

Position paper

Aurizon Network's Northern Bowen Basin system rules

17 September 2015

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

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SUBMISSIONS

Closing date for submissions: 29 February 2016

This position paper is a draft only and is subject to revision. Public involvement is an important element of the decision-making processes of the Queensland Competition Authority (QCA). Therefore submissions are invited from interested parties concerning its assessment of Aurizon Network's proposed Northern Bowen Basin system rules. The QCA will take account of all submissions received.

Submissions, comments or inquiries regarding this paper should be directed to:

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Table of Contents

SUBMISSIONS	III
Closing date for submissions: 29 February 2016	iii
Confidentiality	iii
Public access to submissions	iii
EXECUTIVE SUMMARY	VI
Background	vi
Key preliminary positions	vi
Way forward	vii
THE ROLE OF THE QCA – TASK, TIMING AND CONTACTS	VIII
1 INTRODUCTION	1
1.1 The Northern Bowen Basin coal system	1
1.2 Evolution of system rules	3
1.3 Structure of this position paper	5
2 LEGISLATIVE FRAMEWORK AND ASSESSMENT APPROACH	6
2.1 Approval criteria for draft system rules	6
3 PLANNING	11
3.1 Introduction	11
3.2 How the NBB differs from Capricornia	11
3.3 Intermediate Train Plan	13
3.4 Other ITP-related issues	26
3.5 Master Train Plan	31
3.6 Possessions planning	45
3.7 Varying possessions planning	49
3.8 Transparency of system variability in capacity planning	52
4 TSE CONSUMPTION RULES AND COMMERCIAL IMPLICATIONS	54
4.1 TSE calculation formula	54
4.2 TSE consumption rules during 48-hour lockdown period	57
4.3 Advertising and allocating available mainline train paths	60
4.4 Recovery of Aurizon Network cause undelivered TSEs	62
4.5 Penalty regime for co-shippers	63
4.6 Updating the DTP for train performance measurement	64
5 SCHEDULING AND CONTROL	66
5.1 Scheduling GAPE cross-system traffic on the Goonyella system	66
5.2 Transfer of paths within an access holder's portfolio	68
5.3 Aurizon Network's supply chain objectives	69
5.4 Feedback on CTPDMP outcome	73
5.5 Alteration of scheduling requests	76

5.6	Scheduling of passing, crossing and dwelling times	77
5.7	Timing of lockdown of the 48-hour schedule	78
5.8	Acceptance of the 72-hour schedule	80
5.9	Scheduling of cross-system trains	81
6	GENERAL AMENDMENTS AND ADMINISTRATION	84
6.1	Review period for delays and cancellations	84
6.2	Delays and cancellations cause attribution	85
6.3	Review and amendment of the NBB system rules	93
6.4	Business Execution Rules	96
6.5	Perception of vertical integration	97
6.6	Hierarchy of system rules, access undertaking and access agreements	99
	GLOSSARY	101
	APPENDIX A : THE NATURE OF THE MTP IN SCH. G OF THE 2010 AU	104
	APPENDIX B : CONTESTED TRAIN PATH DECISION-MAKING PROCESS	107
	REFERENCES	109
	LIST OF SUBMISSIONS	110

EXECUTIVE SUMMARY

Our preliminary position is that we would refuse to approve Aurizon Network's proposed Northern Bowen Basin (NBB) system rules, for the reasons detailed in chapters 3 to 6 of this position paper.

We consider Aurizon Network has further work to do in developing a set of system rules which:

- fully explain how the mechanisms for planning, scheduling and controlling in the NBB will operate, and
- are consistent with the Approval Criteria set out in Chapter 2 of this position paper.

In this position paper we suggest changes to the draft NBB system rules which we consider will better:

- promote the economically efficient operation and use of the rail infrastructure, and
- balance the legitimate business interests of Aurizon Network with the interests of access holders and seekers.

Background

System rules specify the way Aurizon Network plans, schedules and controls the operation of train services on one or a group of coal systems.

On 5 August 2013, Aurizon Network submitted the draft NBB system rules. To date, we have published Aurizon Network's proposal along with nine submissions and a consultant's report. Our assessment of the draft system rules in this paper reflects the Approval Criteria in the relevant legislation.

Key preliminary positions

In its draft NBB system rules, Aurizon Network has proposed a number of processes that will help improve the operation of the network, for example:

- 72- and 48-hour schedules providing intermediate information in the scheduling process beyond what is required in the network management principles
- a three-week lock down of planned maintenance, and
- greater flexibility in transferring train paths within an access holder's portfolio.

Where these met the Approval Criteria, we have accepted the processes Aurizon Network has put forth in its system rules proposal. These issues are not the focus of this position paper.

Instead, we have focused on other aspects of Aurizon Network's proposal, addressing issues with an aim to:

- tailor the processes to suit the characteristics of the NBB supply chains
- balance the legitimate business interests of Aurizon Network with the interests of access holders and seekers.

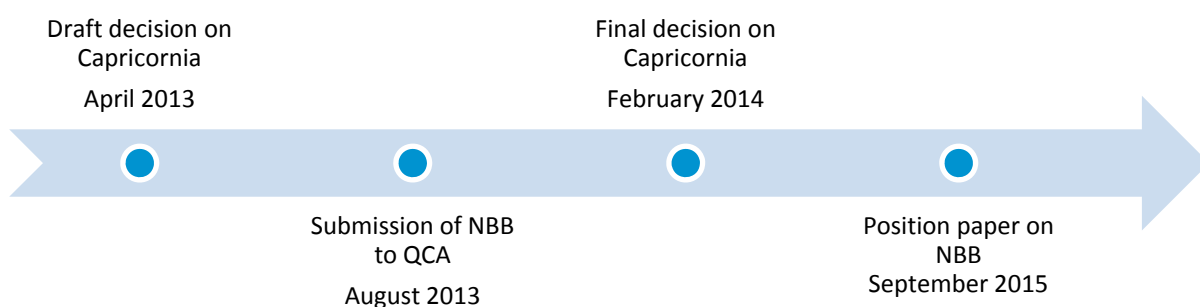
Two key issues in this position paper are related to planning:

- The nature of the Intermediate Train Plan (ITP)—stakeholders would prefer more flexibility in train ordering, rather than the static seven-day ITP proposed by Aurizon Network, where train paths get 'locked in' as early as 11 days prior to the day of operation. We consider that Aurizon Network's proposal includes a Sunday night 'cut-off' which can impact on access holder's monthly train service entitlements (TSEs). We are proposing greater flexibility via a 10-day rolling ITP and running the

Contested Train Path Decision-Making Process only 72 hours before the day of operation. We consider this will address stakeholders' concerns and better suit the needs of the Goonyella system.

- The nature of the Master Train Plan (MTP)—Aurizon Network's proposal and stakeholders' submissions indicate there are conflicting perceptions on the precise nature of the MTP, what it should achieve and what information it should include. We propose to clearly set out that the MTP is a theoretical train plan demonstrating that Aurizon Network can deliver all access holders' TSEs in a given month. We propose that Aurizon Network should seek permission to disclose the NBB contracted volumes to each access holder through a complete and transparent MTP. We consider this will provide valuable information to access holders and has the potential to improve the operation of the NBB system, including fostering coordination.

In addition, we are suggesting some amendments which are consistent with our final decision on the Capricornia system rules. This is because Aurizon Network submitted the draft NBB system rules prior to our final decision on the Capricornia system rules.



Way forward

We are seeking stakeholder comments by 29 February 2016.

This is an extended stakeholder consultation period as we do not anticipate publishing a final decision under the 2010 access undertaking, which is due to terminate on 29 February 2016.

Instead, when UT4 commences, Aurizon Network will be required to submit system rules that take into account this position paper and stakeholders' submissions. The time we take to review and approve the resubmitted system rules will depend on their contents and the timeframes in the 2014 undertaking.

THE ROLE OF THE QCA – TASK, TIMING AND CONTACTS

The Queensland Competition Authority (QCA) is an independent statutory authority to promote competition as the basis for enhancing efficiency and growth in the Queensland economy.

The QCA's primary role is to ensure that monopoly businesses operating in Queensland, particularly in the provision of key infrastructure, do not abuse their market power through unfair pricing or restrictive access arrangements.

Task, timing and contacts

Under the 2010 access undertaking (UT3), Aurizon Network is required to submit system rules for the Goonyella coal system to us for approval. System rules complement the network management principles in the 2010 access undertaking, by specifying the way Aurizon Network will plan, schedule and control the operation of train services, and demonstrate capacity, on a given system. As such, system rules are relatively technical in nature.

On 5 August 2013, Aurizon Network submitted draft system rules for the Northern Bowen Basin (NBB) system. The NBB includes the Goonyella, Newlands, and Goonyella to Abbot Point (GAP) systems. We commenced a public consultation process and:

- published Aurizon Network's submitted draft system rules for the NBB system on our website
- commissioned and published a report from Indec Consulting
- sought submissions on Aurizon Network's proposal and our consultant's report
- published and considered nine submissions
- we now publish this position paper and are seeking comments on it.

Key dates

We are seeking stakeholders' comments by 29 February 2016 on our preliminary positions as set out in this paper.

The UT4 process is well underway and a final decision is expected to be published in late 2015.

For this reason, we do not anticipate publishing a final decision under UT3.

Rather, when UT4 is approved, Aurizon Network will be required to resubmit system rules that take into account our positions and stakeholders submissions. An indicative timetable drawn from our Draft Decision on the 2014 DAU and the 2015 Extension DAAU forms **Table 1** below. The timetable will also depend on the contentiousness of the resubmitted system rules.

Table 1 Indicative Timetable

<i>Task</i>	<i>Indicative Date</i>
Aurizon Network submitted draft system rules for NBB to the QCA	5 August 2013
Public consultation process	August 2013 to September 2013
Release of consultant report	June 2014
QCA position paper released for comment	21 September 2015
Stakeholder comments due on position paper	29 February 2016
UT4 approval date	1 March 2016
Aurizon Network must resubmit system rules to the QCA that take into account QCA positions and stakeholder comments on these	End August 2016 (6 months after UT4 approval date)
Stakeholder comments due on resubmitted system rules	End Oct 2016 (8 months after UT4 approval date)
QCA draft decision on resubmitted system rules	End Feb 2017 (12 months after UT4 approval date)
Stakeholder comments due on QCA draft decision	End April 2017 (14 months after UT4 approval date)
QCA final decision on resubmitted system rules	End June 2017 (16 months after UT4 approval date)
Aurizon Network to resubmit system rules in accordance with QCA final decision	End July 2017 (17 months after UT4 approval date)

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1 INTRODUCTION

1.1 The Northern Bowen Basin coal system

The rail network in Queensland is operated by:

- Aurizon Network Pty Ltd (formerly QR Network Pty Ltd)¹ – which operates the below-rail coal network in central Queensland and is a subsidiary of Aurizon Holdings Ltd, and
- Queensland Rail Ltd – which operates the state’s below-rail network outside central Queensland.

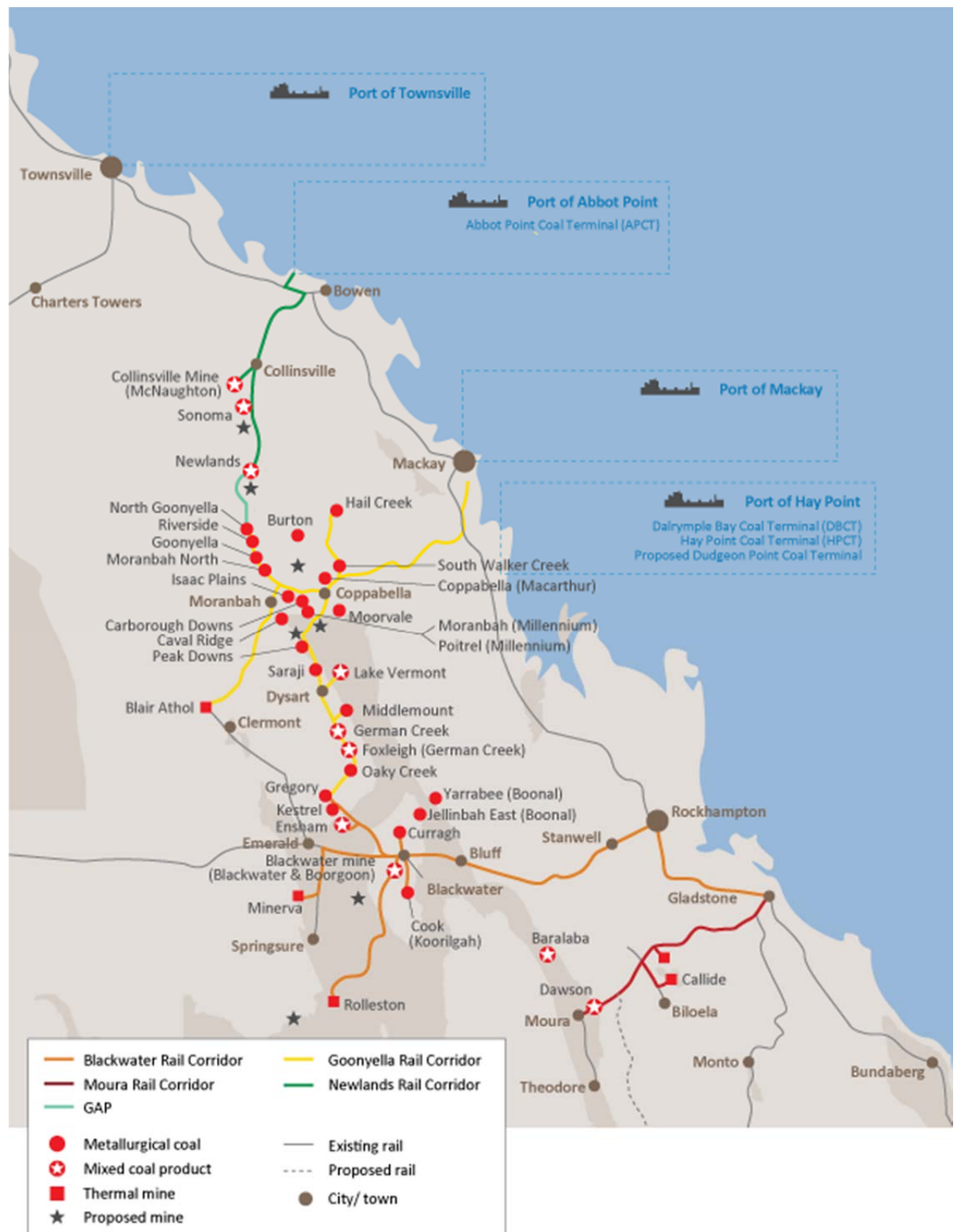
The two businesses were separated on 30 June 2010, when the Queensland Government split the former government-owned QR Ltd in preparation for the sale and public float of QR National (since renamed Aurizon) on 22 November 2010. Queensland Rail Ltd remains a government-owned corporation.

The below-rail infrastructure of both businesses is declared for third-party access under the QCA Act. In October 2010, we approved Aurizon Network’s 2010 access undertaking (the 2010 AU).

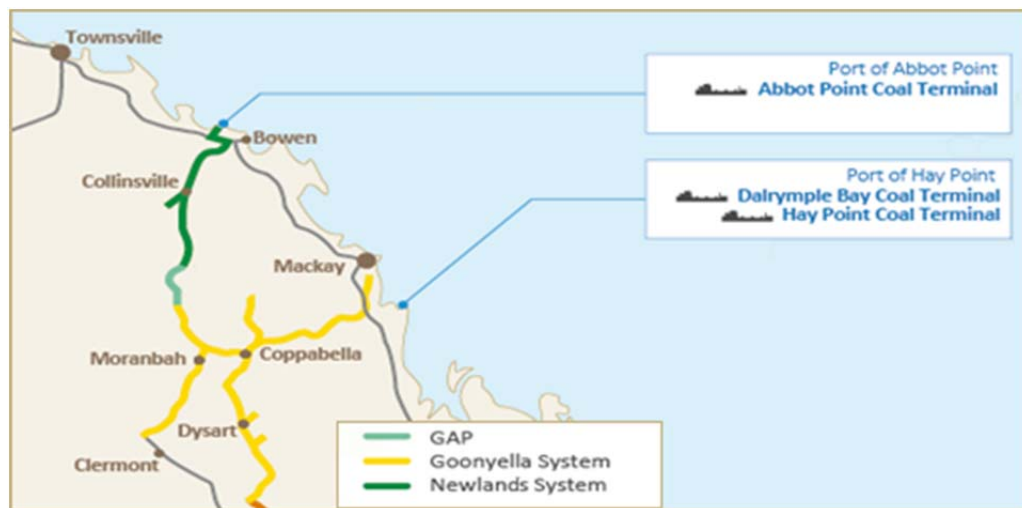
There are five coal rail systems in the central Queensland coal network (CQCN), and each system has differing operating characteristics, driven by the nature of the mine and port infrastructure connected by the rail lines. These systems are shown in **Figure 1**:

- (1) Newlands – the northernmost system that carries coal to a terminal near Bowen and is linked to the Goonyella to Abbot Point system
- (2) Goonyella to Abbot Point (GAP) system – the connecting infrastructure between the Goonyella and Newlands coal systems
- (3) Goonyella – connects with terminals near Mackay, and links with Blackwater to the south, and Newlands to the north
- (4) Blackwater – serves Gladstone, and has a northern connection with Goonyella
- (5) Moura – the southernmost system that carries coal to Gladstone.

¹ On 3 December 2012, QR Network Pty Ltd changed its name to Aurizon Network Pty Ltd.

Figure 1 Central Queensland coal network

The 'Northern Bowen Basin' coal system consists of Goonyella, Newlands and GAP, the three systems which export through terminals at Hay Point and Abbot Point (see **Figure 2**).

Figure 2 Map of Northern Bowen Basin coal rail infrastructure

Each coal system needs to operate according to planning, scheduling, and operating protocols, both within the system and when they interact with other systems. The network management principles in Schedule G of the 2010 AU provide principles that Aurizon Network must adhere to when it plans, schedules, and controls the operations of train services, and when it provides capacity-related information to access holders.

However the network management principles are general, and not specifically tailored to the characteristics of each individual coal chain served by the rail systems. The purpose of the system rules is to specify in greater detail the way in which Aurizon Network will plan, schedule and control the operation of train services on a single or combination of individual coal systems (2010 AU, schedule G, appendix 1, clause (a)).

1.2 Evolution of system rules

System rules were originally proposed in 2008 by Aurizon Network for the Goonyella system, as a way to reconcile the operating requirements of Dalrymple Bay Coal Terminal (DBCT), which has a small stockyard relative to throughput, with the way train services were contracted.

Aurizon Network said DBCT's 'dynamic scheduling environment' created a risk that meeting the demands of the Goonyella supply chain would conflict with the Train Service Entitlements (TSEs) in access agreements, and with the network management principles. It indicated the system rules would increase transparency for all supply chain participants about how scheduling decisions were made, as well as provide the flexibility required to maximise system throughput.²

Aurizon Network's 2009 draft access undertaking (DAU) formally proposed a framework for system rules. In its draft decision on this DAU, the QCA approved the concept of system rules, saying it accepted 'the principle of having specific operating rules that match the priorities of each system's ports and mines.'³

While the QCA considered the system rules concept to be reasonable, it was not convinced that access holders and seekers (and their customers) would be sufficiently protected if the system rules sought to materially change the way Aurizon Network managed its network. As Aurizon

² Aurizon Network, August 2008: 5-6

³ QCA, September 2009: p. 197

Network had not provided an indication of what the system rules would look like, the QCA said the 2010 AU should require Aurizon Network to consult with access holders, access seekers and their customers when making or amending system rules. The 2010 AU includes these requirements (clause 7.1(b)).

In deciding which coal systems would benefit most from system rules, the QCA considered that system rules were most likely to be relevant to the Goonyella coal system, where customers and infrastructure providers (i.e. DBCT and Aurizon Network) were working towards altering the operating arrangements to improve supply chain coordination.⁴

Given the focus on supply chain issues at DBCT during the discussion of the system rules concept, the 2010 AU required Aurizon Network to submit Goonyella system rules within nine months of that undertaking's approval, and allowed Aurizon Network to develop rules for other systems.

