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Dear Professor Menezes

Re: Queensland Rail 2025 Draft Access Undertaking (DAU3) – GrainCorp supplementary submission to QCA

In letters to stakeholders dated 10 and 23 November 2023, the Queensland Competition Authority (**the QCA**) invited review and comments in relation to Queensland Rail's (**QR**) application for its 2025 Draft Access Undertaking (**DAU3**) to replace the current Access Undertaking (**AU2**).

On 2 February 2024, GrainCorp submitted its high-level draft submission to the DAU3 and advised it would provide its final submission by 16 February 2024.

The reason for the request for an opportunity to make a further submissions was due to extended leave of key personnel and GrainCorp needing to confirm what follow up consultation, if any, Queensland Rail had undertaken with GrainCorp in relation to the DAU3 and the issues GrainCorp had raised.

GrainCorp is a key stakeholder and consumer rail haulage on the rail networks covered by the AU2 and what QR proposes in its DAU3. GrainCorp uses Watco and Aurizon Operations as its accredited rail operators for the haulage of non-coal freight network, and GrainCorp is directly affected and impacted by access fees, train pathing capacity, and infrastructure investment and maintenance. Rail operators pass through risk and cost they are unable to influence, and track access fees is the clear example of this pass through. Consequentially is key stakeholders such as GrainCorp that wear the significant risk and cost impost of the regulatory outcome and management of QR's natural monopoly powers.

It is for these reasons that GrainCorp requests QCA continues to consider this further submission of GrainCorp's, in order to have a more fulsome view of the public interest in having competitive upstream and downstream rail markets and access to services and infrastructure that the QCA review is designed to consider and protect.

GrainCorp confirms that neither this submission or its high-level submission of 2 February 2024 contains confidential information and acknowledges that these in their totality can be made publicly available.

For ease of reference, GrainCorp has combined its original submission with its further submission in the attached annexure.

GrainCorp welcomes the opportunity to continue to participate and assist in the review and decision in relation to DAU3.

Your Sincerely,



Josh Connell

Head of Supply Chain, Grains

Annexure 1 – GrainCorp submissions

Original Submissions

GrainCorp has now reviewed QR's DAU3, the amendments it seeks to make to AU2 and accompanying documentation and provides this feedback below as part of the stakeholder consultation the QCA has welcomed.

GrainCorp welcomes the opportunity to provide its high-level response in this draft submission and will provide the QCA with its final submission by Friday 16 February 2024.

GrainCorp notes QCA's important task to facilitate third-party access to services by a facility owner who has natural monopoly characteristics, which in this case is QR in relation to the QR railway corridor, and to provide regulatory oversight to govern terms and conditions to access this corridor¹.

Overview of GrainCorp's key areas of concern

GrainCorp is of the view that the QCA needs to consider the proposed revisions in the DAU to ensure that there are appropriate constraints on QR's natural monopoly power over the provision of rail and ancillary services and infrastructure in, aside, and above its network to protect all access seekers, particularly those who are from non-coal industries. This is even more important given the construction, future commissioning and operation of major rail projects in Queensland, such as Inland Rail and Cross River Rail, as well as the lead up to and operation of the Brisbane Olympics.

In essence, GrainCorp has the following key concerns:

1. The DAU does not recognise and sufficiently address:
 - a. That not all access seekers will be seeking direct access to the QR railway corridor as an Accredited Operator under the Rail Safety National Law, for example in instances where connection agreements, occupation licences and other similar types of licences are required;
 - b. GrainCorp's requirements when seeking access from QR to the QR railway corridor through contractual agreements such as connection agreements;
 - c. GrainCorp's requirements when seeking to operate within its own sites and infrastructure that are in close proximity to, adjoining, or within the QR corridor through access licenses, infrastructure licences, or other similar agreements;
 - d. the clear and significant need to provide transparency around terms and conditions for the key customers and stakeholders such as GrainCorp in the downstream market who seek access to the QR railway corridor in order to ensure QR's natural monopoly powers are appropriately constrained;
 - e. the requirements of different industries, such as the grain market, which should be separately addressed in the DAU.
2. QR has previously submitted that utilising road transport is a viable alternative option available to rail access seekers. This fails to consider the significant downstream market requirements and complementary investment that businesses such as GrainCorp has undertaken to rely on rail transportation as its primary and only transport mode. It also runs counter to the premise, business case and benefits realisation promoted to justify the need for Inland Rail. Whilst there may be some operational capability to make such a switch to road transport, there are a number of commercial, social and environmental matters as to why this cannot occur.

