tariff Train Services (excluding Ad Hoc Train Services and Additional Train Services as defined in the Standard Access Agreement) for a Year during the Term will be more than 1.5mt below, or more than 1.5mt above the forecast tonnage for the relevant year on which current Reference Tariffs were based, 7.5 million tonnes then Queensland Rail may (where the trigger relates to lower contracted volumes) and must (where the trigger relates to increased contracted volumes) undertake a review of the Reference Tariff and submit a draft amending access undertaking to the QCA setting out the outcomes of that review (including of any consultation with stakeholders) and Queensland Rail's proposed amendments which, for clarity, may include discontinuation of the Reference Tariff.
- (b) For the purposes of clause 3.2(a):
- (i) a draft amending access undertaking submitted under clause 3.2(a) will be treated as if it were submitted in response to an initial amendment notice given by the QCA under the QCA Act; and
 - (ii) Queensland Rail and the QCA will act in accordance with the provisions of the QCA Act as though this were the case.
- (c) Where an amendment to the Reference Tariff is given effect through an amendment to this Undertaking in accordance with this clause 3.2 and the QCA Act, the QCA may determine that matter will be applicable or effective from a date prior to the QCA's approval of the relevant amendment. If the QCA makes such a determination, clause 6 and any other provisions of this Undertaking relating to Adjustment Charges will apply, as applicable, in relation to the amendment to the Reference Tariff.

Attachment B: Recovery of Capitalised Loss: NHG suggested approach:

[REDACTED]



[The following text is a dense, continuous block of text, likely a scan of a document page. It contains numerous words and phrases, many of which are repeated or appear to be part of a list or index. The text is mostly illegible due to the quality of the scan and the density of the characters. It appears to be a list of items, possibly a bibliography or a catalog, with some entries starting with "The" and others with "A" or "B". The text is arranged in a single column, with some lines indented. The overall appearance is that of a very old or very dense document page.]

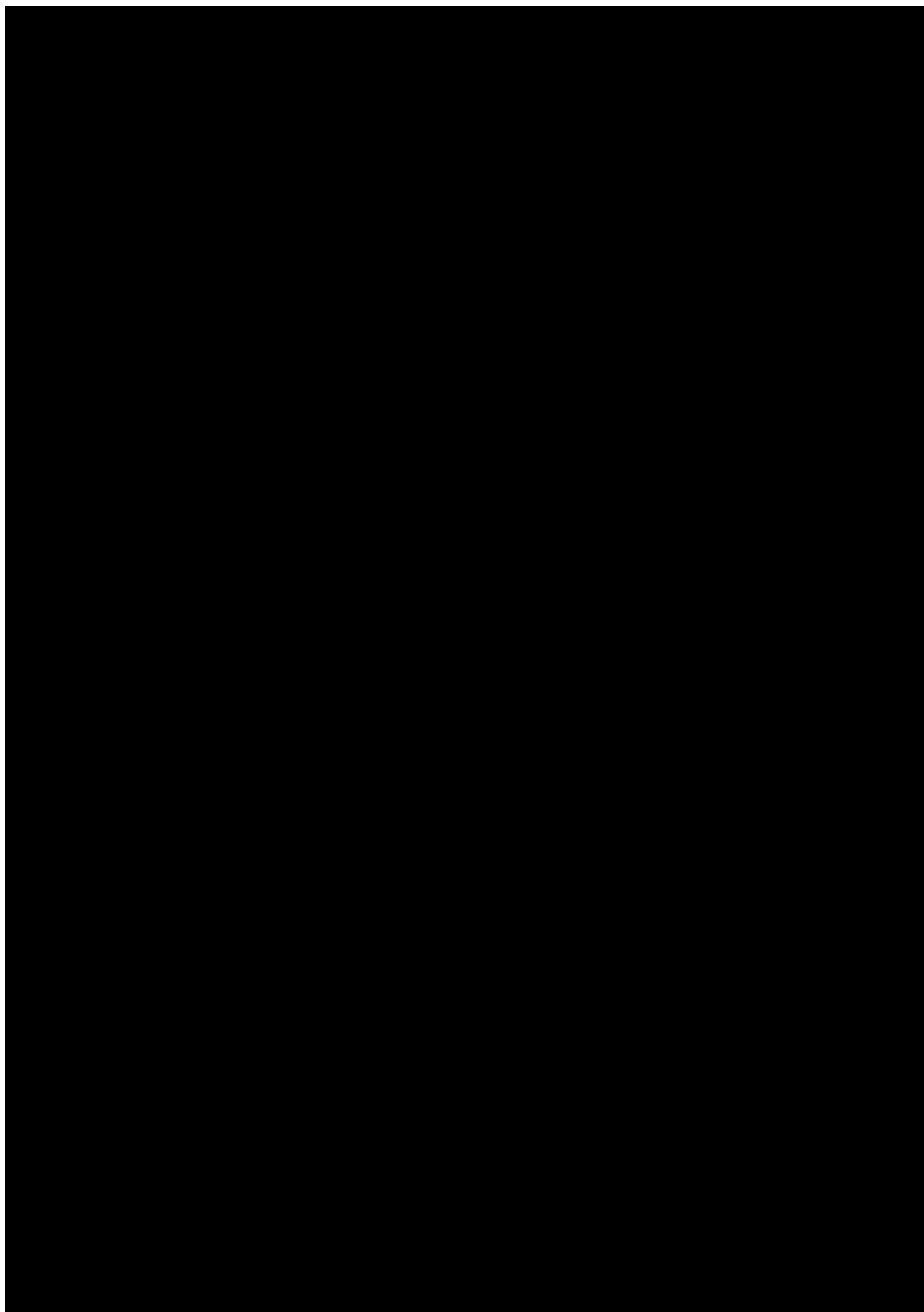
**Attachment C: Comparison of QR Proposals on Capital Expenditure Matters to QCA Decision
Draft Positions:**