Aurizon Network accordingly submitted two sets of system rules to us for approval. The first set of system rules that was submitted related to Goonyella, this was followed by a set relating to the Capricornia system. Due to the less complex nature of the system, the Capricornia System Rules was first to be approved by us. The processes involved in the evolution of each set of system rules involved extensive consultation with stakeholders, as summarised below.

1.2.1 Draft NBB system rules—process to date

On 30 June 2011, Aurizon Network submitted draft system rules to us for the Goonyella system.

On 5 August 2013, Aurizon Network submitted draft system rules to us for approval for the NBB, which includes the Goonyella, Newlands, and GAP systems. Aurizon Network said that its draft NBB rules sought to address a number of concerns that stakeholders had previously expressed about the draft Goonyella system rules – in particular, that they did not treat users of different ports equitably, and did not address cross-system issues.

These draft NBB system rules superseded the draft Goonyella rules. On 28 October 2013, Aurizon Network withdrew its draft Goonyella system rules.

1.2.2 Capricornia system rules

On 31 August 2011, Aurizon Network submitted draft system rules to us for approval for the Capricornia coal system, which includes the Blackwater and Moura systems in the southern Bowen Basin. The proposed rules included:

- an approach for how, and in what form, long-term capacity-related information would be provided to access holders and other supply chain participants
- a train planning process that Aurizon Network would use to schedule train orders
- mechanisms to provide train paths at other times when capacity is needed for maintenance and construction activities
- methods to manage requests to amend the train schedule before the day of operation
- approaches to managing emergency issues, and delays and cancellations of train services
- a dispute resolution framework for determining the causes of delays and cancellations of train services.

⁴ QCA, September 2010: 127

On 24 April 2013, we made a draft decision to refuse to approve Aurizon Network's draft Capricornia system rules, which included proposed amendments to the rules.

On 27 February 2014, we made a final decision to refuse to approve Aurizon Network's draft Capricornia system rules, setting out how Aurizon Network should amend the proposal. At that time, we noted that:

- many of the concerns about system rules were common to both the Capricornia and NBB proposals, and we would seek to ensure our approach was consistent where possible, while recognising the different operating characteristics could lead to different rules
- stakeholders' comments on the Capricornia system rules focused on transparency and non-discrimination, rather than supply chain flexibility.

The Capricornia system rules came into effect on 21 May 2014.

1.3 Structure of this position paper

In evaluating Aurizon Network's draft NBB system rules, the position paper has been structured to address the key issues as follows:

- Chapter 2: Legislative framework and assessment approach — the Approval Criteria for our assessment of the draft NBB system rules
- Chapter 3: Planning — how train paths are allocated to access holders
- Chapter 4: TSE consumption rules and commercial implications — cross-system traffic, transfers, scheduling of passing, crossing and dwelling times
- Chapter 5: Scheduling and control — a diverse set of issues and practical matters relating to scheduling and control of the network
- Chapter 6: General amendments and administration — remaining issues and practical matters.

2 LEGISLATIVE FRAMEWORK AND ASSESSMENT APPROACH

We are assessing the draft NBB system rules in the context of the 2010 access undertaking (2010 AU) and the statutory access regime in Part 5 of the QCA Act. This chapter sets out our approach to these legislative requirements when considering Aurizon Network's draft NBB system rules.

2.1 Approval criteria for draft system rules

Aurizon Network has submitted draft system rules under clause 7.1(c)(ii) of the 2010 AU. By operation of clauses 7.1(d) and 5.2(e) of the 2010 AU, we may approve these draft system rules only if we:

- are satisfied that the draft system rules are consistent with the undertaking, including the standard access agreement (SAA) principles (Schedule E of the 2010 AU) and clause 5.2(n) of the 2010 AU (the alternative SAAs⁵), as applicable
- consider it appropriate to do so having regard to the matters listed in section 138(2) of the *Queensland Competition Authority Act 1997* (QCA Act)
- have published Aurizon Network's draft system rules, invited stakeholders to make submissions on them, and considered all submissions received in the permitted time⁶ (clause 5.2(d)),

referred to in this position paper as the 'Approval Criteria'.

To date, we have published Aurizon Network's submitted draft NBB system rules and our report from Indec Consulting on Aurizon Network's proposals on our website. We have invited stakeholders to make submissions on these. In total we have received nine submissions and have considered all of these in arriving at the preliminary positions in this paper.⁷

The remainder of this chapter focuses on our approach to considering the extent to which Aurizon Network's draft NBB system rules are consistent with the 2010 AU and statutory criteria in section 138(2) of QCA Act as relevant to the draft system rules.

2.1.1 Consistency with the undertaking

We consider consistency with the undertaking under clause 5.2(e)(i) of the 2010 AU requires consistency with:

- the requirements on Aurizon Network for preparing system rules (clause 7.1(c)(i) of the 2010 AU)
- the network management principles (clause 7.1 and Schedule G of the 2010 AU)
- the SAA principles (schedule E of the 2010 AU), SAA and proposed alternative SAAs (clause 5.2(n) of the 2010 AU).

⁵ On 1 August 2013, the QCA approved alternative SAAs for Aurizon Network.

⁶ We agreed with Aurizon Network to extending the timing of our assessment, as per clause 5.2(f).

⁷ We have received three submissions from Anglo American covering Aurizon Network's proposals and the Indec report. Each of Asciano, BMAACC, Glencore, Peabody and Vale provided a submission on Aurizon Network's proposals. Glencore's submission was in support of Asciano's. Aurizon Network also provided a submission on the Indec report.

- the non-discriminatory treatment provisions (clause 2.2(a)(iii) of the 2010 AU).

Each of these is outlined in more detail below.

Requirements on Aurizon Network for preparing system rules

In preparing draft system rules to submit to us for approval, Aurizon Network is required to have regard to:

... the equitable operation of System Rules across Access Holders and Access Seekers (should they become Access Holders) and their Customers and the terms of Access Agreements (clause 7.1(c)(i)).

The network management principles, the SAA principles, the SAA and alternative SAAs

Clause 7.1(d) of the 2010 AU stipulates that:

Clauses 5.2(c) and 5.2(m) apply to draft system rules in the same way as if a reference to the proposed SAA were a reference to the draft system rules.

Clause 5.2(e)(i) states that the QCA can approve a proposed SAA only if the QCA:

is satisfied that the proposed SAA is consistent with the undertaking, including the principles contained in Schedule E and clause 5.2(n), as applicable.

The 2010 AU notes that the purpose of the system rules is to provide greater detail on the way in which the network management principles will be implemented (Schedule G, Appendix 1 of the 2010 AU). Given this, system rules need to be consistent with the network management principles, the purpose of which are to set out how Aurizon Network will:

- perform scheduling, train-control and associated services
- provide capacity-related information to access holders (clause 7.1(a) of the 2010 AU).

In addition, we can only approve draft system rules if they are consistent with SAA principles outlined in Schedule E and the suite of SAAs.

The non-discriminatory treatment provisions

The intent and scope of the 2010 AU includes an overarching obligation that Aurizon Network not unfairly differentiate in relation to providing scheduling and train-control services in accordance with the network management principles (clause 2.2(a)(iii)). The system rules have to be consistent with this requirement.

2.1.2 Approval criteria in the QCA Act

In addition, the QCA Act states that we may approve a DAU only if we consider it appropriate having regard to each of the matters in the approval criteria (s.138(2) of the QCA Act) (**Box 1**). These criteria extend to the QCA's assessment of any draft system rules submitted by Aurizon Network (cl.7.1(d) and 5.2(e)(ii) of the 2010 AU).

Box 1 Approval criteria

Section 138(2) of the QCA Act states:

The Authority may approve a draft access undertaking only if it considers it appropriate to do so having regard to each of the following —

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

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

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

The section 168A pricing principles are:

The pricing principles in relation to the price of access to a service are that the price should -

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

Section 138(2) gives us a wide discretion to determine whether it is appropriate to approve, in this context, the draft NBB system rules. The use of the term 'appropriate' in the QCA Act is one of wide import. The range of matters stated in section 138(2) requires us to take into account matters that have a focus which is wider than the perspective of Aurizon Network. It is open to us to weigh all competing considerations when forming a decision on whether it is appropriate to approve the NBB system rules.

The QCA Act does not prescribe the relative weight we should give to each matter when deciding whether or not to approve system rules. The QCA Act does not identify one single matter as being more important or somehow prevailing over all the other stated matters.

The factors in section 138(2) can, and often will, give rise to tensions that need to be balanced by us. The weight to be given to individual factors and the balancing of factors is a matter for us.

In the context of assessing Aurizon Network's draft NBB system rules, we have had regard to each relevant factor listed in section 138(2) and balanced those factors in reaching our preliminary views.

Object of Part 5 of the QCA Act

We consider there are a number of interconnected aspects to ensuring economically efficient operation of, use of and investment in the CQCN. These include:

- efficient operation of the CQCN infrastructure, including the efficient allocation of existing capacity within the CQCN
- ensuring that capacity is allocated within the CQCN as part of the broader mine-to-port supply chain to maximise the productivity of coal production in Queensland.

The finalised NBB system rules will directly affect the operation and delivery of capacity on the CQCN. Given this, we consider that to the extent practicable and subject to any overriding constraints, the NBB system rules should be designed in such a manner that all relevant stakeholders can be confident that the NBB system rules assist in meeting the object of part 5 of the QCA Act.

The legitimate business interests of Aurizon Network

Section 138(2)(b) requires us to have regard to the legitimate business interests of Aurizon Network. In the context of the NBB system rules we consider that the legitimate business interests of Aurizon Network include the commercial interests of Aurizon Network, for example in generating expected revenue that is at least enough to meet the efficient costs of providing access to the service and include a return on investment commensurate with the regulatory and commercial risks involved.⁸ The efficient costs of providing access to the service include the administrative costs of compliance with approved system rules.

The QCA Act does not require that the interests of an access provider are given priority. Rather, section 138(2) requires that we may approve a draft access undertaking only if we consider it appropriate to do so having regard to all matters listed in paragraphs (a)–(h) of section 138(2). We have to balance these matters, as we consider appropriate, consistent with our weighting of the various matters. It is a matter for us how those matters are balanced.

Public interest

Section 138(2)(d) of the QCA Act requires us to have regard to the public interest, including the public interest in having competition in markets. We consider that in this case meeting the public interest requirement calls for us to have regard to the need for an efficient and competitive coal industry in Queensland. In this context, we are of the view that the NBB system rules should support the continued competitiveness of Queensland's coal mining sector.

Interest of access seekers and access holders

Section 138(2)(e) of the QCA Act requires us to have regard to the interests of persons who may seek access to the service. We also consider that the rights of existing access holders are

⁸ This requirement is equivalent to that in section 168(A)(a) of the QCA Act. We consider this also covers the requirements of the NBB system rules in relation to section 138(2)(g) of the QCA Act regarding pricing principles.

relevant under section 138(2)(h), to the extent they are not already access seekers under section 138(2)(e).

As the finalised NBB system rules establish how Aurizon Network will perform the planning and scheduling of train services in the NBB, they affect how Aurizon Network delivers the access rights it is contractually obliged to meet. They also define how any available capacity once contractual commitments are met is allocated across Aurizon Network's customers. Given this, we consider that it is in the interests of access holders, access seekers and, where relevant, end users if the NBB system rules, amongst other things, provide an appropriate level of assurance and confidence to the relevant parties that they:

- are not unfairly discriminated against in the allocation of capacity
- can clearly understand their contractual access rights, determine if their contractual access rights have been delivered and have a clear understanding of how any deficit in contractual access rights will be accommodated.⁹

Other issues the QCA considers relevant

As part of the matters to which we must have regard under section 138(2) of the QCA Act, we are required by section 138(2)(h) to have regard to any other issues that we consider are relevant.

We consider the following other issues to be relevant to the proposed NBB draft system rules:

- the interests of access holders and, where relevant, end users
- the CSR and in particular where we consider it appropriate for the NBB system rules to differ from these
- relevant minimum legislated safety standards Aurizon Network is required to meet as a railway operator in Queensland.

⁹ The QCA Act provides that Aurizon Network must not engage in conduct for the purpose of preventing or hindering a user's access to the declared service under an access agreement (s.104(1) of the QCA Act).

3 PLANNING

The system rules detail how Aurizon Network will deliver the contracted capacity it has sold access holders. Train planning is part of system rules. The planning stage is when Aurizon Network allocates available capacity in the form of train paths between access holders.

3.1 Introduction

Aurizon Network produces a range of plans across various time horizons when scheduling train services. The process begins with train operators placing orders for train services. Based on the orders received, Aurizon Network allocates train paths to access holders, which are represented on train plans. Indicative train plans are refined into firmer schedules as the day of operation approaches.

It is possible two different access holders will request the same train path from Aurizon Network at ordering time. This is because some train paths may be more desirable than others. For example, one train path may have a shorter travel time and avoid waiting in passing loops while another train passes by.

It is therefore important to have a transparent train planning process, demonstrating train paths are allocated equitably and efficiently, and that Aurizon Network is delivering the capacity it has contracted.

This chapter deals with a range of issues in train planning in the NBB, including:

- how the NBB differs from Capricornia
- intermediate train plan (ITP)
- master train plan (MTP)
- possessions planning
- varying possessions planning
- transparency of system variability in capacity planning.

3.2 How the NBB differs from Capricornia

Goonyella's supply chains

The Goonyella system comprises two distinct coal supply chains operating in parallel and sharing rail infrastructure. This is because there are two coal export terminals at the Port of Hay Point, south of Mackay, which are:

- Hay Point Services Coal Terminal (HPST) — belongs to the BHP Billiton Mitsubishi Alliance (BMA) and exclusively handles coal produced from mines belonging to BMA or BHP Billiton Mitsui Coal (BMC).
- Dalrymple Bay Coal Terminal (DBCT) — a common-user facility, owned by the Queensland Government and leased to DBCT Management on a 50-year lease to operate, maintain and develop the terminal. This facility is declared for access under the QCA Act.

Both supply chains in Goonyella attempt to optimise their operations — the BMA coal chain (BMACC) via its own internal coordination, and the DBCT users via various forums, including the

Integrated Logistics Company (ILC) and more recently the Dalrymple Coal Chain Coordination (DCCC) group.

Furthermore, there is cross-system traffic on Goonyella, with coal being shipped from Goonyella mines to:

- the Port of Abbot Point to the north via the Goonyella to Abbot Point (GAP) and Newlands systems
- the Port of Gladstone via the Blackwater system to the south.

Operating modes

There are two main modes of operation in the Goonyella system:

- cargo assembly (or campaigning) — where coal is ordered from mines to assemble cargo to go on specific vessels scheduled to berth. This is a 'pull' type of supply chain management, with minimal stockpiles at the port. It is similar to a 'just in time' strategy.
- even railing (or rail to stockpile) — where coal carried by trains is used to build large stockpiles at the port. This is a 'push' type of supply chain management, where the production at the coal mines determines the type and amount of coal to be railed to the port.

We understand DBCT used to operate in pure cargo-assembly mode and is now moving towards a hybrid mode between even railing and cargo assembly. We understand HPSCT has been operating in hybrid mode for some time already.

Given their operating mode, we understand the performance of the Goonyella coal chains are more sensitive to variability and therefore require additional flexibility than the Blackwater coal chains. This is largely because the Blackwater system benefits from abundant stockpiling capacity at every coal export terminal, as set out in **Box 2**.

Box 2 Comparing stockpile to throughput ratios

The difference in stockpile capacity is illustrated by the fact that the RG Tanna terminal at Gladstone (in Blackwater) has 5.95 million tonnes of reported stockpile capacity for 70 million tonnes of annual throughput¹⁰, representing a ratio of 8.5%.

By contrast, DBCT has 2.3 million tonnes of reported stockpile capacity for 85 million tonnes of nameplate annual throughput¹¹, or a ratio of 2.7%. As for HPSCT, BMA recently expanded to 55 Mtpa¹² and is investigating further expansions in the longer term to a possible 75 Mtpa.¹³ We understand due to these expansions HPSCT will likely eventually have a lower stockpile to throughput ratio as well.

The Port of Abbot Point (in Newlands) has a stockyard capable of holding more than two million tonnes of coal¹⁴ for a nominal export capacity of 50 Mtpa, representing a 4% ratio.

¹⁰ Port of Gladstone Information Handbook 2011, p. 13-14

¹¹ DBCT Master Plan 2009, p. 3, 7

¹² Tex Energy Report, Topics on Australian Coal during January to March (3), 16 April 2015

¹³ Port of Hay Point Port Handbook, p. 2

¹⁴ Port of Abbot Point - Port Handbook - 2014, p. 3

Stockpile capacity has operational significance because it assists in mitigating variability in coal production and export ability caused by unforeseen events. Weather alone can:

- cause flooding at the mine site and/or the railway line
- prevent vessels from mooring at the terminal and/or delay vessels arriving.

In addition equipment can break down at the mine delaying planned production schedules, electrical overhead lines can suffer a dewirement preventing trains from travelling, train consists can break down delaying the assembly of cargo at the port and ship loaders can break down at the port.

Stockpiles can act as a buffer against such variability, for example:

- if the breakdown is at the mine, the terminal can load vessels from the port stockpiles
- if the breakdown is at the port shiploader, the mines can keep producing and the trains can keep hauling coal to the stockpiles at the port.

The limited stockpile to throughput ratio seen in the Goonyella coal chains means this buffer is smaller for these systems and more flexibility and coordination is likely to be required to ensure supply chain productivity.

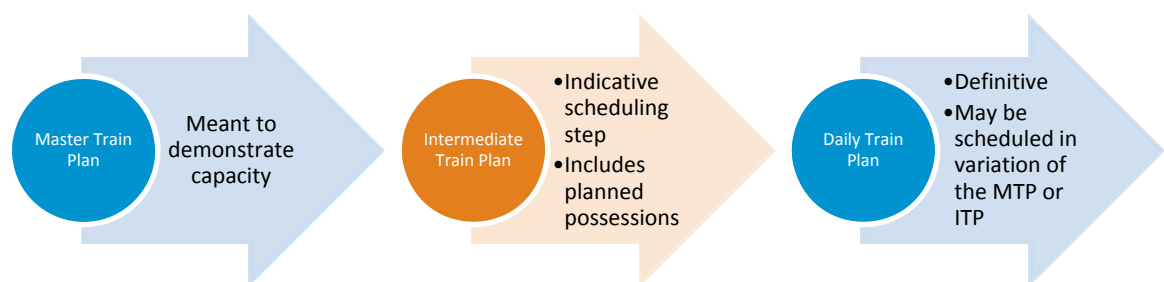
In our view the lower stockpile to throughput ratio means the scheduling of coal trains in Goonyella needs to be more adaptable. This has implications for the planning approach and the system rules required for Goonyella to that in Blackwater. In particular, the planning in Goonyella coal chains, and the NBB as a whole, should seek to maximise flexibility to the extent practically possible.

The remainder of this section considers Aurizon Network's proposals with respect to planning train schedules against this background.

3.3 Intermediate Train Plan

The ITP is defined as a sequence of intermediate scheduling steps involved in progressing from the MTP to the daily train plan (DTP)¹⁵, as shown in **Figure 3** below.

