

QRC

# submission

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Submission in response to:  
QR Network's 2010 Draft Access Undertaking -  
Securing investment in coal rail infrastructure – Minimising monopoly power

To the Queensland Competition Authority  
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## INTRODUCTION

The Queensland Resources Council (QRC) is a non-government organisation representing companies that have an interest in exploration, mining, minerals processing, gas and energy production. It is the resource industry's key policy-making body in Queensland, working with all levels of Government, interest groups and the community.

QRC provides this submission to the Queensland Competition Authority (QCA) in order to assist in the assessment of QR Network's 2010 voluntary draft access undertaking (UT3.2), which was submitted by QR Network on 15 April 2010. The purpose of this QRC submission is to:

- outline concerns of QRC and its members in relation to the provisions relating to capacity expansion contained in the QR Network draft UT3.2 undertaking; and
- provide an explanation for our proposed amendments to the draft UT3.2 undertaking which seek to ensure that any potential investment hold up issues associated with QR Network's below rail infrastructure are addressed for the benefit of all access seekers and users of the network infrastructure and in turn, the economies of Queensland and Australia.

This submission should be read in conjunction with QRC's other submissions to the QCA that relate to amendments to the QCA Act and general matters associated with QR Network's draft UT3.2 undertaking.

It is important to note the framework to address capacity expansion issues will define the effectiveness of the regulatory regime into the future, well beyond the UT3 regulatory period. Therefore appropriate consultation is essential to ensure the right regulatory environment is created prior to the proposed privatisation of QR's below-rail network.

QRC is concerned that the time allowed for submissions has, despite the extension allowed, has not been sufficient to consider the entire range of implications of new proposals suggested by QR Network. As such QRC's submissions to the QCA seek to highlight the key areas of concern and to suggest, in general terms, solutions. Further consultation will be required in order to fully develop solutions, particularly in regard to the 'investment holdup problem'. QRC sees this as a critical issue because the absence of an effective solution will leave QR Network in a position in which the key elements of the undertaking can be undermined.

QRC intends to provide further representations to QR Network, third-party operators, the State Government and the QCA following the lodgement of submissions to ensure that the ultimate regulatory framework which is endorsed reflects the legitimate business interests of industry and promotes the economically efficient operation of, use of and investment in, QR Network infrastructure, with the effect of promoting effective competition in upstream and downstream markets.

### QRC's Position on QR Network's draft UT3.2 undertaking:

#### QRC Position

QRC strongly suggests that the QCA **not approve** the draft UT3.2 undertaking in its current form.



## BACKGROUND

### → Investment hold-up is a significant problem in Queensland

A fundamental concern of QRC (and its members) in relation to UT3.2 is to ensure that adequate provision is made for ongoing future investment in and expansion of QR Network's below-rail and associated network infrastructure in order to account for increased demand for capacity by access seekers and ensure alignment with other components of the coal chain.

In recent years, widespread concern has developed in relation to investment hold-up by QR Network and the resultant impact on the operation of Queensland's export coal chains.

These concerns are based both on the incentives for the track owner to foreclose competition or delay investment through inappropriate use of market power and from the ability of the track owner to do this under the current regulatory framework. The concerns are not merely theoretical, but are based on actual behaviours of QR Network in recent years.

QRC members consider that the threat of investment hold-up has been used by QR Network to extract onerous commercial terms in arrangements negotiated outside the regulatory framework. The ability to demand above-regulated rates of return due to the lack of a credible alternative in the regulatory framework has had the effect of undermining numerous important elements of the undertaking, particularly the pricing principles which are intended to prevent the extraction of monopoly profits by QR Network.

To address this concern, QRC proposes that the undertaking include:

- A clear obligation to invest in projects which meet defined criteria (consistent with the QR Network proposal).
- An ability for QR Network to seek alternative terms and conditions, determined by the QCA, in cases which do not meet the criteria.
- A robust industry funded investment model which enables access seekers to fund expansions of the network infrastructure as an alternative to accepting the terms demanded by QR Network, without disadvantaging those access seekers in terms of priority of access vis-à-vis access seekers who would be prepared to accept the commercial terms offered by QR Network.

The amendments proposed by QR Network in Part 7 of the draft UT3.2 undertaking may provide some limited benefit in terms of addressing the investment hold-up problem, but will not fully address the issue without further amendment.