The first part of the paper discusses the importance of the research and the objectives of the study. It then presents a literature review of the existing research on the topic. The second part of the paper describes the methodology used in the study, including the data collection and analysis techniques. The third part of the paper presents the results of the study, and the fourth part discusses the conclusions and implications of the findings.

The study was conducted using a quantitative research design. Data was collected from a sample of 100 participants using a survey questionnaire. The data was then analyzed using statistical software to determine the relationships between the variables.

The results of the study show that there is a significant positive relationship between the variables. This finding is consistent with the previous research on the topic. The implications of the findings suggest that the research has practical applications in the field.

In conclusion, the study has provided valuable insights into the topic. The findings suggest that further research is needed to explore the topic in more depth.



the first of these is the fact that the majority of the population is now living in urban areas. This has led to a concentration of people in a few large cities, which has in turn led to a number of problems. One of the most serious is the lack of adequate housing. In many of these cities, the population has grown so rapidly that there is no room for everyone. This has led to the development of slums, which are often unsanitary and overcrowded. Another problem is the lack of adequate infrastructure. In many of these cities, the roads are poor and the public transport system is inadequate. This makes it difficult for people to get to work or school. A third problem is the lack of adequate services. In many of these cities, there is a shortage of schools, hospitals, and other public services. This makes it difficult for people to live a decent life.

The second of the main problems is the lack of adequate employment opportunities. In many of these cities, the economy is based on a few industries, such as manufacturing or services. This means that there are not enough jobs for everyone. This has led to a high level of unemployment, which is a major problem for many of these cities. The third of the main problems is the lack of adequate social services. In many of these cities, there is a shortage of social services, such as housing, health care, and education. This makes it difficult for people to live a decent life.

The fourth of the main problems is the lack of adequate environmental protection. In many of these cities, there is a high level of pollution, which is a major problem for many of these cities. The fifth of the main problems is the lack of adequate governance. In many of these cities, there is a lack of effective government, which makes it difficult for people to live a decent life.

The sixth of the main problems is the lack of adequate infrastructure. In many of these cities, the roads are poor and the public transport system is inadequate. This makes it difficult for people to get to work or school. The seventh of the main problems is the lack of adequate services. In many of these cities, there is a shortage of schools, hospitals, and other public services. This makes it difficult for people to live a decent life.

The eighth of the main problems is the lack of adequate employment opportunities. In many of these cities, the economy is based on a few industries, such as manufacturing or services. This means that there are not enough jobs for everyone. This has led to a high level of unemployment, which is a major problem for many of these cities.

The ninth of the main problems is the lack of adequate social services. In many of these cities, there is a shortage of social services, such as housing, health care, and education. This makes it difficult for people to live a decent life. The tenth of the main problems is the lack of adequate environmental protection. In many of these cities, there is a high level of pollution, which is a major problem for many of these cities.

The eleventh of the main problems is the lack of adequate governance. In many of these cities, there is a lack of effective government, which makes it difficult for people to live a decent life.

the 'information' and 'communication' fields. The 'information' field is defined as:

...the study of the nature, structure, and use of information, and the study of the processes of information creation, organisation, storage, retrieval, and communication. (p. 1)

The 'communication' field is defined as:

...the study of the nature, structure, and use of communication, and the study of the processes of communication creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information science' field is defined as:

...the study of the nature, structure, and use of information science, and the study of the processes of information science creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information studies' field is defined as:

...the study of the nature, structure, and use of information studies, and the study of the processes of information studies creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information technology' field is defined as:

...the study of the nature, structure, and use of information technology, and the study of the processes of information technology creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information systems' field is defined as:

...the study of the nature, structure, and use of information systems, and the study of the processes of information systems creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information management' field is defined as:

...the study of the nature, structure, and use of information management, and the study of the processes of information management creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information policy' field is defined as:

...the study of the nature, structure, and use of information policy, and the study of the processes of information policy creation, organisation, storage, retrieval, and communication. (p. 1)

The 'information law' field is defined as:

...the study of the nature, structure, and use of information law, and the study of the processes of information law creation, organisation, storage, retrieval, and communication. (p. 1)

Attachment D: QR Drafting of Renewal Rights

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[The following text is a dense, continuous block of illegible characters and symbols, likely representing a corrupted or redacted document. It contains no discernible words or structure.]