Figure 3 Train planning process



Aurizon Network schedules cyclic traffic in the ITP in accordance with the relevant system rules.¹⁶

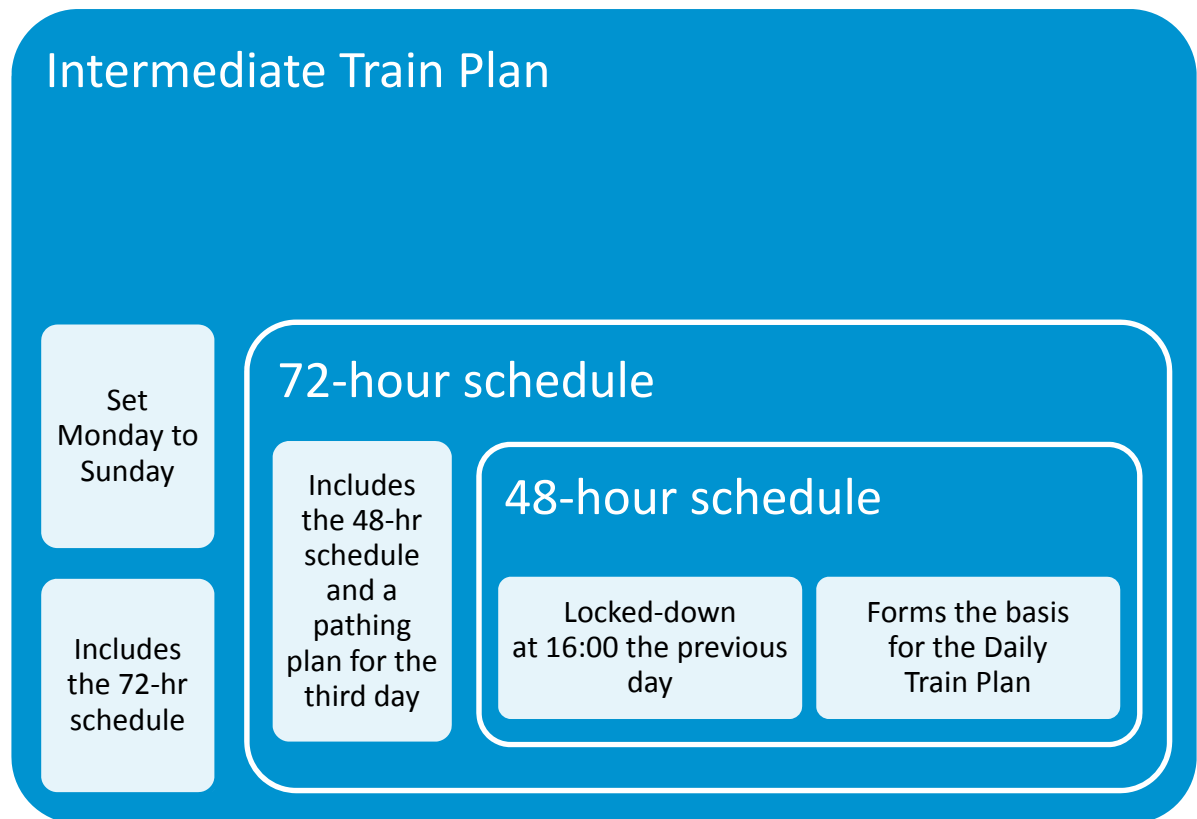
¹⁵ 2010 AU, Sch.G cl.3(a)

¹⁶ 2010 AU, Sch.G cl.3(c)

3.3.1 Aurizon Network's proposed ITP for NBB

In developing the system rules for the NBB Aurizon Network proposed a static weekly ITP, supported by a rolling 72-hour scheduling window and 48-hour lockdown period in that window.¹⁷ This is illustrated in **Figure 4** below.

Figure 4 Aurizon Network's proposed ITP



The remainder of this section is split into the:

- ITP process
- 72-hour scheduling process
- 48-hour scheduling process and DTP
- alterations process.

ITP process

Aurizon Network proposed that access holders would submit their initial train orders by 14:00 on the Tuesday for the next weekly period (Mon–Sun) (i.e. approximately five and a half days before the start of the next weekly period).¹⁸ In preparing the ITP for the next weekly period, Aurizon Network would allocate the available paths by applying the contested train path decision-making process (CTPDMP), described in **Box 3**.¹⁹

¹⁷ Aurizon Network, sub. no. 2: 18-25

¹⁸ Aurizon Network, sub. no. 2: 18

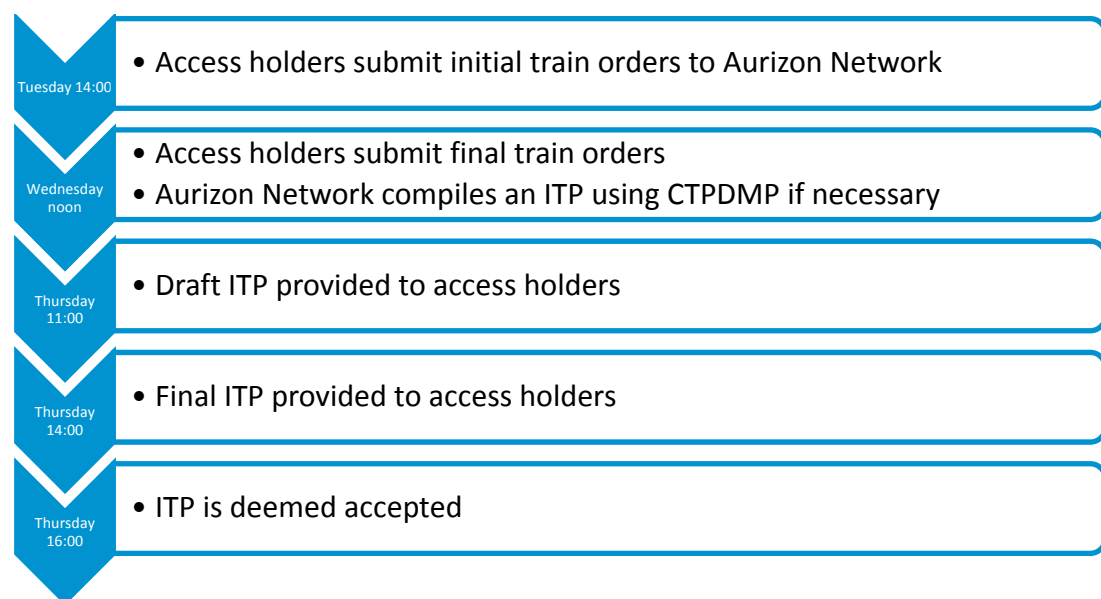
¹⁹ Aurizon Network, sub. no. 2: 20

Box 3 The contested train path decision-making process

From time to time two or more access holders may seek to run trains on the same path. The undertaking provides a set of rules to be applied in sequence for determining which of those access holders will secure that path. The process, called the contested train path decision-making process (CTPDMP)²⁰, can be applied within the network management principles, or through the system rules (see Appendix B).

Thereafter, Aurizon Network proposed that it would provide access holders with a draft ITP on the Thursday by 11:00 (i.e. the Thursday before start of the next weekly period). Access holders could then request alterations to the draft ITP. By 14:00 on the same Thursday Aurizon Network would communicate the ITP to access holders, and deem it accepted two hours later.²¹ This sequence of events is summarised in **Figure 5** below.

Figure 5 Aurizon Network's ITP Process

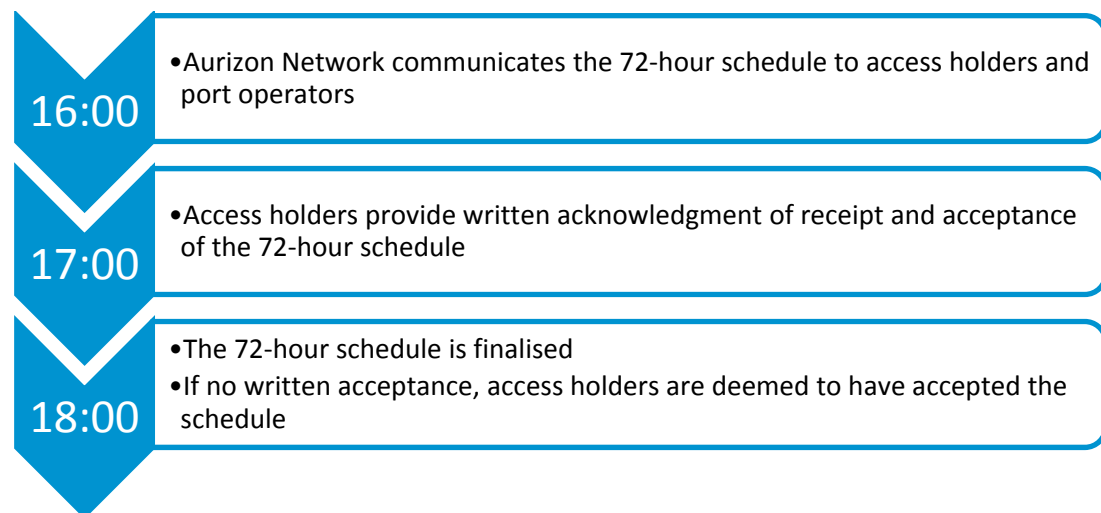


72-hour scheduling process

Once the ITP is deemed accepted, Aurizon Network would turn it into rolling schedules. The 72-hour schedule would be communicated every day as per **Figure 6**.

²⁰ 2010 AU, Sch. G, Appendix 2

²¹ Aurizon Network, sub. no. 2: 21

Figure 6 Aurizon Network's process to accept the 72-hour schedule

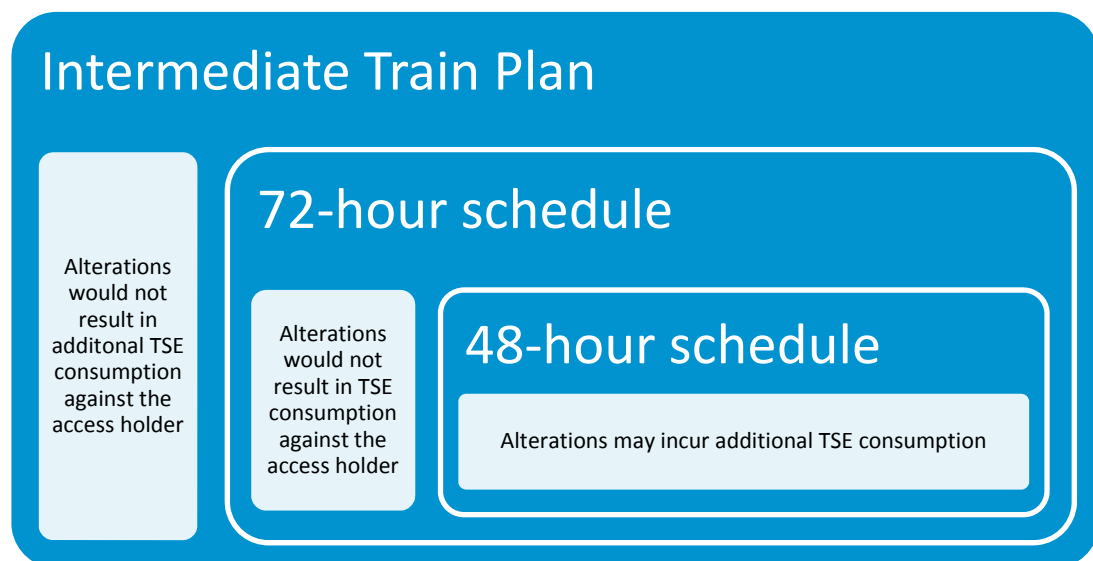
48-hour scheduling process and daily train plan

Further, at 16:00 each day, Aurizon Network would confirm and lock down the 48-hour schedule. The 48-hour schedule would become visible on Aurizon Network's scheduling system each day at midnight and would be emailed to access holders daily.

The Daily Train Plan (DTP) would be based on the 48-hour schedule and any subsequently accepted alterations to this.

Alterations process

Access holders can request alterations to the ITP at any time and Aurizon Network would consider them under the Plan Alteration Rules.²² If alterations are requested 56 hours or more prior to the day of operation (when the 48-hour schedule is prepared), they would not attract additional TSE consumption, as illustrated in **Figure 7**. Any alteration to the 48-hour schedule may incur additional TSE consumption.

Figure 7 Aurizon Network's TSE consumption for alterations to the ITP

²²See section 8.1 of Aurizon Network, sub. no. 3: 26

3.3.2 Stakeholders' comments on the ITP

Stakeholders found Aurizon Network's proposal lacked flexibility.

Glencore raised concerns with the lack of flexibility within the draft NBB system rules in general and inconsistencies between the rules and Glencore's access agreements (via its access holders).²³

In particular stakeholders commented on the role of:

- the weekly cut-off
- the contestability of train paths.

Each of these is discussed below.

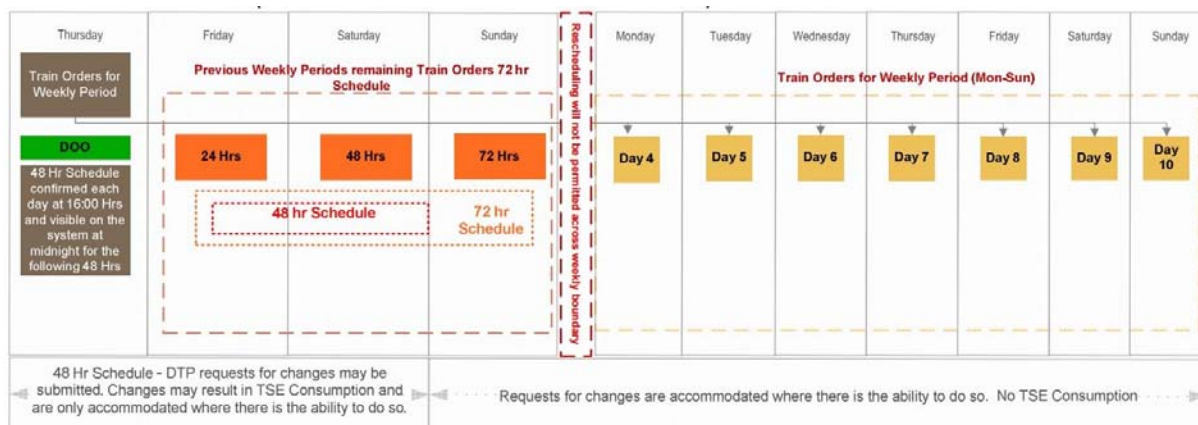
Weekly cut-off

While Peabody did not object to Aurizon Network's static seven-day ITP, it said Aurizon Network's measuring of TSE consumption against a Monday-to-Sunday ITP would be inconsistent with Aurizon Network's contracts, which stipulate monthly entitlements. For the same reason, Peabody said the 'cut-off' for TSEs on the Sunday concluding the weekly period was inappropriate. Peabody submitted that assessing coal chain performance against the Monday-to-Sunday ITP was reasonable for reporting purposes but not for contractual accountability.²⁴

In order to mitigate the contractual concerns regarding Aurizon Network's proposed weekly ITP, BMACC said Aurizon Network should apply a 'catch up' factor from week to week within each month, so access holders would have increased flexibility to use their TSEs over the month. BMACC said Aurizon Network could implement this by having a 'rolling' weekly TSE within each month.²⁵

Further, Vale did not support the static weekly planning process defined in the draft NBB system rules. Vale noted Aurizon Network had recognised the NBB has a high variation from the weekly plan and introduced the rolling 72-hour schedule to address this (see **Figure 8**). However, Vale was not convinced this approach was sufficiently flexible to account for how the NBB coal terminals operate now or with how future NBB coal terminals would operate.

Figure 8 Weekly ITP suggested by Aurizon Network in 2013



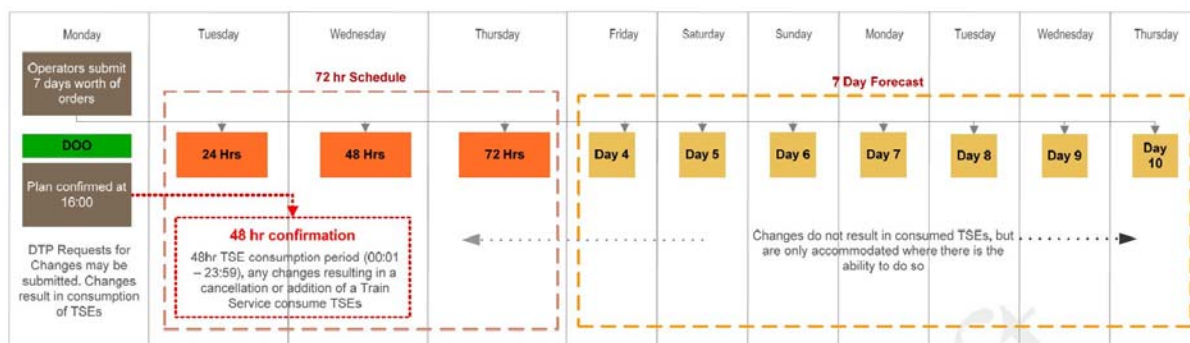
²³ Glencore, sub. no. 11: 1

²⁴ Peabody, sub. no. 7: 2-3

²⁵ BMACC, sub. no. 6: 4

Vale supported the development of a rolling plan, similar to what had appeared in earlier versions of the draft NBB system rules (see **Figure 9**). Vale noted this was consistent with the approach the Hunter Valley Coal Chain Coordinator had adopted.²⁶

Figure 9 Ten-day rolling ITP suggested by QR Network in 2012



Source: QR National, Consultation Draft, QR Network System Rules, Northern Bowen Basin Coal Systems, Version 2, 10 September 2012

Contestability of train paths

Anglo American said the system rules' seven- to ten-day scheduling process is relatively inflexible. Anglo American said that while Aurizon Network considers the weekly period's schedule to be 'indicative', it actually is the locked-down plan from which Aurizon Network considers changes to train orders.²⁷

More specifically, Anglo American said:

... once Aurizon Network allocates services in the ITP between DBCT, HPS and GAPE, any DBCT service alteration requests in the 7 day period prior to plan lockdown will effectively be quarantined within a very narrow window of pathing. Assuming GAPE and HPS can maintain a 7 day plan and therefore not require ITP service alteration requests, the window for DBCT alterations would then only be from existing DBCT services sitting within the ITP, thus institutionalising a relatively rigid 7 day planning horizon.²⁸

Anglo American said this train scheduling rigidity potentially causes an inability to maximise desired scheduled services at DBCT within the 48-hour locked-down plan.²⁹

Anglo American said accepting Aurizon Network's rigid proposal would induce degrading terminal throughputs and efficiency reductions in the Queensland coal chain. Anglo American also said it would create an inability for miners to use their contracted TSEs (or result in consuming multiple TSEs to operate a single train service).³⁰ Anglo American concluded this rigidity would culminate in access holders 'double-paying' for consumed TSEs or being excluded from ad hoc scheduling.³¹

Instead, Anglo American proposed to insert new wording to the system rules:

²⁶ Vale, sub. no. 8: 3

²⁷ Anglo American, sub. no. 10: 6

²⁸ Anglo American, sub. no. 3: 5

²⁹ Anglo American, sub. no. 3: 5

³⁰ Anglo American, sub. no. 3: 5

³¹ Anglo American, sub. no. 3: 1

... all services in the ITP for all Access Holders can (and will) be altered as required to facilitate requested changes so that the 48 hour locked down plan as closely as possible reflects the final orders of all Access Holders (inclusive of changes) in the lead up to that 48 hour period.³²

Peabody also suggested reviewing the use of ad hoc services³³ to a hierarchical scheduling basis in a constrained or fully contracted network, to ensure additional revenue services are not sold above existing contracted levels.^{34 35}

3.3.3 QCA analysis of the ITP

The aim of system rules is to provide customised rules to specific systems. In the case of the NBB, we consider the ITP needs to be more flexible than in Capricornia. Our analysis underpinning this is split into the following sections:

- flexibility, contracts and throughput
- purpose of the ITP
- static vs. rolling ITP
- ITP length
- 48- and 72-hour schedules
- contestability of train paths.

Flexibility, contracts and throughput

We consider there has to be a balance between:

- ensuring Aurizon Network meets its contractual requirements by delivering each access holder's monthly TSEs
- allowing access holders flexibility in train ordering, alterations and TSE management
- maximising the throughput of the supply chains.

Access holders have signed access agreements with Aurizon Network which entitle them to a monthly TSE. Our understanding is that in proposing to use the indicative weekly TSE, Aurizon Network is seeking to even out the delivery of its contractual obligations throughout the month, to avoid the extreme scenario where all access holders order all their paths at the end of the

³² Anglo American, sub. no. 3:5

³³ Ad hoc train service is defined in the 2010 AU as 'any Train Service:

(i) additional to the number of Train Services permitted under an existing Access Agreement, but otherwise consistent with the Train Service Entitlement and Rollingstock and Rollingstock Configuration authorised pursuant to that existing Access Agreement; or

(ii) varying from the Train Service Entitlement specified in an existing Access Agreement, but agreed to by QR Network.