### → Key concerns arising from proposed draft UT3.2 undertaking and recommendations

- **The investment obligation is insufficient in scope.** QRC considers that QR Network should be obliged to undertake expansions and invest in the network in all cases where the relevant projects are integrated with the existing network to such an extent that to segregate the project, from a financing and pricing perspective, would be impractical. The proposed obligation does not achieve this.

QRC accepts that Significant Investments may, in some cases, raise issues regarding financiability. However, QRC does not accept that this means that QR Network should have



an unfettered discretion to demand onerous terms which it chooses for undertaking such projects. Rather, QRC proposes that QR Network should have a right to seek a Financiability Review for these projects, to be conducted by the QCA, and should then proceed with the projects on the terms determined by the QCA.

– **Risk of inadequate enforcement of the investment obligations in the DAU.**

QRC considers that aspects of the expansion provisions as currently drafted in QR Network's proposed UT3.2 draft undertaking are not sufficiently transparent or clear so as to be capable of enforcement. QRC recommends that these provisions contain more measurable criteria against which a decision by QR Network not to invest can be assessed. In particular, the provisions in section 7.5 of the DAU would greatly benefit by the inclusion of firm time frames to allow a transparent and commercially timely process. Further specific details of QRC's concerns are set out below.

In addition, the QCA must be capable of making an access determination requiring investment which is consistent with the obligations voluntarily assumed by QR Network in the Undertaking. In this regard, QRC strongly recommends amendments to the QCA Act to avoid any potential uncertainty in relation to the QCA's ability to make a determination which would be consistent with QR Network's obligations under the Undertaking. This is to be addressed in a further submission, *Suggested amendments to the QCA Act*, to be provided in the near future.

– **Where the investment obligation does not apply or QR is not meeting its obligation, industry requires a credible alternative to accepting the demands of QR Network.**

QRC is also concerned that the regulatory framework must be sufficiently robust to prevent QR Network from using the threat of investment hold up to extract rates of return above the regulated rate of return in circumstances where access seekers have no alternative but to accept QR Network's proposal. It is vital that the investment model contain an option for access seekers to proceed with industry funded investment as an alternative to accepting onerous terms offered by QR Network. It appears that the user-funding model proposed in Part 7.5.4 is intended to provide such an alternative, but QRC considers that it is likely to be unworkable in its current form, particularly as QR Network retains an ability to disadvantage access seekers who elect to self fund an investment in terms of priority to access capacity. In this regard, QRC proposes a mechanism which will:

- require QR Network to undertake and fund all Expansions of the network in the Central Queensland Coal Region as well as other projects involving coal rail infrastructure for coal traffic (which may include infrastructure outside of Central Queensland);
- allow QR Network to seek a QCA determination of Access Conditions which may be applied in the case of Significant Investments to address any issues of financiability;
- provide a workable alternative under which customers can elect to pursue an industry funded Significant Investment project as an alternative to accepting QR Network's proposed Access Conditions;



- require QR Network to either undertake or facilitate an Extension by an Access Seeker; and
- where QR Network has an investment obligation but does not meet the requirements of the obligation, provide a workable process under which industry can:
  - initially fund and, if necessary, construct the project; and
  - seek a QCA or a Court determination that QR Network did not comply with its obligation to invest in an Expansion under the Undertaking, and require QR Network to assume the obligation to fund the upfront costs of an expansion or extension subject to access seekers agreeing to take-or-pay or other suitable recoupment mechanisms as would normally exist in relation to a QR Network funded investment. This mechanism is intended to address the risk of the dispute resolution process delaying investment.

QRC's proposed model is intended to avoid the situation which arose in relation to the Goonyella to Abbot Point Project whereby QR Network was able to demand a return above the regulated rate of return and coal producers had no practical alternative to accepting QR's demands. Situations such as this will continue to arise unless appropriate amendments are made to the regulatory framework. In the case of the undertaking, this includes a clear obligation to invest in defined cases and a viable alternative for customer funding where this obligation either does not apply or is breached.

Further reasons for QRC's concerns in relation to the investment obligation provisions in QR Network's proposed UT3.2 draft undertaking and details of QRC's proposed investment model are set out below.

### **KEY CONCERNS WITH QR NETWORK'S UT3.2 AND QRC RECOMMENDATIONS**

QRC considers that the proposed investment obligation contained in QR Network's proposed UT3.2 draft undertaking is inadequate and does not:

- promote the economically efficient operation of, use of and investment in the QR Network infrastructure; or
- promote the interests of access seekers or the public interest.