¹ [Statement of Regulatory Intent \(qca.org.au\)](http://qca.org.au)

3. QR can use its natural monopoly powers to impose “take it or leave it” non-price terms and conditions and operational decisions on access seekers such as GrainCorp, which can have immediate and long-term commercial ramifications on GrainCorp’s ability to meet its operational targets and not suffer significant commercial imposts. Different access seekers can also be vulnerable to inappropriate risk allocation that are reflected in the commercial terms of access agreements and other contractual documents.
4. Some of the changes proposed by QR does not address the need for greater consistency in network standards and operating requirements across rail networks or accountability for those decisions made.
5. Pricing considerations in the DAU may need to be discussed further to ensure it addresses and protects the price sensitivity of the grain market and the downstream market.

Supplementary Submissions

GrainCorp makes the following additional submissions in relation to the key topics of the DAU3.

1. Queuing mechanism changes (clause 2.92)

It appears that the changes that are proposed by QR are to simplify the language and process as it relates to mutually exclusive access applications. If that is the intended purpose of these changes, then GrainCorp does not have any submission to make on this. If that is not the intended purpose, GrainCorp would like to understand further the intent of this revised drafting as a key stakeholder and indirect access seeker of the QR non-coal freight network.

2. Reporting regime and quarterly reporting requirements (Part 5)

GrainCorp restates its submission that the rail network only benefits from collection, access and reporting of data relating to issues, deviations, performance and reliability amongst other metrics of the rail network and the impacts on the non-coal freight network.

GrainCorp is concerned that there appears to be a backwards step of the standard of data and reporting that QR is proposing in the DAU3. This is not consistent with the technological advances currently available to QR and would be expected to be available to it in the upcoming DAU3 period.

This is particularly relevant for transparency and accountability QR should have to operators and key stakeholders such as GrainCorp in relation to important concepts that directly impact the competitiveness and reliability of the non-coal freight network, such as ad hoc planned possessions and deviations from the DTPs. This is even more important in instances where there could be a significantly increased reliance on ad hoc planned possessions which will increase the current erosion of train paths for grain in the DTP, as a result of major projects such as Cross River Rail, Inland Rail and Brisbane Olympics.

As a whole this starts to erode the reliability and uniform knowledge of the rail network, with the potential to leave a vacuum of information and data that is important for rail operators and indirect access seekers like GrainCorp to understand and plan for. This also compounds the impact of reliability of pre-approved train paths and ability to access them as a result of other non-possession factors such as temporary speed restrictions

Rail safety requires significant collation and dissemination of data and to help ensure the robustness and safety of the rail network, including safety and fatigue management of its train crew like the requirements imposed under the National Heavy Vehicle regime.

3. Dispute resolution process change (Schedule F clause 2.4)

It appears the current drafting allows QR to determine the outcome of a dispute that is made on a bona fide basis. If that construction of the revisions is correct, then this should be resisted. GrainCorp recommends that QCA should consider either rejecting this revision or work through alternative drafting that makes any such determination transparent and fair.

Additional general submissions

GrainCorp hasn't specifically made any submissions about the West Moreton System, however our submissions relating to congestion and capacity issues are equally applicable to this part of the network.

GrainCorp seeks to restate and emphasise the tension between balancing the needs of the freight network and that of passenger rail network. GrainCorp acknowledges the importance and priority requirements of the passenger network, but also the importance of the non-coal freight network needs to be similarly recognised and prioritised.

This is in part because the grain market differs to other commodities and should be priced differently to other types of non-coal rail freight. Pricing considerations in the DAU3 may need to be discussed further to ensure it addresses and protects the price sensitivity of the grain market and the downstream market.

The grain market is exposed to the exercise of QR's natural monopoly powers as is demonstrated through non-pricing impacts of its operational decisions on access seekers. Examples of these include:

1. speed restrictions, maintenance, approval
2. fees to undertake particular works

The QR non-coal freight network is important to GrainCorp as it relies on this route for grain transport between the regional rail network to the ports in Queensland. GrainCorp relies on an efficient grain train achieving a predictable and reliable cycle time from silo to port (or mill). Planning, management and operation of grain trains can be plagued or stopped as a result of congestion, lack of priority of pathing, clunky interfaces between rail networks and network managers, speed restrictions, inefficiencies in maintenance or lack of knowledge of the state of existing track infrastructure assets.

As highlighted earlier, different industries, such as bulk handling grain operations, access the QR rail network both through Accredited Operators and through other means. This is not addressed in the DAU3, nor is there recognition or protection of the seasonality requirements of key stakeholders and downstream markets such as those GrainCorp participate in such as available network capacity, loss in rail viability as QR preferences other markets that can substantially sustain higher rail costs like coal.

The DAU3 could be improved in how it addresses the above in terms of access, including service standards, network planning, and interface issues and the requirements of different industries, such as the grain market, which should be separately addressed in the DAU3.