³⁴ Peabody, sub. no.7: 3

³⁵ We note there appears to be confusion among stakeholders regarding the treatment of revenues associated with ad hoc services. The revenues generated by ad hoc train services are included when calculating Aurizon Network's actual system revenues against its system allowable revenues each year. They therefore do not constitute an "additional revenue service". We note they contribute to meeting the system test for triggering take-or-pay.

month.³⁶ However, we consider this risk is mitigated by other constraints in the supply chain, namely, the limited number of train sets and port slots.

We also accept stakeholders' point that the Sunday night 'cut-off' in scheduling and indicative weekly TSEs could have the effect of eroding access holders' TSEs, forcing them to schedule ad hoc services, which have a lower scheduling priority in the event of a contest.³⁷

Given the hybrid operating modes of the ports and low stockpile-to-throughput ratios in the NBB, we accept that stakeholders require more flexibility to alter train service orders than proposed by Aurizon Network in the draft NBB system rules. We consider this additional flexibility, combined with the delivery of monthly TSEs, assists in maximising throughput in the NBB supply chains. This is because trying to reschedule some paths within an existing rigid set plan may not lead to the optimal solution given the conditions prevailing at the time. By contrast keeping the plan indicative for longer will allow for a more optimal plan to be developed closer to the day of operations.

We consider this additional flexibility to be consistent with promoting the efficient operation and use of the rail infrastructure (s. 138(2)(a)) and in the interests of access seekers and access holders, as well as in the public interest (s. 138(2)(d), (e) and (h)). We consider this is not in conflict with Aurizon Network's legitimate business interest (s. 138(2)(b)), because it does not affect Aurizon Network's ability to recover efficient costs and a regulated rate of return; rather, it will allow Aurizon Network to deliver its customers the capacity they have contracted.

Against this background, there are two amendments to Aurizon Network's proposal in relation to the ITP which we consider will increase flexibility in the NBB whilst maintaining the 72- and 48-hour schedules proposed by Aurizon Network. These comprise:

- implementing a rolling ITP
- keeping train paths 'contestable' until the 48-hour schedule is locked down.

In coming to this conclusion we have considered the following questions:

- What is the purpose of the ITP?
- Should a static or rolling ITP be adopted?
- What length of time should the ITP cover?
- What role should the 72- and 48-hour schedule play?
- What role should the contested train path decision-making process play?

Each of these is considered below.

³⁶ We understand contractual entitlements for capacity through DBCT are yearly and there is therefore a mismatch with Aurizon Network's monthly TSE, allowing a DBCT user to use up all their contracted annual capacity at DBCT within a shorter period than one year. We acknowledge this issue and intend to consider it in our assessment of DBCT's next draft access undertaking.

³⁷ Example: An access holder wants to reschedule a Sunday service to the Monday, which is in the next weekly period. While the Sunday service was within the access holder's MTP TSE allocation for the weekly period, the Monday service may have to be scheduled as ad hoc if the access holder had already ordered all their MTP TSE allocation for the following week as part of the ITP process. This may occur despite the access holder being behind in their monthly TSE consumption.

Purpose of the ITP

We are of the view that the ITP provides valuable information to access holders, end users and port operators on the train services that are planned to run and the remaining capacity that is available. While track maintenance information is shared by Aurizon Network via other means (Critical Asset Constraint Summary (CACS) and Critical Asset Alignment Calendar (CAAC)), the ITP shows what specific paths remain available after maintenance and access holders' orders for those given days.

We consider these preliminary positions appropriately balance the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Static vs. rolling

With a static weekly ITP, Aurizon Network would not be obliged to accommodate requests to reschedule services from one week to the next, as set out in Figure 8.

For example, if an access holder requests Aurizon Network to reschedule:

- a 14:00 train service (within its MTP TSE allocation for week 1) departing on Friday of week 1; to
- a 14:00 train service departing on Monday of week 2, having already ordered all their MTP TSE allocation for week 2,

the draft NBB rules deem the revised order to be an 'additionally requested' order for week 2. This has a lower priority than an order within a MTP TSE allocation and the access holder cannot carry over any unused MTP TSE allocation from week 1.

Alternatively, Aurizon Network may treat the access holder's request as a cancellation in week 1 because a train service is being rescheduled from one weekly period to the next and this may incur additional TSE consumption.³⁸

A consequence of this is the static weekly ITP and associated TSE-consumption rules may not be promoting the economically efficient operation and use of the rail infrastructure and coal supply chain (s.138(2)(a)). This is because they do not appear to accommodate the characteristics of the NBB supply chains well or provide sufficient flexibility. These outcomes may also undermine access holders' rights and be inconsistent with the SAAs and the 2010 AU, which provide for a monthly TSE, rather than a weekly TSE (2010 AU cl. 5.1 (e)(i) and 7.1(d)).

In our view, an option which addresses the specificities of the NBB and particularly of the Goonyella supply chains was proposed by Aurizon Network in a consultation draft of the NBB system rules prepared in September 2012, but not formally submitted to the QCA. This proposed the implementation of a rolling ITP, supported by the 72- and 48-hour schedules.

We consider the rolling ITP overcomes the Sunday 'cut-off' for TSE consumption. This approach removes an access holder's risk of incurring additional TSE consumption where the access holder has requested train services scheduled at the end of a week be moved to the following week. This is consistent with the monthly TSEs contracted under the SAAs (2010 AU, cl. 5.2(e)(i) and 7.1(d)).

Under this arrangement there are no indicative weekly TSEs or MTP TSE allocations for the weekly period, as access holders would just submit orders on a rolling basis. When orders are in

³⁸ Aurizon Network, sub. no. 2: 29

conflict, paths will be allocated in accordance with the CTPDMP using month-to-date TSE consumption.³⁹

In our view, this has the effect of:

- providing greater train-ordering flexibility to access holders, as it eliminates the requirement of having to nominate an 'MTP TSE allocation'⁴⁰ and 'additional train orders' for the weekly period services when submitting ITP orders
- allowing access holders to submit any number of train orders, and Aurizon Network to use its CTPDMP to resolve contested train paths.

We consider these benefits are consistent with promoting the efficient operation, and use of the rail infrastructure (s.138(2)(a)). This is because the rolling ITP accommodates the characteristics of the NBB better than the static weekly ITP, by increasing flexibility. In addition, the removal of the Sunday night cut-off can remove artificial pressure to 'squeeze train orders' into the weekly period, when the optimal solution might be to spread them over more than one week. Overall, increasing the responsiveness of the rail network to the needs of the supply chain may improve the competitiveness of the NBB supply chains in the world coal markets. In our view this also aligns with the public interest (s.138(2)(d)).

Further, the additional flexibility from the rolling ITP will be in the interest of access seekers and holders (s. 138(2)(e) and (h)) as it will enable them to make full use of their rail access rights and reduce the likelihood of consuming multiple TSEs for a single service.

Aurizon Network's formal submission was different from their September 2012 consultation paper. Aurizon Network chose to formally submit system rules which, based on our understanding developed through discussions with Aurizon Network and stakeholders, align with existing practice. This is despite the fact the characteristics of the September 2012 proposal appear to be more conducive to meeting the object of the third-party access regime, the public interest and the interests of access seekers and access holders (s.138(2)(a), (d), (e) and (h)). To the best of our knowledge, we are not aware of any legitimate reason why the September 2012 proposal cannot be implemented. Therefore, we consider the rolling ITP does not conflict with Aurizon Network's legitimate business interest (s.138(2)(b)), as it will not affect Aurizon Network's ability to recover efficient costs and a regulated rate of return; rather, we consider it will allow Aurizon Network to best deliver the capacity access holders have contracted.

³⁹ We note cl. c(i) of the CTPDMP (Appendix 2, Sch. G) stipulates Aurizon Network will prioritise allocation based on 'any requirement for giving priority to certain train services or certain unloading facilities identified within the system rules'.

⁴⁰ In its proposal Aurizon Network is using an indicative weekly TSE for the development of the master train plan (MTP) (Aurizon Network, sub. no. 2: 17). The MTP TSE allocation for the weekly period is used by Aurizon Network to determine what constitutes 'additional train orders'. Additional train orders are consistent with an access holder's TSEs but above the MTP TSE allocation for the weekly period (Aurizon Network, sub. no. 2: 18).

Preliminary position

- 3.1 After considering Aurizon Network's proposed nature of the ITP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.2 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules, is to:**
 - (a) provide for a rolling ITP, supported by the 72-hour schedule and locked-down 48-hour schedule**
 - (b) remove mention of 'indicative weekly TSEs' and 'MTP Allocation for the Weekly Period', and replace them with 'monthly TSEs' where appropriate.**
- 3.3 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

ITP length

We have no set view on what would be the appropriate length of a rolling ITP in the NBB. Given this, our preliminary position is to suggest a rolling 10-day ITP, consistent with Aurizon Network's consultation draft of September 2012. We would welcome stakeholders' comments on whether they consider this an appropriate length of an ITP for the NBB—and if not, what they would consider an appropriate length for an ITP for the NBB and their reasons.

Preliminary position

- 3.4 After considering Aurizon Network's proposed length of the ITP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.5 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules, is to provide for a 10-day rolling ITP.**
- 3.6 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

48- and 72-hour schedules

We note stakeholders support the 48- and 72-hour schedules, which we consider will complement the rolling ITP by firming up what the schedule will be on the day of operations as the date gets closer. We consider their rolling nature to be consistent with our preliminary position on the rolling nature of the ITP.

We consider the 48- and 72-hour schedules as part of the intermediate planning process promote to the economically efficient operation and use of the regulated infrastructure (s. 138(2)(a)), because they reflect the variable nature of operations in the NBB and provide timely information to supply chain participants as the day of operations approaches.

We consider this preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (s. 138(2)(b), (e) and (h)).

Preliminary position

- 3.7 After considering Aurizon Network's proposed use of the rolling 48- and 72-hour schedules within the ITP, our preliminary position is that we would approve Aurizon Network's proposal.**
- 3.8 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

Contestability of train paths

We understand the weekly ITP proposed by Aurizon Network reflects the ITP format already in use in the NBB. This is supplemented by an electronic version in the Network Operation Pathing Planner (NOPP). The ITP as presented in the NOPP allocates specific train paths early in the planning process, with a set time slot. A practical implication of this is that any contested train paths are subject to the CTDMP when the ITP is being developed.

Aurizon Network's draft NBB system rules formalise this process. Specifically Aurizon Network proposes to run the CTPDMP when developing the ITP.⁴¹ This will occur after receiving final train orders and before providing the draft ITP to access holders.⁴² This happens on the Wednesday preceding the weekly period. Given this, for Sunday train orders the CTPDMP happens 11 days prior to day of operation.⁴³

Further, once the ITP is accepted, Aurizon Network's draft NBB system rules propose the paths allocated to access holders are no longer contestable and access holders can only alter their paths or order additional paths from the paths which have not yet been allocated or from their own pool of paths.

In our view, this constrains the possibilities available to an access holder when ordering additional paths or making alterations before the 48-hour schedule is locked down. We consider this reduces the flexibility to access holders, in a manner which may not be beneficial to the NBB systems. This is because the NBB needs as much flexibility as possible in order to offset operational characteristics, such as low stockpile-to-throughput ratio and hybrid operating mode. Overall, this may result in the final 48-hour schedule not being optimal from a coal supply chain perspective.

We consider a solution to this issue would be to keep all allocated paths fully contestable in the ITP for as long as possible. This can be done by changing the time at which the contested train path decision-making process is applied. The CTPDMP is outlined in Box 3 and the use of the CTDMP is described in **Box 4** below.

⁴¹ Aurizon Network, sub. no. 2: 19-20

⁴² Aurizon Network, sub. no. 2: 22, figure 7

⁴³ Eleven days including the Wednesday orders are submitted but excluding the Sunday as the day of operations.

Box 4 The use of the CTPDMP

The 2010 AU states the CTPDMP may be used in the process of scheduling the ITP⁴⁴, however, we note it does not prevent the CTPDMP being run at a different step of the process, as part of the system rules.

Indeed, the undertaking states Aurizon Network will schedule the ITP in accordance with the processes identified in system rules, where they exist.⁴⁵

We are of the view the CTPDMP should apply when preparing the 48-hour schedule. This leaves paths fully 'contestable' and 'indicative' until the schedule is locked down. We consider Aurizon Network can still prepare the ITP, identifying the paths which are 'under contest', until the CTPDMP is run.

We consider the added flexibility will promote the economically efficient operation of, use of and investment in, the network, with the effect of promoting effective competition (s. 138(2)(a)) by enabling each NBB port using hybrid operating mode to maximise its coal throughput. This is because application of the CTPDMP when preparing the 48-hour schedule takes greater account of port dynamics.

Confirmation of vessel arrival at port and cargo availability for these vessels occurs a few days prior to the day of operation. Locking in train paths up to 11 days before the day of operation does not appear to align well with the use of other supply chain resources. For instance, if based on events at the port the optimal 48-hour schedule is for Operator X to have a particular 14:00 path on a Sunday, but this was allocated to Operator Y some 11 days ago and is not contestable, this may result in a suboptimal 48-hour schedule, as well as suboptimal use of existing coal supply chain infrastructure.

We are also of the view added flexibility is in the interests of access seekers and holders (s. 138(2)(e) and (h)), and will protect their access rights, consistent with the 2010 AU and SAAs (cl. 5.2(e)(i) and 7.1(d)). Indeed, keeping paths contestable until the 48-hour schedule is locked down will enable access holders to order optimal paths to fit their needs and those of the coal supply chain, possibly avoiding delays and reducing demurrage costs. Access seekers will benefit when contracting for access knowing what level of flexibility they will enjoy in the NBB.

Further, we consider keeping paths contestable until the 48-hour schedule is locked down does not conflict with Aurizon Network legitimate business interest (s. 138(2)(b)). This is because Aurizon Network has sold the capacity to the access holders and as long as the capacity is used and Aurizon Network can recover its allowable revenue, Aurizon Network should be indifferent to whom gets what path in the end.

Further, we are also of the view that the provision of as much flexibility as possible to access holders supports Aurizon Network in providing the best service possible to its customers.

⁴⁴ 2010 AU, Sch.G cl.3(c)

⁴⁵ 2010 AU, Sch. G, cl. 3(c)

Preliminary position

- 3.9 After considering Aurizon Network's proposal in respect of when the contested train path decision-making process (CTPDMP) would apply, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.10 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules, is for the CTPDMP to apply when the 48-hour schedule is being prepared.**
- 3.11 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

3.4 Other ITP-related issues

Stakeholders raised three other issues about the ITP:

- the use of plan alteration rules to manage changes to the ITP
- the timing of when train orders become contracted orders
- the party that should bear the risk of varying the ITP.

Because these three issues tie into the discussion on the ITP, we grouped them together for consideration.

3.4.1 Plan alteration rules

Aurizon Network proposal

Aurizon Network proposed to use the plan alteration rules to manage requests to alter the ITP once accepted.⁴⁶ It described the alteration rules as 'a set of rules which govern requested schedule alterations for the DTP as established in clause 4(d) of Schedule G of the Access Undertaking'.⁴⁷

The plan alteration rules' criteria include the need for the alternative path to:

- be aligned with an available port slot
- not result in any other access holder's scheduled train services not being met, and not impact on Aurizon Network's ability to provide TSEs under existing access agreements, and
- be accommodated within the current DTP.⁴⁸

Stakeholders' comments

Anglo American had concerns with the scheduling process outlined in section 6 of the system rules⁴⁹, which refer to the plan alteration rules (at section 8.1 of the draft NBB system rules). Anglo American was concerned Aurizon Network had to agree all alterations to train services in the ITP (as described in section 6.1 of the draft NBB system rules).⁵⁰

Anglo American said using those rules to manage ITP amendments would amount to the train orders for each weekly period being locked down. It said this is inappropriate as it does not

⁴⁶ Aurizon Network, sub. no. 2: 21

⁴⁷ Aurizon Network, sub. no. 2: 26

⁴⁸ Aurizon Network, sub. no. 2: 26

⁴⁹ Anglo American, sub. no. 3: 4

⁵⁰ Anglo American, sub. no. 3: 4

provide flexibility to DBCT users, who value the 72/48 hour flexibility for their train services so they can manage DBCT's cargo-assembly operations.⁵¹

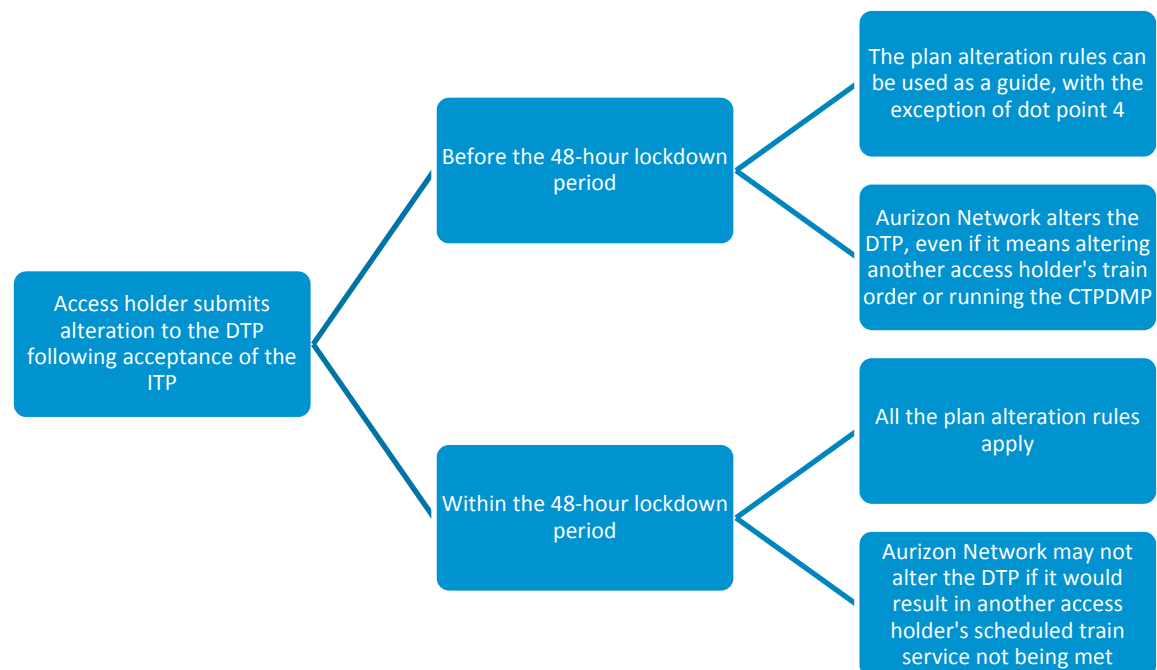
QCA analysis and preliminary position

We consider Aurizon Network's proposed application of the plan alteration rules to the ITP would be inconsistent with our preliminary position train paths in the ITP should remain contestable until the 48-hour schedule is locked down.

Rather, we consider the plan alteration rules should only apply within the 48-hour lockdown period.

Prior to the lockdown period, we suggest Aurizon Network could use the plan alteration rules as a guide, with the exception of dot point 4.⁵² This is illustrated in **Figure 10**.

Figure 10 QCA preliminary position on application of plan alteration rules



Similar to our findings with regards to the contestability of train paths, we find Aurizon Network's proposal to apply the plan alteration rules to the ITP:

- does not promote the economically efficient operation and use of the network (s. 138(2)(a))
- is not in the interest of access seekers and holders (s. 138(2)(e) and (h))
- undermines access holders' rights (2010 AU cl.5.2(e)(i)),

for the same reasons we explained in Section 3.3.1.