On this basis, the QRC submits that the QR Network's proposed UT3.2 draft undertaking does not reflect the factors for approval set out in section 138(2) of the QCA Act and should not be approved in its current form.

The following section sets out QRC's key concerns with the proposed expansion provisions in the QR Network's UT3.2 draft undertaking and an explanation of QRC's proposed investment model for inclusion in QR Network's replacement access undertaking. Attachment 1 sets out a diagram showing QRC's proposed investment model.



→ **Overview of the proposed extension and expansion provisions**

QR Network has sought to distinguish between expansions and extensions in the UT3.2 draft undertaking. As currently drafted, the DAU proposes the following processes in respect of each:

- **Extension (Clause 7.5.1):** QR Network *may* undertake an Extension if satisfied that it is *commercially justified* to do so and *must* permit an Extension undertaken by an Access Seeker by providing reasonable access to land and entering into a Rail Connection Agreement.
- **Incremental Investments in Central Queensland Coal Region (Clause 7.5.2(a)):** QR Network *will* undertake all Minor Expansions and Major Expansions less than \$300 million so as to provide sufficient Available Capacity to provide Access Rights sought by an Access Seeker provided the Expansion is in the Central Queensland Coal Region.
- **Expansions outside the Central Queensland Coal Region:** QR Network *will* undertake Expansions outside the Central Queensland Coal Region where it *reasonably considers* that its expected net additional revenue less any expected costs associated with the Expansion is sufficient to *commercially justify* QR Network undertaking the Expansion (including QR Network's incurring of those costs and exposure to financial and other risks).
- **Significant Investments (Major Expansions equal to or greater than \$300 million in the Central Queensland Coal Region):** QR Network will undertake a prefeasibility study where Applicants (if required by QR Network) have agreed to fund or underwrite the costs of the prefeasibility study. QR Network *may* agree to fund the Significant Investment, subject to Applicants meeting the aggregate minimum level of participation agreeing to QR Network's terms (which are entirely at QR Network's discretion). If QR Network is not prepared to fund the Significant Investment or customers do not accept QR Network's terms, then the procedures for User Funded Expansions apply.

In this regard, QRC requires further clarity that user funding and any agreement with QR Network that is non-standard constitutes an Access Condition. QRC's concern arises from the current situation in relation to QR Network's assertion that GAPE agreements **do not** constitute Access Conditions – this is addressed further in this submission in the section headed *The proposed obligation to invest is insufficient in scope*.

- **User Funded Expansion:** QR Network must provide the relevant Access Seekers with the opportunity to contribute funds for the development costs and expenses of a User Funded Expansion.

QRC's primary concern in relation to this proposal is that those who accept QR Network's Access Conditions may get priority over those who offer funding: this is addressed further in this submission in the section headed *Industry Funded model – a credible alternative to accepting the demands of QR Network*.



## The proposed obligation to invest is insufficient in scope

### → QRC's concerns arising in relation to clause 7.5.2(a)

QRC considers that the proposed obligation in clause 7.5.2(a) to *undertake all Minor Expansions and Major Expansions where the capital expenditure is reasonably expected to be less than \$300 million, so as to provide sufficient Available Capacity to provide Access Rights sought by an Access Seeker provided that Expansion is in the Central Queensland Coal Region* is insufficient in its scope for the following reasons:

- the obligation to expand should relate to both the Central Queensland Coal Region and any other projects involving coal rail infrastructure for coal traffic (which may include infrastructure outside of Central Queensland);
- in relation to the proposed \$300 million cap, QRC submits that it is inappropriate to impose a monetary threshold. A monetary threshold could potentially facilitate gaming of the investment process, including aggregation of expansion projects by QR Network into one nominal project. A recent example of such an aggregation issue is the WICET projects, some of which were previously claimed to be required to support the delivery of existing contracted capacity, and were then aggregated as part of one project;

Accordingly, rather than imposing a monetary cap or threshold, the obligation should be framed to apply to all Expansions in the Central Queensland Coal Region and any other projects involving coal rail infrastructure for coal traffic noting the additional ability to seek a financiability review by the QCA in respect of Significant Investments;