The non-coal freight network will continue to exist beyond the expected end of the coal industry in light of the active push to industries that implement net zero emissions strategies. Investment in, reliability and recognition of increased access and productivity of the rail infrastructure and the non-coal freight network users needs to be brought to the fore more prominently than it currently is.

Importance of network attributes: Capacity, Capability, and Standards

The commercial viability of rail transport relies on the non-pricing attributes of capability, capacity, and the standards to which the rail network is designed and operated. The DAU can be improved to acknowledge the significance of the network attributes to the users and provide some protection from unreasonable network attribute changes with detrimental results. Currently QR can impose a change to an attribute of the network that results in inefficiency without any regard for the consequence on the user.

Uncertainty in network attributes reduces appetite for investment. GrainCorp has specifically targeted investments across QLD, NSW, and VIC to achieving improved cycle times and train capacity, to deliver higher utilisation of rail assets and lower cost of rail transport. In these instances it is critical the rail network attributes can be relied upon into the future to realise the benefit of these investments. A change that could completely undermine the benefit of an investment to achieve quicker cycle times is a change by the network manager to the transit time between a load site and the port. Investment to take a site from 48hrs to 24hrs cycle could be undermined easily by a major change to the time to travel through the network.

Under the DAU there exists a significant risk that the benefit from an investment will be nullified by a change to the attributes of the network at QR's discretion, with no consideration to the impact, and no clear avenue for prevention or recompense. Whilst network attributes are only maintained at the discretion of the network manager without long term

guarantees, there is a reduced appetite to invest. If the undertaking provided stronger protection from detrimental changes to network attributes it would bolster the confidence of industry participants like GrainCorp to make future investment into the rail supply chain.

Track Protection Devices

Network standards and how they are enforced is another key component to the dependability and reliability of the rail network for users. For example, the asset protection standards and the track detection equipment used to enforce compliance to those standards must naturally work hand in hand. The current network standards provide reasonable tolerances for aspects of the operation that naturally vary, such as load tonnages and load balance in a wagon, on the proviso that the detection devices used on the network are accurate. But in SEQId this system is let down by use QR use of a number of asset protection devices to monitor train weights that are not designed or certified for accurate weighing of wagons. The use of inaccurate detectors results in frequent inaccurate reads and false positives, and wagons are frequently declared overloaded incorrectly.

When a grain wagon is declared overloaded through this system the network standards require the train incur speed restrictions and/or require the train stop entirely and the load be physically adjusted before the wagon is allowed to continue to operate on the network. In this process there is no consideration given for the inefficiency the false positive detection causes grain users of the network. QR is under no urgency or requirement to install an appropriately precise and accurate weighbridge. Installing load-site weigh systems at every grain loading site is economically unviable, so the only option available to users to avoid the delays and costs caused by false positives detections is to significantly underload all grain train services.

The AU3 could provide stronger incentive for QR to ensure measuring devices be fit for purpose and appropriately accurate, and unreasonable network should be unable to impose inefficiency onto the users without adequate accountability for the impact to the user.

Preserved Pathing

Initially the Preserved Pathing (as per the Transport Infrastructure Act 1994) was applied as a series of inflexible MTP paths to which the non-coal users would aspire to operate. The inflexibility of the MTP is at odds to the inherent daily variability needs of grain trains. Grain trains must operate at different times of day due to the geographically variable origins across the grain supply chain, combined with the impacts of network limitations like summer heat restrictions during peak grain export demand. Grain trains are naturally unable to reliably meet rigid MTP times.

Over the last 5 or so years QR, the rail operators (Aurizon and Watco), and GrainCorp have, for all appearances, shifted to applying the principles of the preserved pathing (to ensure 16 non-coal paths were available per week), but do so by completing the programming of grain trains via in the Daily Train Plan (DTP) methodology. Under normal network operational conditions this has been a reasonably good result for grain trains; we have been able to rely on some protection of rail capacity through the coal trains, but also have been able to find fit for purpose paths in the DTP to suit the naturally variable timing needs of grain.

Unfortunately this shift into the DTP methodology has failed to protect grain users when the network is running in a degraded state (such as during periods of track work) when only a portion of the network capacity is available each day or each week. QR prioritises trains in the MTP over trains programmed in the DTP as a matter of course. As coal trains are programmed in the MTP and grain trains are now programmed in the DTP, the coal trains now receive higher priority. Consequently, grain trains are at significant risk of being denied access to any preserved pathing, and there are periods where the only traffic able to use the network will be coal trains. GrainCorp believes the application of this logic flies against the principles and objectives of the Act and the need for non-coal path preservation. GrainCorp believes the access undertaking should include directly address this issue and provide specific protections for non-coal trains, regardless if they are pathed via the DTP or the MTP, to ensure the protections clearly established by the Act are applied appropriately.