⁵¹ Anglo American, sub. no. 3: 4-5

⁵² For reference, dot point 4 reads:

For each submitted DTP Change Request Form, Aurizon Network will alter the DTP where the requested alteration:

(i) does not result in any other Access Holder's scheduled Train Services not being met;
(ii) can be accommodated within the current DTP; and
(iii) does not impact on Aurizon Network's ability to provide TSEs in accordance with Aurizon Network's obligations under existing Access Agreements. (Aurizon Network, sub. no. 2: 26)

We consider this decision does not conflict with Aurizon Network's legitimate business interest (s.138(2)(b)), as it will not affect its ability to recover its allowable revenue.

Preliminary position

- 3.12 After considering Aurizon Network's proposal in respect of how Plan Alteration Rules apply to the ITP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.13 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules, is to provide for:**
- (a) the ITP being altered without restriction until the 48-hour schedule is locked down**
 - (b) Section 6.1, item 1 reflecting the contestability of train paths outside the lockdown period**
- 3.14 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

3.4.2 When orders become contracted orders

Aurizon Network proposal

Aurizon Network proposed to treat all train orders received for cyclic traffic, up to the MTP TSE allocation for the weekly period, of the access holder, as contracted TSE orders.⁵³

However, Aurizon Network's proposed definition of TSE consumption, as per the definitions and interpretation of the draft NBB system rules, was:

For an Access Holder's Train Services scheduled in the 48 Hour Schedule, the Train Path scheduled in the 48 Hour Schedule for those Train Services plus any additional Train Paths (referred to as additional TSE Consumption) taken to be consumed as determined by applying the principles set out in section 10.1.1⁵⁴

Stakeholders' comments

Asciano said Aurizon Network should not treat the consumption of paths as happening at the train ordering stage of the scheduling process and the wording should be clarified.⁵⁵

Asciano explained basing TSE consumption on weekly train orders could result in TSEs being consumed for train services not actually run. Asciano said the Sunday night cut-off was compounding this issue.⁵⁶ Asciano was concerned:

- Aurizon Network considers its obligation is the lower of ordered paths or contracted paths⁵⁷

⁵³ Aurizon Network, sub. no. 2: 19

⁵⁴ Aurizon Network, sub. no. 2: 5

⁵⁵ Asciano, sub. no. 5: 10

⁵⁶ Asciano, sub. no. 5: 6

⁵⁷ E.g. if the access holder orders more than their indicative weekly TSE, Aurizon Network is only obliged to allocate the access holder their indicative weekly TSE, even if on a month-to-date basis the access holder is running behind on TSE consumption. The access holder could be running behind on TSE consumption for various reasons, including Aurizon Network cause, but delays in cause allocation mean this information may not be known at the time of ordering (see section 6.2). Also, we understand current TSE consumption reporting practices mean access holders often do not know their position until the end of the month (see discussion on TSE reporting in section 3.5.5).

- other users can over-order with no offset to the take-or-pay liability to the under-ordering party⁵⁸
- Aurizon Network will not be contractually required to deliver all the paths the access holder has effectively purchased through take-or-pay arrangements.

QCA analysis and preliminary position

We consider our preliminary position to implement a rolling ITP removes the requirement for Aurizon Network's proposal to identify whether weekly train orders up to the access holder's MTP TSE allocation for the weekly period are treated as 'contracted', because there will be no 'MTP TSE allocation for the weekly period'.

Rather, we consider TSE consumption for train orders should not happen until the 48-hour schedule is locked down, as per the definition of TSE consumption in the Definitions and Interpretation section of the draft NBB system rules.

We consider clarifying the timing of when orders are deemed contracted contributes to protecting access holders rights, which is consistent with the 2010 access undertaking and SAAs (2010 AU cl.5.2(e)(i)).

We also consider these preliminary positions appropriately balance the legitimate business interests of Aurizon Network with the interests of access holders and seekers (s. 138(2)(b), (e) and (h)).

Preliminary position

3.15 After considering Aurizon Network's proposal in respect of all train orders received for cyclic traffic up to the MTP TSE allocation for the weekly period of the access holder being treated as contracted TSE orders, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

3.16 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules, is to clarify TSE consumption does not happen until the 48-hour schedule is locked down.

3.17 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

3.4.3 Variation risk

Aurizon Network proposal

Aurizon Network proposed the access holders may submit a monthly TSE forecast (for information purpose) indicating weekly variations that may involve over and under railing. In this context, Aurizon Network proposed the access holder should bear the risks of variances from the ITP's contractual entitlements.⁵⁹

Stakeholders' comments

Asciano said the risk should sit with the party best placed to manage it. If the risk arises from access holder variations then the risk should sit with the access holder, but if the risk is due to

⁵⁸ In their submission on Aurizon Network's short-term transfer mechanism, Asciano proposed a further enhancement to Schedule G would be to formally transfer the take-or-pay obligations associated with a scheduling transfer to align scheduling and contractual arrangements. (Asciano 2015: 6)

⁵⁹ Aurizon Network, sub. no. 2: 17

variations arising from an Aurizon Network issue, then the risk should sit with Aurizon Network.⁶⁰

Peabody said the risk of schedule non-performance should be attributed to the party responsible, so that Aurizon Network is responsible if network unavailability causes loss to access holders or coal producers.⁶¹

QCA analysis and preliminary position

Aurizon Network's proposal appears to imply access holders are contractually responsible for the risk of variations from their MTP TSE allocation for the weekly period in the ITP, even where Aurizon Network (or another party) causes the variation (for example, if due to maintenance possessions, there were not enough paths available in the weekly period for all access holders to order their MTP TSE allocation for the weekly period).

Aurizon Network's proposal raises three questions:

- (1) Should the system rules impose commercial penalties?
- (2) To what extent should access holders be able to vary their weekly orders within the month?
- (3) How should the risks of non-performance be allocated between supply chain proponents?

Commercial penalties

The purpose of system rules is to specify in greater detail the way in which Aurizon Network will plan, schedule and control the operations of train services in the coal systems (2010 AU, Sch. G, App 1, cl.(a)).

We do not think imposing commercial penalties is within the scope of system rules as contemplated in the 2010 AU.

Weekly variation in train orders

Given the monthly nature of contractual rights and our conclusion the ITP for the NBB should be rolling, we consider the access holders to be within their rights to vary their weekly orders within the month.

This preliminary position is consistent with the 2010 AU and the SAAs (2010 AU, cl.5.5(e)(i) and 7.1(d)). We also consider Aurizon Network's proposal could undermine access holders' rights (2010 AU cl.5.2(e)(i) and s.138(2)(h)), as their TSEs are monthly.

Risk allocation

We note there already is a process in place to attribute cause of delay and cancellation of train services from the DTP. However, we understand Aurizon Network's drafting to be relating to access holders ordering more or less than their indicative weekly TSEs, rather than referring to non-performance against the ITP.

We agree with stakeholders in principle: the risks of non-performance should sit with the party responsible for the variation. Therefore, if the network is unavailable in a month for a reason attributable to Aurizon Network, access holders should not be liable for having not ordered all of their TSEs in that month.

⁶⁰ Asciano, sub. no. 5: 9

⁶¹ Peabody, sub. no. 7: 3

However, as explained above, we consider that imposing commercial penalties is beyond the scope of system rules. For this reason, we consider Aurizon Network's proposal to be inconsistent with the 2010 AU and the SAAs (2010 AU, cl.5.5(e)(i) and 7.1(d)).

Preliminary position

3.18 After considering Aurizon Network's proposal in respect of the access holder bearing the risks of varying from contractual entitlements in the ITP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

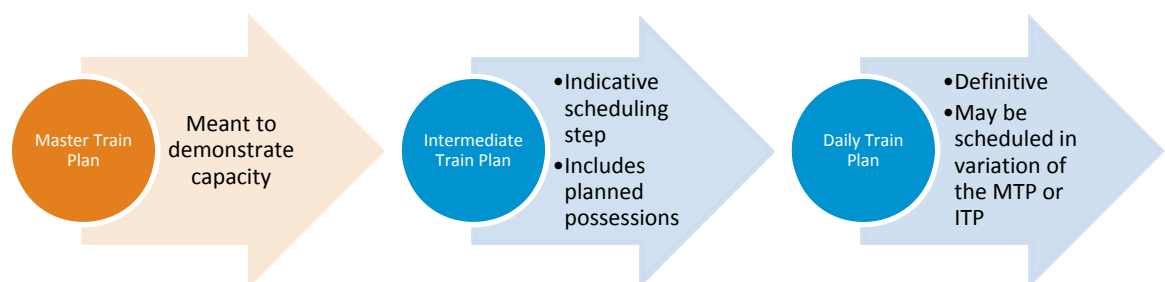
3.19 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules, is to delete 'and the risk of varying from contractual entitlements shall sit with the access holder' from section 4.4.2 of the draft NBB system rules.

3.20 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

3.5 Master Train Plan

The MTP has an overarching role in the train planning process, as shown in Figure 11.

Figure 11 The MTP in the train planning process



3.5.1 Aurizon Network's proposed Master Train Plan

Aurizon Network proposed its MTP would be prepared consistent with the 2010 access undertaking's network management principles. It said its MTP would:

- be in train-diagram form
- cover a two-year period
- take account of timetabled traffic, known possessions and cyclic traffic.

Aurizon Network did not propose to publish the MTP, rather, it proposed to publish the CAAC and four-week pathing availability plans.⁶²

3.5.2 Stakeholders' comments on the MTP

In general, stakeholders said the MTP should provide a level of information so they have confidence they will receive their contracted TSEs, as set out in Table 2.

⁶² Aurizon Network, sub. no. 2: 15.

Table 2 Stakeholders' comments on the MTP

<i>Stakeholder</i>	<i>Comments</i>
Asciano	<p>The MTP should:</p> <ul style="list-style-type: none"> • identify the redundancy built into the network and ability of the network to address maintenance and day-of-operation variability, so Aurizon Network can demonstrate it can provide access holders' TSEs • identify the days per year TSEs will not be met • demonstrate there are system paths, and outline which of those were contracted or available.⁶³
Peabody	<p>Aurizon Network's proposed TSE-delivery process is not sufficiently open to demonstrate contracted entitlement availability over annual and monthly periods. A more open process would empower users to align their maintenance with other supply chain members.</p> <p>The rules do not sufficiently account for cross-system traffic. There is insufficient visibility for users on how Aurizon Network manages capacity to meet each supply chain's contractual requirements.</p> <p>Peabody considered the NBB supply chains require Aurizon Network to transparently demonstrate available capacity and surge capacity to recover lost capacity.⁶⁴</p>
Vale	<p>Vale said the MTP should cover the entire NBB coal chain and include the allocation of all traffic on the Goonyella system, including the GAPE system and any cross-system traffic to Blackwater. Vale said this would show Aurizon Network can deliver access holders' TSEs for all systems.⁶⁵</p>

3.5.3 Indec's recommendations on the MTP

Indec made a number of recommendations with respect to:

- MTP content
- reporting on the MTP
- transparency of the MTP.

MTP content

Indec said Aurizon Network's proposed MTP process does not identify all system traffic, including cross-system traffic. Indec noted this was a known deficiency, in the views of the QCA and stakeholders.⁶⁶

To address this, Indec said the MTP should detail all path allocations in a form that indicates the time/distance (location) relationship of the train services and other activities (i.e. planned possessions) on the rail infrastructure.⁶⁷

Indec recommended Aurizon Network demonstrate, through the issue of an MTP, the:

- level of practical capacity available on the network, with consideration of the applicable 'K factor' (which is the ratio of practical to theoretical capacity) for the network and other capacity restrictions
- allocated capacity versus practical capacity.⁶⁸

⁶³ Asciano, sub. no. 5: 7

⁶⁴ Peabody, sub. no. 7: 1-3

⁶⁵ Vale, sub. no. 8: 2

⁶⁶ Indec: 25

⁶⁷ Indec: 19

Reporting on the MTP

Indec said:

... [a] key requirement for a transparent, equitable and efficient operation of the NBB coal supply chains is that the MTP is kept up to date and that stakeholders are consulted when changes of significance to the MTP are identified.⁶⁹

To implement this, Indec said Aurizon Network should provide an annual report to affected parties⁷⁰ of the changes in the MTP that cover the:

- causes of the MTP changes
- impact on past NBB capacity detailed on a monthly basis
- forward impact on NBB capacity for the next 12 months detailed on a monthly basis.⁷¹

Transparency of the MTP

Indec said Aurizon Network should supply the MTP (including all associated train graphs) to affected:

- access holders, access seekers and their customers
- infrastructure providers (port operators, adjoining network managers)
- infrastructure service providers,
- train operators.⁷²

3.5.4 Responses to Indec's report

Aurizon Network and Anglo American made a number of comments on Indec's recommendations with respect to:

- MTP length and format
- MTP content
- transparency of the MTP.

MTP length and format

Aurizon Network opposed several aspects of Indec's recommendations based on its view of the underlying nature of the MTP, as well as the practical implementation and consistency of the recommendations.

Aurizon Network noted the underlying nature of the MTP is theoretical and that its sole purpose is to show contracted tonnages can be delivered.

From a practicality point of view, Aurizon Network said producing MTPs covering 12 months of network activities in train-graph form would require additional:

- employees be hired or existing resources be diverted to that task

⁶⁸ Indec: 26

⁶⁹ Indec: 34

⁷⁰ Indec defined affected parties as affected: access holders, access seekers and their customers, infrastructure providers (port operators, adjoining network managers), infrastructure service providers, and railway operators.

⁷¹ Indec: 35

⁷² Indec: 19

- IT system capabilities and storage capacity.

With respect to consistency, Aurizon Network submitted the CSR only require Aurizon Network to provide an MTP on a rolling one-month basis. However, Aurizon Network indicated it would be willing to present Indec's recommendation in tabular (not train-graph) form.⁷³

MTP content

Aurizon Network said Indec's recommendation of having cross-system train services in the MTP was inconsistent with the CSR's MTP requirements. It said cross-system train services are better captured by the ITP.⁷⁴

Anglo American said the MTP should set out theoretical, practical and allocated capacity on a forward-looking basis (i.e. for the future month) and be adjusted regularly.⁷⁵

Transparency of the MTP

Aurizon Network supported Indec's recommendations of making the MTP more transparent, but only where providing that information complies with Part 3 of the 2010 access undertaking on ring fencing arrangements and does not commercially disadvantage the Aurizon group.⁷⁶

Anglo American said the MTP should be transparent and available not only to access holders and seekers, but also their customers. It said Aurizon Network should include MTP assumptions in its Network Development Plan. Anglo American concluded doing this would '... not only facilitate higher system throughput and better system utilisation, but it is critical to determine the ability and risks in planning and scheduling railings'.⁷⁷

3.5.5 QCA analysis of the MTP

Submissions from Aurizon Network and stakeholders suggest there are conflicting perceptions on the precise nature of the MTP, what it should achieve and the information it should include. This is possibly compounded by the fact Aurizon Network has not produced or distributed an MTP since it split from the government-owned entity in 2010.

In our view the differences seem to be around:

- whether the MTP is theoretical or practical — whether the MTP is produced for one sample month or updated each month with the latest maintenance planning information
- whether the MTP acts as a template/basis for the ITP and DTP or not
 - whether paths are allocated to access holders in the MTP or whether it simply identifies system paths available to cyclic traffic
 - whether trains should be expected to run according to the MTP or not
 - to what extent the ITP should vary from the MTP
- the duration the MTP covers
- whether the MTP is presented as a train graph or a time table

⁷³ Aurizon Network, sub. no. 9: 4

⁷⁴ Aurizon Network, sub. no. 9: 4

⁷⁵ Anglo American, sub. no. 10: 5

⁷⁶ Aurizon Network, sub. no. 9: 4

⁷⁷ Anglo American, sub. no. 10: 5

- whether the MTP covers all branchlines in addition to the mainline
- how and to what extent Aurizon Network should share the MTP with stakeholders.

We consider each of these separately in order to clarify our preliminary position on what Aurizon Network is expected to produce.

Is the MTP theoretical or practical?

The 2010 AU Master Train Plan principles (Sch. G, Part A, cl. 2) do not clearly state whether the MTP should be theoretical or practical. In our view it seems to envision a hybrid MTP.

Some clauses seem to describe a theoretical MTP, or a template-like MTP which could be used to begin scheduling the ITP. Examples of such clauses include cl. 2(a)(ii)(B), 2(b)(i) and 2(b)(iv), the detail of these clauses is provided in Appendix A.

Other clauses seem to describe a practical MTP, where actual planned possessions are scheduled, with the expectation trains will, to a degree, run according to the MTP. Examples of such clauses include 2(b)(ii) and 2(b)(iii), the details which are also provided in Appendix A.

To be consistent with the 2010 AU, we consider the master train planning process should be of hybrid form.

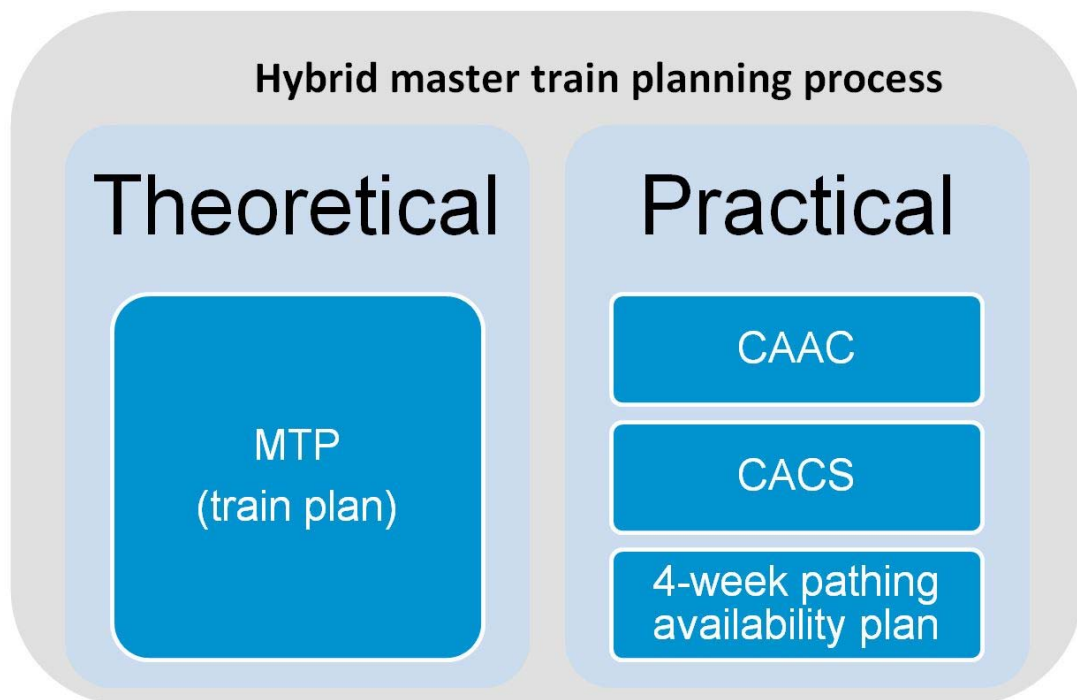
This hybrid nature is consistent with our final decision on the CSR, where we considered the master train planning process performs two separate but related functions:

- (1) practical—forecasting maintenance and other planned outages over the medium to long term so all supply chain participants can coordinate their activities
- (2) theoretical—demonstrating capacity, so access holders/seekers (and their customers) know capacity is sufficient and has been allocated equitably.⁷⁸

Aurizon Network proposed to share the four-week pathing availability plan, the four-week CACS and the two-year CAAC as part of the MTP process. We consider these three documents would fulfil the first function outlined above and this aspect of Aurizon Network's proposal is consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

As a consequence, we find the MTP document itself (the train plan) should focus on the second function of demonstrating capacity. We consider this can be achieved by a theoretical MTP, in which each access holder is allocated train paths reflecting their TSEs. We consider the MTP should include a theoretical allowance for planned possessions. Aurizon Network should detail the assumptions and data used to calculate this allowance, and how the assumptions were derived. We consider a theoretical MTP meets the needs of access holders, access seekers and their customers for information on capacity of the systems, and we invite stakeholders to comment on this. **Figure 12** summarises our view on the nature of the master train planning process and the MTP itself.