Essentially, therefore, the obligation should be to fund all projects which are 'enmeshed' within an existing mainline in such a way as to make segregation of the project impractical from a financing and pricing perspective. In particular, QRC considers that all expansions required to be undertaken in the Central Queensland region (and any other projects involving coal rail infrastructure for coal traffic) are necessarily 'enmeshed' and QRC has attempted to develop tests to indicate the degree of integration of the coal network. By way of example, see Attachment 2;

- the obligation to expand should be drafted more clearly to require QR Network to both undertake and finance an expansion project;
- the commitment to create sufficient Available Capacity to provide Access Rights sought by an Access Seeker should be subject to express time frames (or at least include a 'best endeavours' obligation to create the Available Capacity within an express timeframe). QRC submits the replacement access undertaking should include a trigger based on a timeframe which gives industry the right to undertake a project to create additional capacity and to simultaneously trigger the dispute resolution process to determine whether the delay by QR Network was a breach; and
- the reference to 'Available Capacity' should be replaced with 'Existing Capacity' to ensure that the commitment by QR Network relates to making available capacity which is physically available to be contracted to access seekers. As currently drafted, there is a risk that the obligation could be met by the creation of 'Planned Capacity' as 'Available Capacity' is defined to mean 'Existing Capacity and Planned Capacity'.



### **Industry funded model - a credible alternative to accepting the demands of QR Network**

The following section sets out QRC's key concerns in relation to the proposed industry funded model and the treatment of Significant Investments in QR Network's proposed UT3.2 draft undertaking and provides an overview of QRC's proposed investment model.

#### **→ QRC's concerns arising in relation to clause 7.5.3 and 7.5.4 - Significant Investments and User Funded Expansions**

QRC has the following concerns with the provisions relating to Significant Investments and User Funded Expansions:

- under the industry funded model proposed by QR Network, Access Seekers who accept QR Network's Access Conditions may be prioritised in accessing rail capacity over those who offer independent funding.
- QR Network will be able to seek higher rates of return and a reduced risk profile, regardless of whether this is justified by the underlying risk profile of the project. Provided that QR Network prices its offers below the cost of capacity of the coal producers, there will be a financial incentive to accept QR Network's terms. In fact, a range of other incentives, such as the risk of being given lower priority by not accepting QR Network's terms, may force coal producers to accept funding by QR Network at rates of return even beyond the coal producer's cost of capital.
- Users who fund a project will not have an effective mechanism under which to recover a reasonable contribution from parties which use the infrastructure at a later date.
- QR Network proposes to retain the right to control all aspects of the project despite user funding applying (that is, the level of user input is at QR Network's discretion).
- Users will be incentivised to seek access at times when the next expansion is not a Significant Investment, or when the next Significant Investment is a relatively low cost (per train path created) project.
- Clause 7.5.3(d)(ii) proposes that QR Network will indicate to Applicants whether QR Network will fund a Significant Investment subject to any Access Conditions being sought by QR Network. This clause has the effect of cross-referring to clause 6.5.2 which deals with Access Conditions, specifically clause 6.5.2(b)(iii). QRC submits that User Funding should be included as a potential Access Condition and should not be an alternative to Access Conditions. Accordingly, a Significant Investment could be undertaken by QR Network subject to the condition of User Funding. Including User Funding as an Access Condition would entail expanding the definition of Access Conditions to include "User Funding Access Conditions" as provided for in clause 7.5.4.

QRC considers that, as a result, QR Network's replacement access undertaking would be structured so that all investment under the proposed undertaking would be either:

- to be undertaken and funded by QR Network in accordance with its express obligations;  
or
- to be undertaken by QR Network following determination of Access Conditions with users, one of which conditions includes funding by Users pursuant to an industry funded model.



QRC considers this a more appropriate mechanism for investments required under the undertaking than is currently provided for in QR Network's draft UT3.2 undertaking.

Moreover, by including User Funding as one of the potential Access Conditions, which is subject to clause 6.5.2, will ensure that the provisions of clause 6.5.2(b)(ii) and 6.5.2(e), which seek equity between initial and subsequent users, similarly apply to User Funded Expansions.