⁷⁸ QCA 2014: 15

Figure 12 The hybrid nature of the master train planning process

We find Aurizon Network's description of the MTP (in section 4.1 of the draft NBB system rules) and example of train diagrams (in appendix B of the draft NBB system rules) do not clearly state whether a theoretical or practical MTP will be produced. We consider Aurizon Network should specify the nature of the MTP in the NBB system rules to eliminate any doubt, that is: that the MTP is theoretical, allocates train paths to access holders' reflecting their actual TSEs and shows an allowance for possessions (more detail in our analysis of the contents of the MTP below). We are of the view this preliminary position is consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

We consider our preliminary position on the theoretical/practical nature of the MTP appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Preliminary position

3.21 After considering Aurizon Network's proposal with respect to providing the following series of documents as part of the master train planning process:

- (a) Master Train Plan
- (b) Critical Asset Alignment Calendar (CAAC)
- (c) Critical Asset Constraint Summary (CACS)
- (d) Four-Week Pathing Availability Plan,

our preliminary position is that we would approve Aurizon Network's proposal.

3.22 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Preliminary positions

- 3.23** After considering Aurizon Network's proposal with respect to the nature of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 3.24** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to clearly state the MTP:
- (a) is theoretical in nature
 - (b) allocates train paths to all access holders reflecting their actual TSEs
 - (c) includes a theoretical allowance for planned possessions
 - (d) details the assumptions and data used to calculate this theoretical allowance for planned possessions
 - (e) details how the assumptions were derived.
- 3.25** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Should the MTP act as a template for the ITP and DTP?

Considering the variability in the NBB as highlighted by our analysis of the ITP (Sections 3.2 and 3.3), we consider the MTP should not be an absolute template to the ITP and DTP.

But, we consider the MTP could be used as a start in building the ITP and DTP. This is because the MTP will have already equitably distributed train paths to all access holders in accordance with their TSEs. Consequently, on a day with few planned possessions the MTP will constitute a valid baseline to begin allocating paths to access holders. We recognise daily variability will mean the ITP and DTP will be scheduled in variation to the MTP, as provided in the 2010 AU (Sch. G, cl. 4(d)).

In a practical sense, if access holders agree on regular ordering patterns (e.g. Pacific National using the 10:00 path each day, Aurizon Holdings using the 10:30 path and BMA Rail using the 11:00 path), we would see the benefit of Aurizon Network reflecting these patterns in the MTP, providing this allocation is equitable and acknowledging Aurizon Network does not give the access holder a right to obtain this path every day.

Preliminary position

- 3.26 After considering Aurizon Network's proposal in respect of the description of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.27 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to clearly state the MTP:**
- (a) will equitably allocate train paths to all access holders to reflect their TSEs**
 - (b) can be used as a template to schedule the ITP and the DTP.**
- 3.28 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

What duration should the MTP cover?

Aurizon Network's initial proposal was for a two-year MTP⁷⁹ in the form of a series of train diagrams.⁸⁰

Aurizon Network's later submission indicates Indec wishes the train-graph MTP to cover 12 months of activity, and Aurizon Network's opposition to this. But, we are of the view Indec's recommendation does not prescribe such a timeframe. Therefore, this concern of Aurizon Network's need not be addressed.

Consistent with the CSR, our preliminary position is the MTP should cover at least a one-month period, because Aurizon Network's existing contracts are based on monthly TSEs.⁸¹ We also note the network management principles do not specify the duration the MTP covers. Therefore we consider our preliminary position consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

We note Aurizon Network offered to produce an MTP of up to three months in their 2014 DAU proposal.⁸² In our draft decision on the 2014 DAU we proposed to amend the length of the MTP so it covers at least one month and up to three months.⁸³

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (s. 138(2)(b), (e) and (h)).

⁷⁹ Aurizon Network, sub. no.2: 16

⁸⁰ Aurizon Network, sub. no. 2: 15

⁸¹ QCA 2014: 16

⁸² 2014 DAU, Sch. G, cl. 5.1(b)

⁸³ QCA 2015: 289

Preliminary position

- 3.29 After considering Aurizon Network's proposal in respect of the length of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.30 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is for the MTP to cover a minimum one-month period.**
- 3.31 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

Should the MTP be presented as a train graph or a timetable?

We note Aurizon Network's proposal states the MTP would be produced in the form of a series of train diagrams.⁸⁴ We also note Aurizon Network's later concerns with the resources required to produce the MTP in train-graph form on a rolling 12-month basis, as well as Aurizon Network's willingness to present the MTP in tabular form on this basis.⁸⁵

We consider tabular form to satisfy the 2010 AU requirement for the MTP to indicate the time/distance (location) relationship of the train services and other activities on the rail infrastructure (2010 AU, Sch. G, Part A, cl. 2(a)). Therefore our preliminary position is consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

We consider stakeholders will be able to build train diagrams from the tabular form provided by Aurizon Network. We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Preliminary position

- 3.32 After considering Aurizon Network's proposal in respect of the format of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's original proposal.**
- 3.33 We consider that the tabular format for the MTP proposed in Aurizon Network's July 2014 submission is appropriate. Therefore the way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to present the MTP in tabular format.**
- 3.34 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

Should the MTP cover mainlines and branchlines?

We accept Vale's and Peabody's views the MTP should cover the whole of the NBB. We consider this enables access holders (and their customers) to see how cross-system traffic interacts with capacity available in the NBB systems. For example, five Goonyella coal mines use the North Goonyella branchline and the GAP to transport their coal to APCT. Given this, we also consider the MTP should cover all branchlines in addition to the mainline.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

⁸⁴ Aurizon Network, sub. no. 2: 15

⁸⁵ Aurizon Network, sub. no. 9: 3-4

Preliminary position

- 3.35** After considering Aurizon Network's proposal in respect of the geographical coverage of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 3.36** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to ensure the MTP covers the entire Northern Bowen Basin including all branchlines.
- 3.37** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

How and to what extent should Aurizon Network share the MTP?

Stakeholders were primarily concerned with the MTP demonstrating Aurizon Network can deliver all contracted TSEs and identifying Aurizon Network has sufficient capacity to meet contracted entitlements. We do not consider Aurizon Network's proposal achieves this, because Aurizon Network has not provided enough detail on:

- the contents of the MTP
- how it would share the MTP
- to what extent it would share the MTP
- how it would report on the MTP.

We set out below how we consider Aurizon Network's proposal can be amended to provide this detail.

Contents of the MTP

We accept Indec's recommendation the MTP should provide some way of showing committed capacity does not surpass practical capacity. This can be implemented by demonstrating the network can accommodate all access holders' contracted TSEs (i.e. system paths, which connect a mine loading slot to port unloading slot) in a given month.

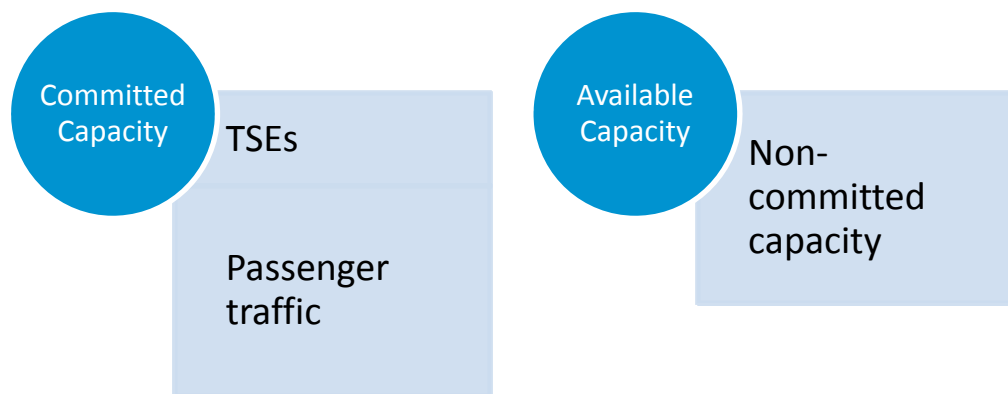
The MTP should show, in table form, the NBB's train paths:

- set aside for timetabled traffic
- set aside for theoretical planned possessions
- assigned to cyclic traffics (coal and non-coal traffics), including contracted cross-system traffics.

This requirement is consistent with network management principles (2010 AU, Sch. G, Part A, cl. 2(a)).

We consider theoretical train paths should be allocated to access holders in the MTP to demonstrate Aurizon Network has sufficient capacity to meet contracted entitlements and Aurizon Network is treating access holders equitably. We consider merely identifying which paths could be used by cyclic traffic would not achieve the MTP function of demonstrating capacity is sufficient and paths are equitably allocated.

The MTP should also identify system paths available to be contracted or available for ad hoc services. We consider this forms part of identifying available capacity (**Figure 13**).

Figure 13 Capacity definitions in the 2010 AU

The MTP should clearly state all assumptions made in its development and identify what is the total capacity of the NBB and each system (i.e. number of system paths available to cyclic traffic each month, conversion from paths to tons, possessions). This includes publishing the K factor, as per Indec's recommendation.⁸⁶ We consider this information is better placed in Aurizon Network's NBB system operating parameters and the Network Development Plan.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)) and is consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

Preliminary position

3.38 After considering Aurizon Network's proposed content of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

3.39 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to ensure the MTP:

- (a) contains the information stipulated in the 2010 AU
- (b) allocates theoretical train paths to access holders based on their TSEs
- (c) identifies available system paths
- (d) states all assumptions made in its development, including possessions
- (e) identifies, in number of paths and million tons per annum, the total capacity of the NBB and each system.

3.40 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

How will Aurizon Network share the MTP?

Our preliminary position is Aurizon Network should clarify in the NBB system rules:

- how would the MTP be shared (for example: emailed, viewed in a restricted access site, published on a public website, distributed at meetings)
- who would receive the MTP
- how often the MTP will be updated (noting the 2010 AU specifies parties must be notified).

⁸⁶ We consider the K factor should also be shared in Aurizon Network's NBB system operating parameters and the Network Development Plan.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)) and is consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

Preliminary position

- 3.41 After considering Aurizon Network's proposal in respect of transparency of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.42 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to specify:**
- (a) how the MTP would be shared**
 - (b) whom would receive the MTP**
 - (c) how often the MTP would be updated**
 - (d) how the updated MTP would be shared.**
- 3.43 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

To what extent will Aurizon Network share the MTP?

For the MTP to be effective, we consider access holders must see a complete and transparent MTP. We consider transparent train plans can:

- reveal where there may be some spare capacity which can be used, thus promoting a more efficient use of the network
- improve information symmetry among access holders and stimulate competition in above-rail markets
- provide sufficient information to assist with supply chain coordination
- demonstrate Aurizon Network has sufficient capacity in each system to meet contracted entitlements.

Transparency of train plans is consistent with the position we stated in our decisions on the CSR and the 2014 DAU. Our draft decision on the 2014 DAU proposed making the MTP (and DTP and ITP) fully transparent to all access holders and their customers.

We acknowledge the 2010 AU does not oblige Aurizon Network to share or publish a complete and transparent MTP. However, we consider this does not prevent Aurizon Network from seeking permission from each access holders to disclose the information contained in the MTP on an unredacted basis.

We consider all access holders would benefit if they agreed to let Aurizon Network disclose their information in the MTP, knowing they would obtain a complete and transparent MTP in return.⁸⁷ We invite access holders to comment on whether they would be inclined to agree to Aurizon Network disclosing their information in the MTP.

⁸⁷ We note access holders have agreed in early 2014 to full transparency of live operations (on RTOA). As a first step, access holders might agree to a disclosing their information in the DTP, before looking into allowing it in the ITP and MTP.

Further, we note Aurizon Network's comment that while it supports making available the number of system paths which would validate capacity of the system is sufficient, it can only provide such information if it 'would not have a negative commercial impact for the Aurizon group'.⁸⁸ Section 138(2)(b) requires us to have regard to the legitimate business interests of the owner or operator of the service, which is Aurizon Network, not the Aurizon group. Therefore, our assessment of the draft NBB system rules must balance the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)) and consider the public interest (s.138(2)(d)) including the public interest of having competition in markets.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)) and is consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

Preliminary position

- 3.44 After considering Aurizon Network's proposal in respect of transparency of the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 3.45 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to use all reasonable endeavours to obtain the consent of the relevant third party to disclose the information contained in the MTP (and other train plans) on an unredacted basis.**
- 3.46 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

How will Aurizon Network report on the MTP?

We generally support Indec's view to improve the reporting requirements for MTP changes in order to promote transparent, equitable and efficient operation of the NBB coal supply chains. This is because supply chain stakeholders can use the reports to improve efficiency and accountability. Specifically, we consider Aurizon Network should prepare annual reports on:

- causes of the MTP changes in each month of the past financial year
- forward impact on NBB capacity for the next financial year due to changes in the MTP.

Given our preliminary position on the theoretical nature of the MTP, we expect these reports would be rather succinct. If no change was made to the MTP in the past 12 months, Aurizon Network would have no matter to report.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)). We consider a report on MTP changes complements the master train planning process and therefore consistent with the 2010 AU (cl. 5.2(e)(i) and 7.1(d)).

⁸⁸ Aurizon Network, sub. no. 9: 4

Preliminary position

- 3.47** After considering Aurizon Network's proposal in respect of reporting changes to the MTP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 3.48** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is for Aurizon Network to report on:
- (a) causes of the MTP changes in each month of the past financial year
 - (b) forward impact on NBB capacity for the next financial year due to changes in the MTP.
- 3.49** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Suggestion: reporting on TSE consumption

Some of the issues raised by stakeholders highlight the need for effective and useful TSE consumption reports. These would complement the information provided by the MTP on capacity, by informing access holders of their TSE consumption position, allowing them to better manage their access right.

We note Aurizon Network offered to provide monthly TSE notices as part of its 2014 DAU (2014 DAU, Sch. G, cl. 9.6). While the 2010 AU does not require Aurizon Network to provide such a report, we suggest it would be beneficial if Aurizon Network agreed to provide such a report as part of the NBB system rules. Consistent with our draft decision on the 2014 DAU, we consider Aurizon Network should commit to providing effective monthly TSE notices as follows:

After the end of each Month, Aurizon Network must:

- (a) *provide a notice to each Access Holder and each End User which identifies for each origin to destination pair:*
 - (i) *the number of Train Paths that the Access Holder was entitled to under the Access Holder's Train Service Entitlement;*
 - (ii) *the number of Train Paths planned in the MTP, the ITP and the DTP in relation to that Train Service Entitlement;*
 - (iii) *the number of Train Paths in respect of which Train Services were operated for the Access Holder under the relevant Train Service Entitlement;*
 - (iv) *the number of Train Paths cancelled in that Month and the reasons for those cancellations;*
 - (v) *the extent to which the Access Holder's Train Service Entitlement was used; and*
 - (vi) *the Year-to-date Train Service Entitlement position and a projection to Year-end, both for the Access Holder and for each Coal System,*
- for that Month; and*
- (b) *publish on its Website the aggregated Train Service Entitlement reconciliation reports for each Coal System.⁸⁹*

3.6 Possessions planning

Planned possessions are the temporary closure of the rail track (including electrical overhead traction) for the purpose of carrying out maintenance and construction work.

Aurizon Network's proposal

Aurizon Network proposed the outputs of its train planning process would be:

- the two-year critical asset alignment calendar (CAAC)
- the four-week critical asset constraint summaries (CACS)

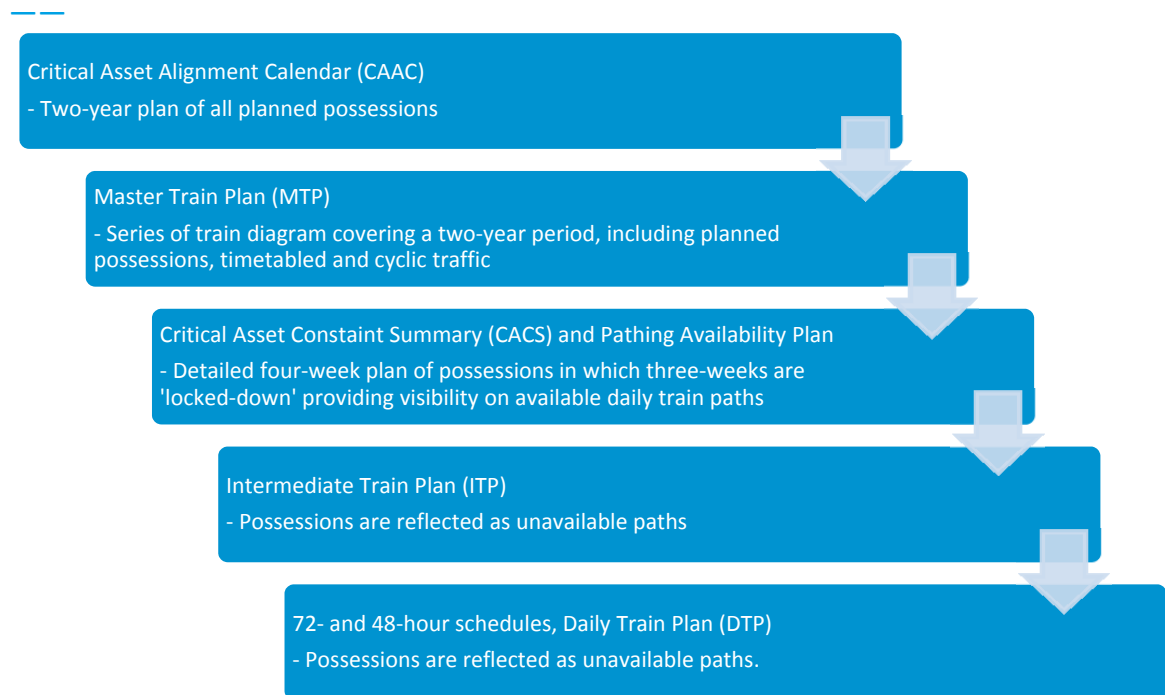
⁸⁹ QCA (2015b), sch. G, cl. 7.6: 381

- the MTP—covering a two-year period
- the four-week pathing availability plans.⁹⁰

Aurizon Network said these documents would capture information on its planned possessions and be updated in a timely manner.⁹¹

Figure 14 outlines Aurizon Network's proposed planning process for possessions.⁹²

Figure 14 Aurizon Network's proposed planning process for possessions



Stakeholders' comments

While Asciano welcomed the CAAC and CACS, it said those documents do not provide sufficient visibility on what the network can accommodate on a daily basis.

Asciano also said the four-week pathing availability plan should account for lost capacity just before and after maintenance activities (i.e. maintenance shadows/shoulders).⁹³

Indec's recommendations

Indec said Aurizon Network's proposal has very limited information on how Aurizon Network's CAAC decision-making processes operate. It said there was no assessment of how the CAAC is actually delivered, whether any CAAC changes deliver costs or benefits to Aurizon Network or

⁹⁰ Aurizon Network, sub. no. 2: 16

⁹¹ Aurizon Network, sub. no. 2: 15

⁹² Aurizon Network incorporates planned possessions into train plans as unavailable train paths.

⁹³ Asciano, sub. no. 5: 8

access holders, and how the impact of any capacity reductions is captured correctly by the CAAC.⁹⁴

Indec recommended Aurizon Network provide six-monthly reports to Affected Parties⁹⁵ on:

- causes of CAAC changes
- planned versus actual completion of the CAAC, detailed monthly
- revisions to the CAAC for the next 12 months, detailed monthly.⁹⁶

Indec also recommended the QCA investigate if Aurizon Network's proposal should:

- require monitoring of whether Aurizon Network has followed the activities set out in its CAAC and CACs
- identify how any variances in the CACs' three-week lockdown periods have been managed
- identify how any TSEs that have been gained through variances in the CACS have been allocated among access holders.⁹⁷

Responses to Indec's report

Aurizon Network said the term 'Affected Party' in Indec's recommendation should be replaced with 'Access Holder', as this would mean Aurizon Network would only provide information to parties it has commercial agreements with.⁹⁸

Aurizon Network noted its KPI reporting in some access agreements had similar information to Indec's recommended six-monthly report on CAAC maintenance performance.⁹⁹

QCA analysis and preliminary position

Transparency of possession paths

While Aurizon Network's proposal provides some transparency regarding the process for planning possessions, we understand current practice is the paths allocated to planned possessions are redacted in the electronic¹⁰⁰ ITP and DTP. Aurizon Network's draft NBB system rules do not mention sharing the detail of these paths either.

We are of the view Aurizon Network should make all paths allocated to possessions visible to all access holders, access seekers, end users and infrastructure service providers in all train plans (MTP, ITP, DTP) including those published in electronic form. We consider there is no commercial risk in sharing this information with all access holders, infrastructure providers and the access seekers who request it. We note that in our draft decision on the 2014 DAU, we required full transparency of maintenance paths in the ITP and DTP.¹⁰¹

We consider our preliminary position addresses Asciano's concern the CAAC and the CACS provide no visibility on what the network can accommodate on a daily basis. It would also shed

⁹⁴ Indec: 25

⁹⁵ Indec defined "Affected Parties" as affected: access holders, seekers and their customers, infrastructure service providers (e.g. port operators and adjoining network managers) and train operators.

⁹⁶ Indec: 35-36

⁹⁷ Indec: 33

⁹⁸ Aurizon Network, sub. no. 9: 2

⁹⁹ Aurizon Network. Sub. no. 9: 6

¹⁰⁰ Via the Network Operations Pathing Planner (NOPP).

¹⁰¹ QCA, 2015: 290.

light on the status of train paths immediately before and after the maintenance activities, because access holders could see:

- whether these paths are available to order trains or not
- how many paths each possession is using.

We are of the view our preliminary position assists in promoting the economically efficient operation and use of the CQCN (ss69E and 1382(a)) because it will assist in maximising system capacity by allowing stakeholders to:

- better align supply chain maintenance activities
- assess the extent to which the constraints placed on various train paths, as a result of planned possessions, can be mitigated or overcome.

We also consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Preliminary position

3.50 After considering Aurizon Network's proposal in respect of transparency of possessions paths, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

3.51 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to specify it will make all possessions paths fully visible—to access holders, access seekers, end users and infrastructure service providers—in all train plans (MTP, ITP, DTP) including those published in electronic form.

3.52 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Reporting on possessions planning

We are of the view some of Indec's recommendations should be adopted in the NBB. Our preliminary position is Aurizon Network should keep written records regarding:

- outcomes of the monthly CAAC meetings¹⁰² and publish them—so supply chain stakeholders can confirm Aurizon Network's understanding of maintenance and construction activities over the next two years is consistent with their understanding of the meetings' outcomes
- changes to planned possessions in any of the locked down periods¹⁰³ and publish them.

We consider these records could be audited under cl. 3.7(a)(ii)(I) of the 2010 AU. We are also of the view our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

We are still considering whether stakeholders would value six-monthly reports on Aurizon Network's conformance with the CAAC (causes of CAAC changes, planned versus actual completion of the CAAC and revisions to the CAAC for the next 12 months¹⁰⁴). We note Aurizon Network's statement some access holders already receive KPI reporting with some of that

¹⁰² Indec: 35

¹⁰³ Indec: 33

¹⁰⁴ Indec : 35-36

information and the fact our Capricornia final decision considered the supply chain would only operate effectively if there was detailed reporting of information concerning the achievement of KPIs.¹⁰⁵ Against this background, we encourage all stakeholders to provide feedback through their submissions on this matter.

Preliminary position

3.53 After considering Aurizon Network's proposal in respect of reporting on possessions planning, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

3.54 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is for Aurizon Network to keep written records regarding:

- (a) outcomes of the monthly CAAC meetings—and publishes them**
- (b) changes to planned possessions in any of the locked down periods—and publish them.**

3.55 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

3.7 Varying possessions planning

Aurizon Network may modify planned possessions for maintenance or construction activities, which may lead to alteration and cancellations of train services.

Aurizon Network's proposal

In the process to produce the MTP, Aurizon Network proposed to take into account all known possessions documented in the CAAC and to keep the CAAC up to date and aligned, where practical, with known supply chain demand. Aurizon Network would also collate more specific details on possessions closer to when they occur, producing the four-week CACS (see **Figure 14**).

Aurizon Network proposed to distribute the CACS to supply chain stakeholders on a weekly basis. Using the CACS and any requirement for additional possessions, Aurizon Network would produce a four-week Pathing Availability Plan to identify the possessions for the next four-weekly periods. The possessions for the first three weeks of this period are locked down, with the remaining week being an indicative forecast and subject to change until it is locked down the following week.¹⁰⁶

Stakeholders' comments

Asciano said:

...it should be clarified that any variations in 'locked-down' possessions that result in access holders' train paths being cancelled (or rescheduled to a time not acceptable to those access holders) should be classified as Aurizon Network cause...¹⁰⁷

Indec's recommendations

Indec said:

¹⁰⁵ QCA (2014): 20

¹⁰⁶ Aurizon Network, sub. no. 2: 15

¹⁰⁷ Asciano, sub. no. 5: 8

*...reductions in each access holders' TSE allocation that are lost due to changes in the three week 'lockdown' period of their four week pathing availability plan should be considered as Aurizon Network cancellations. Such an arrangement will provide sanctions to Aurizon Network for any cancellations and incentivise Aurizon Network to keep such occurrences to a minimum...*¹⁰⁸

Responses to Indec's report

Aurizon Network noted it:

*...aims to efficiently plan its maintenance activities whilst maximising the throughput of the supply chain. This aim may involve Aurizon Network taking advantage of periods where there are windows of opportunity to complete spot maintenance activities. If this proposal is progressed it may create a perverse incentive that restricts opportunity maintenance and introduces inefficient use of the CQCN.*¹⁰⁹

Anglo American said:

Anglo American agreed with Indec's recommendation and went further in noting changes to planned possessions within the lockdown period could have significant impacts on users – suggesting classifying those changes as Aurizon Network cancellations would not be sufficient to remedy the true losses users would face.

As an example, Anglo American said Aurizon Network had recently made a change to its maintenance program during the lockdown period which:

*... had a significant impact upon the coal producers, as they had incorporated the maintenance outage into their mine maintenance and production plans. This is a significant issue because when the change was made the coal producers were unable to alter the mine maintenance and production plans and therefore were unable to take advantage of their monthly TSEs. This was exacerbated by the monthly entitlement not allowing subsequent 'catch up.'*¹¹⁰

Anglo American further suggested in the event Aurizon Network and all affected access holders agree to a possession change within the three-week 'lockdown' window, it may be appropriate for a resulting reduction in access holders TSE allocations to not be classified as Aurizon Network cancellations.

QCA analysis and preliminary position

In the event Aurizon Network needs to amend the planned possessions scheduled in the master train planning documents¹¹¹, ITP and DTP, it must abide by the network management principles, including rules for notifying and consulting with access holders about such amendments.

This consultation is important as coal chain stakeholders may use these possession windows to plan their own activities. Consultation can assist Aurizon Network to minimise or mitigate detrimental impact the variation to the planned possessions may have on:

- the ability of Aurizon Network to meet its customers' contracted TSEs
- the utilisation of system capacity as a whole.

This process becomes increasingly important when approaching the planning period for a particular week of operation.

¹⁰⁸ Indec: 4, 25

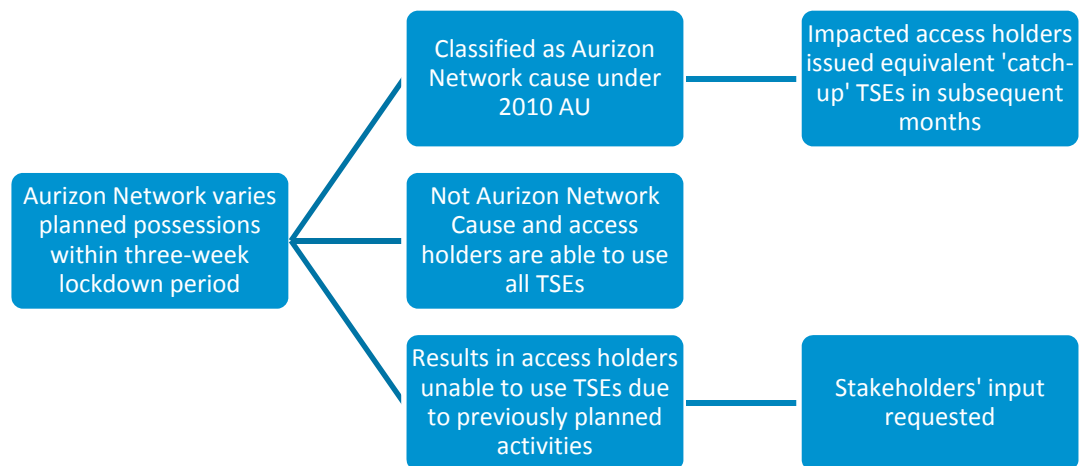
¹⁰⁹ Aurizon Network, sub no. 9:8

¹¹⁰ Anglo American, sub. no. 10: 5

¹¹¹ Aurizon Network said the master train planning process includes the production of the CAAC, CACS and four-week pathing availability plan.

Our preliminary position is Aurizon Network should only be able to vary possessions in the three-week lockdown period (of the four-week Pathing Availability Plan) if doing so is consistent with the 2010 AU (including the network management principles). Our analysis and decision on this topic is illustrated in **Figure 15**.

Figure 15 Possible issues resulting from variations in planned possessions



In our view, provided Aurizon Network complies with the 2010 AU's notification and consultation requirements, we accept Aurizon Network is able to vary the possessions plan within the three-week lockdown period. Given this, we do not agree with stakeholders or Indec that amendments to planned possessions in the lockdown period can always be defined as an Aurizon Network cause. Rather, we understand some cases will not be an Aurizon Network cause.

Where the cause of the non-delivery is classified as an 'Aurizon Network cause' under the 2010 AU, we consider the onus is on Aurizon Network to provide access holders with those 'lost' paths in subsequent months as equivalent 'catch-up' paths. Aurizon Network should also indicate in the system rules that the mechanism for providing replacement paths in subsequent months will have regard to any allowable thresholds that have been negotiated in the access agreements. This is consistent with our final decision on the CSR.¹¹²

We consider Anglo American has a valid concern regarding the impact variations to planned possessions during the three-week lockdown period may have on access holders. This impact may result in a reduction in overall system capacity if stakeholders had aligned their activities with Aurizon Network's planned possessions. We seek stakeholders' comments on how this concern could be addressed.

Notwithstanding this, we consider it is important Aurizon Network undertake timely consultation and transparently provide possessions planning-related information to access holders in line with the network management principles (2010 AU cl. 7.1(a)(ii)) and our final decision on the CSR. We consider this assists in promoting the efficient operation, and use, of

¹¹² QCA 2014:32-33

the rail infrastructure (QCA Act s.138(2)(a)) because there is a greater likelihood of improving system utilisation and meeting access holders contractual entitlements.

Overall our preliminary position is Aurizon Network should use best endeavours to:

- consult with access holders (and, where relevant, other supply chain stakeholders) regarding the changes it proposes to make to the three-week lockdown period.
- mitigate any adverse impacts of those changes on access holders' train services
- provide access holders with equivalent 'catch up' TSEs in subsequent months where the cause of the non-delivery is classified as an Aurizon Network cause under the 2010 AU.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Preliminary position

3.56 After considering Aurizon Network's proposed in respect of varying possessions planning, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

3.57 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to use best endeavours to:

- (a) consult with access holders and, where relevant, other supply chain stakeholders regarding the changes it proposes to make to the three-week lockdown period
- (b) mitigate any adverse impacts of those changes on access holders' train services
- (c) provide access holders with equivalent 'catch up' TSEs in subsequent months where the cause of the non-delivery is classified as an Aurizon Network cause under the 2010 AU.

3.58 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

3.8 Transparency of system variability in capacity planning

The NBB coal systems' scheduling does not operate to a fixed timetable, but a cyclic schedule. This can be highly variable on a weekly and daily basis, creating some uncertainty regarding whether contracted and ordered train services will be delivered on the day of operations.

Aurizon Network's proposal

Unlike the Capricornia coal systems, Aurizon Network noted the comparatively high level of variation in the NBB results in it being unable to schedule the ITP in its entirety immediately upon acceptance of the weekly train orders.¹¹³

Stakeholders' comments

BMACC said:

*...the NBB system rules should be clear on Aurizon Network's treatment of system variability and how the allowance for variability is applied across access holders and producers...*¹¹⁴

¹¹³ Aurizon Network, sub. no. 2: 23

Asciano said:

*... the [Aurizon Network] planning procedure must identify the redundancy built into the network and ability of the network to address maintenance and day-of-operation variability, so Aurizon Network can demonstrate it can provide access holders' TSEs...*¹¹⁵

QCA analysis and preliminary position

We note Aurizon Network's proposal does not provide information on how variability is treated and how allowances for variances are incorporated in the development of the ITP, particularly in relation to the translation of the ITP into the 48- and 72-hour train schedules and DTP.

This is despite the fact such variability introduces uncertainty about how an access holder's contractual entitlements will be delivered. Given this, we agree with stakeholders Aurizon Network's proposal provides insufficient information on the treatment of allowances for system variability when TSEs are computed.

Further, as this allowance applies across all access contracts, we consider Aurizon Network should be able to demonstrate the allowance has been distributed equitably among access holders.

We therefore require the NBB system rules provide sufficient information to ensure transparency of:

- the treatment of system variability
- how the allowance for variability is applied across access holders.

The CSR state:

*Aurizon Network will provide details to Access Holder on any system variability allowances used to align Access Holders' TSEs with available system capacity, and demonstrate Aurizon Network is applying these allowances equitably across Access Holders.*¹¹⁶

We propose to extend this requirement to the NBB rules.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Preliminary position

3.59 After considering Aurizon Network's proposal in respect of transparency and equitability of the treatment of system variability, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

3.60 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to reflect the approach in the Capricornia System Rules in order to clearly explain how the allowance for system variability is applied across access holders.

3.61 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

¹¹⁴ BMACC, sub. no. 6: 4

¹¹⁵ Asciano, sub. no. 5: 7

¹¹⁶ Aurizon Network, 2014:13

4 TSE CONSUMPTION RULES AND COMMERCIAL IMPLICATIONS

Stakeholders and Indec raised a number of issues related to TSE consumption rules and commercial implications. This chapter discusses those six issues:

- (1) TSE calculation formula
- (2) TSE consumption rules during the 48-hour lockdown period
- (3) Advertising and allocating available mainline paths
- (4) Recovery of Aurizon Network cause undelivered TSEs
- (5) Penalty regime for co-shippers
- (6) Updating the DTP for train performance measurement

4.1 TSE calculation formula

Train Service Entitlements (TSEs) are the fundamental service an access holder purchases from Aurizon Network. They represent the right to operate a train over a specified duration, between a specified origin and destination, including any dwell time on the network. Aurizon Network's draft system rules provide a formula of how indicative weekly TSEs are calculated. This section considers the proposed calculation formula.

Aurizon Network's proposal

Aurizon Network said:

Whilst Access Agreements for Cyclic Traffics refer to an annual TSE for the purpose of annual Take or Pay calculations, the TSEs are actually a monthly entitlement. Any weekly TSEs are indicative only and used as a basis for an even distribution of entitlements and to assist in developing the MTP.¹¹⁷

Aurizon Network proposed the following formula for calculating indicative weekly TSEs:

Annual net tonnage/360 days/nominal payload x 7 days x 2 (rounded up)¹¹⁸

Stakeholders' comments

Stakeholders challenged Aurizon Network's proposed TSE calculation formula.

Anglo American said:

- the formula, which divided TSEs into notional weekly allotments, was inconsistent with the contracted monthly TSEs
- the formula does not reflect the practical operation of a dynamic system
- while theoretically possible, perfect division of an Access Holder's TSEs over a year is not practical and should not become an operational requirement
- weekly TSEs must be greater than 1/52th of annual TSEs, to account for the effects of maintenance and other capacity-reducing events

¹¹⁷ Aurizon Network, sub. no. 2: 17

¹¹⁸ Aurizon Network, sub. no. 2: 17

- it may potentially not be theoretically possible for Aurizon Network to deliver contractual entitlements in periods of high demand
- the TSE definition should, at a minimum, incorporate planned maintenance and network availability allowances, so that TSEs are reflective of expected commercial contract performance.¹¹⁹

Asciano said:

...if Aurizon Network calculates TSEs using a year of 360 days then it stands to reason that the network should be available for these 360 days. This is not the case due to maintenance shutdowns of at least 24 days a year (two per month) in addition to other maintenance shutdowns outlined in the CACC. The fact that the network is not available for these 360 days results in the weekly TSE obligations being under-calculated...¹²⁰

Anglo American, Asciano and BMACC said Aurizon Network's proposed formula is inconsistent with the method Aurizon Network adopts for TSE calculation in access agreements. BMACC went further, volunteering the TSE calculation formula in their access agreements as:

- *Annual TSE = Annual Tonnes/Train Payload*2 (rounded up)*
- *Monthly TSE = Annual TSE/12 (rounded up)*
- *Weekly TSE = Monthly TSE/30*7 (rounded up)*

BMACC said:

We remain concerned that the use of 30 days in a month underestimates the number of train paths required by a producer to meet annual tonnage expectations...We recommend the Weekly TSE calculation be divided by a number less than 30 to reflect the variability inherent in the CQC within a month. For example, AN acknowledge in their Supply Chain Operating Assumptions a 12.25% unplanned DOO loss allowance for the year. This then would translate to the available days in a month being 26.6 days instead of AN's 30 days (eg 365 days -12.25%). In addition to this there are planned system outages for scheduled maintenance and inherent demand variability...This approach would enable AN to manage its operational variability whilst ensuring it can deliver contractual certainty in its access agreements.¹²¹

QCA analysis and preliminary position

In our view Schedule 1 of the access agreements specifies how many TSEs a signatory is entitled to annually and monthly (31, 30, 29 and 28 days).

We also note that while access agreements for cyclic traffic refer to an annual TSE for the purpose of annual take or pay calculations, TSEs are actually a monthly entitlement.

Whilst Aurizon Network has included a formula to calculate access holders' indicative weekly TSEs in the draft NBB system rules, we are of the view that monthly TSE entitlements are the more contractually relevant consideration. Further, we consider our preliminary position to have a rolling 10-day ITP negates the need for indicative weekly TSEs.

Given this, our preliminary position is to require Aurizon Network to remove the formula for calculating indicative weekly TSEs and to ensure the NBB system rules adopt the monthly TSEs contracted in access holders' and end users' access agreements as the delivery benchmark. This differs from our final decision on the CSR where we accepted the production of a weekly ITP

¹¹⁹ Anglo American, sub. no. 3: 2-3

¹²⁰ Asciano, sub. no. 5: 9-10

¹²¹ BMACC, sub. no. 6: 3-4

due to the even railings/dedicated stockpile nature of the system and resulting higher stockpile-to-throughput ratio.

We also note that Aurizon Network's approved CSR include the Maintenance Multiplier and Maintenance Reduction Factor. These mechanisms adjust access holders' weekly TSEs upward or downward relative to the impact of planned possessions on their train orders. As in the case of the CSR we believe there should be a 'true up' mechanism to add or deduct TSEs (to an access holder's monthly TSE for that month) when planned possessions impact the number of train paths available to be scheduled. For consistency with the NBB ITP, this 'true up' should aim to deliver access holders' monthly TSEs as specified in Schedule 1 of their access agreements. Further, if additional 'true up' TSEs are unable to be offered in the month they are incurred, they should be offered in subsequent months of the same contract year.

Aurizon Network should also include the proposed rounding-up and rounding-down mechanism as identified in the CSR—that is, rounding up any fraction of a path ≥ 0.3 and rounding down where the fraction < 0.3 . Aurizon Network should inform the relevant access holder when the rounding and true up mechanisms have been applied.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b)138(2)(b), (e) and (h)).