- due to the way in which the undertaking has evolved, there are currently provisions that determine when Access Conditions can be sought, and separate provisions which determine when QR Network's obligation to invest applies. As these are mutually exclusive, there is no need for two sets of provisions - if there is no obligation to invest, there should be a right to seek Access Conditions. Alternatively, if Access Conditions can be sought, the obligation to invest falls away. As currently drafted, the two mechanisms create confusion and there is a risk that some investment may fall into neither category, which QRC understands is not intended.
- Clause 7.5.3(b) does not reconcile with clause 7.5.5 based on the current wording of 7.5.5. Currently, clause 7.5.5 provides that a request for Access can be rejected by QR Network where it cannot be granted in the absence of QR Network undertaking a Significant Investment. The clause would be improved by specifying that while a request for Access can be rejected, QR Network is also bound by the process in 7.5.3 if a Significant Investment is required to provide sufficient Available Capacity to provide Access Rights.
- As noted in relation to clause 7.5.2(a), the definition of Significant Investment should refer to the Central Queensland Coal Region and any other projects involving coal rail infrastructure for coal traffic.
- The processes set out in clause 7.5.3 should contain firm timeframes to remove the ability of QR Network to stifle investment by unreasonably delaying each of the steps it is required to take in proceeding with a Significant Investment and seeking a determination by the QCA in respect of Access Conditions.

#### → **Proposal of a Financiability Review by the QCA for Access Conditions for Significant Investments**

While clause 7.5.3(d)(ii) proposes and clause 6.5.2(b)(iii) allows QR Network to seek Access Conditions for Significant Investments, the QRC considers that this right to demand Access Conditions should not be entirely at QR Network's discretion. Rather, the QCA should undertake a 'Financiability Review' to determine the appropriate Access Conditions, which would include the following elements:

- QR Network seeking QCA approval for Access Conditions for Significant Investments as soon as possible, but within a specified timeframe, after the trigger in clause 7.5.3(b) occurs.
- the QCA will approve Access Conditions to the extent necessary to ensure the financiability of any Significant Investment. This process would involve consultation with stakeholders.
- QR Network would be required to demonstrate on reasonable evidence why it would be unreasonable to require QR Network to proceed with the Significant Investment in the absence of the proposed Access Conditions having regard to a clear set of factors. We note the 'unreasonable or uneconomic' test included in the DBCT draft undertaking but are unable, in the time made available for submissions, to consider whether this is a suitable test for QR Network. Our initial view is that the undertaking should contain clear guidelines regarding the



QCA's review process and decision making criteria. By requiring QR Network to justify that the Access Conditions it is seeking are appropriate would result in a subtle reversal of the onus of proof. Given that QR Network is in possession of the relevant information necessary to demonstrate why particular Access Conditions are required, QRC considers the proposed reversal of the onus of proof is justified in the context of QR Network's replacement access undertaking;

- QCA may determine a package of Access Conditions which could include (but are not limited to):
  - **accelerated depreciation.** This has the benefit of front-ending cashflows to assist in debt servicing and meeting target financial ratios;
  - **longer term Access Agreements.** This specifically seeks to address situations in which QR Network can demonstrate that the project features an unacceptable asset stranding risk;
  - **security.** This would address concerns regarding reliance on a small number of customers;
  - **front-ending of charges:** as for accelerated depreciation;
  - **short term funding of the project by users.** This would allow QR Network more time to arrange finance and structure its finances to accommodate the project;
  - **longer term funding;** or
  - **as a last resort, a higher WACC for the project.**

QRC considers the above Access Conditions to constitute reasonable proposals in the face of a claim by QR Network that it is unable to invest at the regulated rate of return.

#### → Investments must not be delayed by the dispute resolution process

A further key concern of QRC is that the QCA dispute resolution process is lengthy and may potentially be used to stall investment or be used as a negotiating tool to extract onerous commercial terms. Any QCA determination process is likely to take a minimum of 6 months and would then be subject to appeal which could substantially extend the period of time until a dispute is ultimately resolved.

To minimise the risk of delay in investment in the QR Network infrastructure as a result of the dispute resolution process, QRC recommends that the QR Network's replacement undertaking be amended to:

- enable Access Seekers to proceed with an industry funded expansion model:
  - where Access Seekers consider the expansion obligation is triggered and QR Network notifies Access Seekers that it does not intend to undertake the expansion, industry may proceed with an industry funded expansion and subsequently raise a dispute under the Undertaking in terms of which they will claim reimbursement from QR Network; or
  - where QR Network agrees to undertake an Expansion project in accordance with its obligations under the Undertaking, it will be required to prepare a draft project implementation timetable. If Industry is not satisfied with the timeframes in the schedule



from the outset, industry will have a right to proceed with the Expansion and raise a dispute whereby they will claim reimbursement from QR Network. Similarly, if QR Network does not progress a project based on the project schedule without adequate explanation, then industry would have a right to intervene in the Expansion project. QRC is currently examining the framework and processes required to make this work from a contractual/practical perspective; and;

- if the QCA, through the dispute resolution process in the Undertaking, or a Court determines that QR Network did not comply with its commitments to invest under the undertaking, they can require QR Network to assume the obligation to fund the expansion from the relevant access seekers by reimbursing the Access Seekers for their capital expenditure (subject to take-or-pay or other suitable recoupment mechanisms as would normally exist in relation to a QR Network funded investment).

#### **Risk of inadequate enforcement of the investment obligations in proposed draft undertaking**

##### **→ QCA must be capable of making an access determination requiring investment consistent with the obligations voluntarily assumed by QR Network in the Undertaking**

As currently, drafted, the QCA Act contains express restrictions on the QCA's ability to make access determinations and, in particular, section 119(2)(c) restricts the QCA from making a determination which would require an access provider to pay some or all of the costs of extending a facility.

QRC is concerned that this provision may have the effect of preventing the QCA from making a determination otherwise consistent with the expansion provisions in the QR Network's UT3.2 draft undertaking, particularly clause 7.5.2(a) under which QR Network commits to undertake all Minor Expansions and Major Expansions reasonably expected to be less than \$300 million in the Central Queensland Coal Region. Detailed reasons for QRC's concerns in this regard are to be provided in the QRC's subsequent submission *Suggested amendments to the QCA Act*.

QRC is seeking to avoid the undesirable situation in which QR Network may agree to undertake new investment, as it has done in clause 7.5 of the DAU, but then subsequently argue either that the obligation is unenforceable or that the QCA in arbitrating any dispute cannot make a determination requiring that QR Network proceed with that investment because it involves the infrastructure provider paying "some or all of the costs" of that expansion or extension. Accordingly, QRC will be recommending that minor amendments be made to the QCA Act.

##### **→ Clause 7.5.2(b) is inadequate**

As currently framed, the triggers for investment in clause 7.5.2(b) by QR Network lack sufficient transparency and certainty. Clause 7.5.2(b)(ii) provides that QR Network will undertake Expansions if neither Clause 7.5.2(a) nor Clause 7.5.3 applies and *QR Network reasonably considers that its expected net additional revenue less any expected costs associated with the Expansion, is sufficient to commercially justify QR Network undertaking the Expansion (including QR Network's incurring of those costs and exposure to financial and other risks)*. While the focus of this submission is on investment in coal rail infrastructure, QRC notes that:

- The obligation would provide more certainty if it contained a purely objective test and the reference to reasonably considers was removed. Alternatively, the reasonableness of any



decision by QR Network should be measurable against an objective and transparent set of criteria.

- It appears that the measure of *expected net additional revenue less any expected costs associated with the Expansion* requires QR Network to carry out an NPV assessment capturing the additional access charges likely to be received as a result of making the additional capacity available and comparing these to the costs of expansion. However, there is likely to be scope for disagreement within that broad framework for example:
  - Given the life of the rail infrastructure, what are the timeframes over which the test should be done?
  - To what extent does QR Network need to have firm take-or-pay contracts in place before it is obliged to invest?
  - Should QR Network include reasonably expected access charges from contracts which have not yet been signed?
  - What is the meaning of 'net additional revenue' given that expected costs are to be deducted from this amount?

#### **QRC concerns with definitions**

Currently a Significant Investment includes 'Major Expansions for which the capital expenditure is reasonably expected to be equal to or exceed \$300 million. The definition of Major Expansion refers to the definition of "Major External Development" which includes 'an expansion of an existing loading or unloading facility or a development of a new loading or unloading facility.

QRC submits that the definition of Major External Development is an overly broad definition and is likely to bring a wide range of expansions within the definition of Significant Investment in circumstances where this is not appropriate. For example, the development of a new loading facility, or expansion of a loading facility, in the absence of a significant expansion in an unloading facility, should not be considered a Major External Development.

#### **Further information**

If the QCA would like further details in relation to any of the issues addressed in this submission, please contact Russell Silver-Thomas on 07 3316 2512.