Preliminary position

- 4.1 After considering Aurizon Network's proposal in respect of the TSE calculation formula, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 4.2 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to :**
 - (a) remove the formula for calculating indicative weekly TSEs and provide access holders and end users with the specific number of monthly TSEs contracted for in the access agreements**
 - (b) incorporate a 'true up' mechanism to add or deduct TSEs to the access holder's monthly TSE for that month when planned possessions impact the number of monthly train paths available to be scheduled. If additional 'true up' TSEs are unable to be offered in the month they are incurred, they should be offered in subsequent months of the same contract year**
 - (c) inform the relevant access holder when the 'true up' mechanism has been applied**
 - (d) include a rounding-up and rounding-down mechanism.**
- 4.3 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

In coming to our preliminary position we have focused on the needs of the NBB system rules given that TSE entitlements are well defined in access agreements. Against this background, we note that stakeholders raised a number of important points which we consider are best dealt with separately from this NBB system rules position paper.

The principal issue raised is a lack of transparency in the access agreements, of the formula for calculating TSEs. We are of the view that this has come about in the context of the NBB system rules because in section 4.6 of the draft NBB system rules Aurizon Network proposes a denominator of 360 days in the formula to calculate indicative weekly TSEs based on annual net

tonnage requirements and nominal train payloads. We agree with Anglo American and Asciano that maintenance and construction activities result in the network being available less than 360 days a year.

Overall, we consider transparency of how Aurizon Network calculates the TSEs in Schedule 1 of the access agreement will assist all supply chain stakeholders to manage their operations and lead to a dialogue aimed at better coordination of planning and operations across the supply chain. We propose to consider this issue in greater detail through the UT4 process.

4.2 TSE consumption rules during 48-hour lockdown period

At 16:00 hours each day, Aurizon Network confirms and locks down the next 48 hours worth of train path allocations within the ITP. This is referred to as the 48-hour schedule. The 48-hour schedule sets the baseline for TSE consumption; changes from this schedule, if initiated by an access holder, may result in additional TSEs being consumed by that access holder.

Aurizon Network's proposal

Aurizon Network's draft NBB system rules define the following terms:¹²²

48-hour Schedule - The Intermediate Train Plan when it is finalised each day at midnight...

TSE Consumption - For an Access Holder's Train Services scheduled in the 48-hour Schedule, the Train Paths scheduled in the 48 Hour Schedule for those Train Services plus any additional Train Paths (referred to as additional TSE Consumption) taken to be consumed as determined by applying the principles set out in [the TSE Consumption Matrix]...

and state that:

...once a Train Service has been scheduled to a Train Path in the ITP (that is, in the 48 Hour Schedule...) it is treated on equal terms with other scheduled Train Services for scheduling purposes.¹²³

The 48 Hour Schedule sets the baseline for TSE Consumption.

Should an Access Holder request changes to the 48 Hour Schedule, additional TSE Consumption may result. The process detailed...for the allocation of additional Train Services, rescheduling, cancellation or diversion of Train Services will be followed when assessing whether proposed changes can be accommodated.¹²⁴

Aurizon Network has included a TSE Consumption Matrix in the draft NBB system rules. This table describes how many original TSEs and/or additional TSEs will be consumed by an access holder under a series of scenarios which result in variations to the 48-hour schedule.¹²⁵

Stakeholders' comments

BMACC said an access holder's diversion/rescheduling requests within the 48-hour lockdown period should not incur additional TSE consumption, independent of whether it meets its original mainline path, if:

- no other access holders' train services are adversely affected
- the DTP can accommodate the request

¹²² Aurizon Network, sub. No. 2: 4-5

¹²³ Aurizon Network, sub. No. 2: 20

¹²⁴ Aurizon Network, sub. No. 2: 24

¹²⁵ Aurizon Network, sub. No. 2: 29

- Aurizon Network can still discharge its TSE obligations.¹²⁶

Asciano said Aurizon Network should clarify whether the following scenario would be treated as a cancellation due to Aurizon Network (no TSEs consumed) or access holder cause (original TSEs consumed):

Aurizon Network requests Pacific National Coal to reschedule a train, and the alternative offered path cannot be accommodated or is not acceptable to Pacific National Coal, the train is cancelled. In this situation, is the cancellation cause assigned to Aurizon Network (for their inability to provide the original path) or to Pacific National Coal (for their inability to run on the alternative offered path)?¹²⁷

Indec's recommendations

Indec said:

Should an access holder request changes to the 48 Hour Schedule, additional TSE consumption may result if another access holder was unable to use the train path cancelled.¹²⁸

Responses to Indec's report

Anglo American identified that consumption of TSEs impacts the application of access charges; however, it recognised this to be a separate but related issue.¹²⁹

QCA analysis and preliminary position

Aurizon Network and access holders should provide timely notice of their intention to change origins or destinations. In our view, stakeholders having additional information to make informed decisions will aid in maximising supply chain operational efficiency and capacity.

We acknowledge Aurizon Network's position that a 48-hour lockdown assists in driving scheduling certainty and may provide incentives to all stakeholders to modify train orders earlier rather than later; however, this need not imply that modifications within the 48-hour lockdown period run contrary to the efficient operation of the rail infrastructure and coal supply chain (s.138(2)(a) and 69E). Whilst last-minute modifications can impose a coordination cost on Aurizon Network and other participants in the supply chain, they may also, in some instances, create capacity that other access holders may be able to use. In such cases capacity wastage may be minimised. In our view the central issue is about the degree of flexibility that is appropriate within the 48-hour lockdown period.

Requests to reschedule during lockdown period

Further, we understand Asciano's hypothetical scenario stems from the following wording in the draft NBB system rules:

Rescheduling Train Services - An Access Holder or Aurizon Network may request to reschedule the date or time of a scheduled Train Service to another date or time within the Weekly Period. Where a request to reschedule a Train Service cannot be accommodated or is not accepted by the Access Holder or Aurizon Network, the Access Holder must either cancel the Train Service, or keep the originally scheduled path. If a Train Service reschedule is requested and can be

¹²⁶ BMACC, sub. no. 6: 5

¹²⁷ Asciano, sub. no. 5: 12

¹²⁸ Indec: 28-29

¹²⁹ Anglo American, sub. no. 10: 6

allocated, the schedule will be amended and will be the one against which the rescheduled Train Service it is measured as being an 'On time' Train Service.¹³⁰

In our view a resolution to Asciano's scenario is not addressed by either the TSE-consumption matrix in the draft NBB system rules nor the definition of 'Aurizon Network cause' in the access undertaking.

Finding an alternate user for cancelled mainline path

In this context, we note that BMACC said access holders should be able to divert or reschedule their train services during the 48-hour lockdown period, independent of whether it meets its original mainline path, without incurring additional TSE consumption if a number of criteria are satisfied. We do not accept this position. We consider there should be discipline on access holders in the 48-hour lockdown period to use the paths they have been assigned, subject to a reasonable degree of flexibility. In our view Aurizon Network has proposed to provide additional flexibility in some cases—for example, where diversions still enable an access holder to use the same mainline path. We consider this approach reasonable, as it aims to minimise impact on other access holders.

In our final decision on the CSR, we considered that access holders cancelling a system path in the day of operation should not have TSE consumption recorded against them if another access holder can use the mainline path associated with that cancelled system path.¹³¹ This holds to the extent the 'cancelling' access holder can find another access holder to use the mainline path, and Aurizon Network can accommodate the request in accordance with the network management principles. The onus is therefore on the cancelling access holder to find another access holder to use its path. Aurizon Network's obligations would be limited to coordinating the request for an ad hoc path, cancelling the original path, and ensuring the access holders' requests are consistent with the network management principles. In our view, this position should apply to the NBB system rules.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

¹³⁰ Aurizon Network, sub. No. 2: 23

¹³¹ QCA, 2014: 46-48

Preliminary position

- 4.4 After considering Aurizon Network's proposal in respect of the TSE consumption rules during 48-hour lockdown period, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 4.5 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:**
- (a) clearly state how TSEs would be allocated in the scenario where Aurizon Network requests an access holder reschedule a service and the access holder is unable to accommodate this request**
 - (b) facilitate that if an access holder cancels its system path during the day of operation, it will not accrue any path-consumption penalty, provided that the cancelling access holder (at its own cost and effort) can find another access holder to use the same mainline path. These must be managed in a manner that is consistent with the network management principles.**
- 4.6 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

4.3 Advertising and allocating available mainline train paths

Anglo American raised the issue that Aurizon Network, through the NBB system rules, may potentially bias the allocation of additional train paths, resulting from cancellations, reschedules, diversions and so forth, to mines closer to the coast at the expense of long-haul mines.

Stakeholder's comments

Anglo American said:

Where additional capacity is available, it can be meted out to users as the relevant operator or Aurizon Network sees fit. As it is much simpler to lay down short run train paths from mines close to the coast, Anglo American is concerned that mines that require long haulage and greater coordination will rarely receive an equal share of the benefit of additional capacity, particularly with a potential objective to only maximise system throughput (rather than deliver contracted capacity).

Anglo American submits that principles should be included in the NBB Rules allowing for equitable distribution of extra capacity between End Users to ensure that mines requiring greater transport alignment are not unfairly disadvantaged or discriminated against because of their location. Additionally generated capacity should be employed for the benefit of the whole system and should not unwittingly give particular End Users a competitive advantage.

...where system loss or decreased capacity events occur, it will be far simpler for short haul mines to pick up cancellations, diversions, additional resources and ad hoc paths and as such, the ability for short haul mines to recover lost TSEs will be far greater than for long haul mines.¹³²

Asciano said:

In relation to ..."Cancelled Train Services", Asciano believes that it should be clarified that the Aurizon Network email to access holders advising of newly available paths will be simultaneous (i.e. the same email will be sent to all Access Holders at same time).¹³³

¹³² Anglo American, sub. no. 3: 5

¹³³ Asciano, sub. no. 5: 12

Indec's recommendations

Indec said:

It is a fact of life that the ability to provide additional paths at short notice favours short haul over long haul due to the logistics involved and this should not be considered as a monopolistic approach.

In order to enhance transparency and equity over the allocation of additional capacity, Aurizon Network could advertise the availability of additional paths based on a queuing system. Each end user (regardless if short-haul or long-haul users) would have equal opportunity to utilise any additional paths and once the opportunity is offered to an end user, whether the path is taken or not, that end user then drops to the bottom of the list for the next advertised additional train path. Indec is unsure if this would actually improve the opportunities for long haul users however it should improve transparency and the perception of equity amongst end users.¹³⁴

QCA analysis and preliminary position

We do not agree with Indec's recommendation of advertising the availability of additional paths based on a queuing system to end users in this context. Using the proposed queuing mechanism may result in an end user agreeing to use a path, only to find that its above-rail operator is unable to use it or its use is detrimental to other coal chain stakeholders. This may result in a lengthy process to ultimately find an appropriate end user. We feel that a number of mechanisms already exist to cater for the allocation and contesting of paths, for example CTPDMP.

Despite this, we are of the view the draft NBB system rules do not adequately address how access holders are notified of the availability of additional train paths resulting from cancellations, reschedules, diversions, etc. We therefore support Asciano's recommendation to implement a system to advertise the availability of spare network capacity during the day of operation. We propose Aurizon Network notify all access holders simultaneously of the availability of spare 'mainline paths' as soon as they become available. This could be achieved via e-mail or an online portal (e.g. the NOPP).

Once notified, the responsibility lies with the access holder and/or end user to make a submission to Aurizon Network for the newly available mainline train paths. Our preliminary position is for Aurizon Network to allocate these train paths consistent with section 8.1.4 of the draft NBB system rules and the network management principles. Should there be a contest for these train paths Aurizon Network should use the CTPDMP and Traffic Management Decision Making Matrix (TMDMM) in the network management principles (2010 AU, sch. G, App. 2) to decide which access holder to award the path to.

This provides an equal opportunity for short-haul and long-haul mines to notify Aurizon Network of their interest in any spare capacity that becomes available. This, in turn, promotes the equitable operation of the network management principles. Assuming transparent train plans, it should also allow access holders (and customers) to verify equitable treatment as the notification process would be transparent.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

¹³⁴ Indec: 41

Preliminary position

- 4.7 After considering Aurizon Network's proposal in respect of the transparency of additional available mainline paths during the day of operation, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 4.8 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:**
- (a) propose a system to notify all access holders simultaneously of the availability of additional 'mainline paths' as soon as they become available**
 - (b) allocate the additional mainline path/s consistent with**
 - (i) section 8.1.4 of the NBB system rules**
 - (ii) Contested Train Path Decision-making process and Traffic Management Decision Making Matrix.**
- 4.9 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

4.4 Recovery of Aurizon Network cause undelivered TSEs

Stakeholders are concerned there is no mechanism for Aurizon Network to provide replacement train paths in subsequent months, where, due to Aurizon Network cause, it has failed to provide a particular month's TSEs.

Aurizon Network's proposal

Aurizon Network's submission did not explicitly address this issue.

Stakeholders' comments

Asciano said:

...in the event that requests for TSE allocations within weekly or monthly entitlements have not been supplied due to Aurizon Network related reasons then access holders monthly TSE entitlements should be recalculated to allow these TSEs to be recovered over the year.¹³⁵

QCA analysis and preliminary position

Given Aurizon Network's contractual obligation to access holders is a monthly TSE entitlement, Aurizon Network should be able to plan and allocate capacity each month, accounting for known maintenance and construction activities and anticipated day-of-operation variability on the network. In our view it is not unreasonable for access holders to expect Aurizon Network to meet its monthly contractual obligations and where this is not possible, we consider access holders should be able to seek an appropriate form of redress.

Our CSR final decision required Aurizon Network to provide additional train paths ('catch-up' paths) to access holders to make up for monthly TSEs unable to be delivered due to an Aurizon Network cause. We propose to extend this requirement to the NBB system rules.

We consider Aurizon Network should revise the draft NBB system rules to include a mechanism for replacing access holders' paths lost due to Aurizon Network cause each month. These 'catch-up' paths should be provided in subsequent months of the same contract year subject to availability. This mechanism should describe how these 'catch-up' paths are distributed over the

¹³⁵ Asciano, sub. no. 5: 10

future month(s) and how access holders will be notified of their accrual and use. For force majeure events (as defined in the 2010 AU as Aurizon Network cause) that clearly lie outside Aurizon Network's control, we consider Aurizon Network should be subject to a less stringent commitment. Specifically, Aurizon Network should use:

- best endeavours to provide replacement paths to access holders, for possessions and other actions (or inactions) within its control
- reasonable endeavours to provide replacement paths to access holders, for force majeure events.

Allocation of these 'catch-up' paths should be consistent with the CTPDMP in Appendix 2, Schedule G of the 2010 AU.

Further, we are of the view that, in order to promote equitable outcomes, access holders and/or end users should not unreasonably refuse to utilise a 'catch-up' path when offered and available.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

Preliminary position

4.10 After considering Aurizon Network's proposal in respect of the recovery of Aurizon Network cause undelivered TSEs, our preliminary position is that we would refuse to approve Aurizon Network's proposal.

4.11 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:

- (a) use best endeavours to provide additional paths to access holders in subsequent months where it has failed to meet its monthly contractual obligations due to Aurizon Network cause events, consistent with the Contested Train Path Decision-making Process. In doing so, Aurizon Network will have regard to any allowable thresholds that have been negotiated in the access agreements.
- (b) use reasonable endeavours to provide replacement paths to access holders in subsequent months, for force majeure events
- (c) include an mechanism to achieve the above each contract month.

4.12 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

4.5 Penalty regime for co-shippers

Stakeholder comment

Vale said:

Under a cargo assembly mode of operation the port will generally only rail each parcel of a vessel when all the coal is ready at each individual loading point. If an Access Holder changes the timing of the parcel after it is scheduled, this can cause the cancellations of Train Services to the other co-shippers which then results in a TSE Consumption to the co-shipper. This additional TSE Consumption could later have an impact on the Access Holder's ability to seek a Train Path due to the contested train path decision making process. Vale would be supportive of a process that

*allocates TSE Consumption to the root cause to ensure the party causing the delay, diversion, or cancellation is accountable for the losses.*¹³⁶

QCA analysis and preliminary position

Vessels at DBCT are often loaded with coal from multiple mines. Individual parcels are railed to the port, assembled into a single cargo and then loaded onto the vessel. This is termed co-shipping. Mines, their train operators and the port are required to coordinate the train arrival times and vessel berthing schedules, so the correct volume and quality of coal is available as a single cargo once the vessel is berthed.

Under the terminal regulations, if there is insufficient coal on the stockyard, even from only one of the co-shipping mines, DBCT does not permit the vessel to be berthed. A mine may not be able to supply its volume of coal to the port at the right time for a number of reasons such as insufficient coal available at the mine, as well as Aurizon Network cause and/or train operator cause resulting in reschedules or cancellations to its train services. The other co-shipping mines are thus forced to reschedule their train services, to realign the train arrival times at the port with the mine that rescheduled/cancelled its service.

Against this background, we consider a penalty regime for managing the impacts of misalignment of ship-loading times to be outside Aurizon Network's regulatory framework. We are of the view that the heart of the issue relates to the allocation of responsibility for the consequential loss arising from one mine's (or its service providers) actions on other parts of the co-shipping group.

While a system that places greater discipline on co-shipping miners would likely promote the efficient operation of the coal supply chain, addressing this is not within the scope of Aurizon Network's NBB system rules.

4.6 Updating the DTP for train performance measurement

Asciano raised a concern that in the event that a rescheduling of paths is negotiated, unless Aurizon Network updates Vizirail diligently, a train operator's performance may be inaccurately reported.

Aurizon Network's proposal

Aurizon Network said:

Train performance on a particular day, including on-time running and delays, will be measured against the original DTP published for that day unless such changes have been agreed between Aurizon Network and the relevant Access Holder(s).

Stakeholders' comments

Asciano said:

...Asciano recognises that train performance is measured against the original Daily Train Plan except where paths are renegotiated, Asciano has a concern that renegotiated services are not always updated in Vizirail; therefore train performance figures which are based on Vizirail data may be incorrect. For example they may show large delays on operator services despite a new path being agreed. Asciano has a further concern that when the above occurs the above-rail delay codes are often used to justify the discrepancy. To address this issue Asciano is seeking that

¹³⁶ Vale, sub. no. 8: 3

the NBB System Rules state that the relevant Aurizon Network systems must be updated with the renegotiated path details, in order to ensure this clause [section 10.2.1] applies in practice.¹³⁷

QCA analysis and preliminary position

In our view it is not unreasonable to expect Aurizon Network to record and report train-path utilisation correctly and in a timely manner. Access holders should be confident that the Vizirail system and other relevant Aurizon Network systems are regularly updated and reports are accurate once generated.

Given this, our preliminary position is there is merit in Aurizon Network including a methodology in the NBB system rules for updating its Vizirail system and other relevant Aurizon Network systems prior to train performance reports being generated. This provides comfort to access holders that their DTP train-path performance is being recorded appropriately.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), 138(2)(b), (e) and (h)).

Preliminary position

- 4.13 After considering Aurizon Network's proposal in respect of updating the DTP for train performance measurement, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 4.14 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to include a methodology for updating its Vizirail system and other relevant Aurizon Network systems with accurate day-of-operation information prior to train performance reports being generated.**
- 4.15 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

¹³⁷ Asciano, sub. no. 5: 14

5 SCHEDULING AND CONTROL

Stakeholders and Indec identified a number of issues which relate to train scheduling and control. We have grouped these nine issues into this chapter.

5.1 Scheduling GAPE cross-system traffic on the Goonyella system

Over a number of years access holders and end users have consistently raised concerns regarding three aspects of the GAPE project:

- whether sufficient infrastructure investment was made on the Goonyella system to support the GAPE traffic
- whether the use of smaller trains by GAPE customers has caused a decrease in Goonyella system capacity
- removal of the flexibility of ad hoc paths.

This section explores how these concerns apply specifically to the NBB system rules around train scheduling.

Stakeholders' comments

Anglo American said:

Anglo American understands that the current submission of the NBB Rules has no regard to the impact that cross system traffic might have on the available TSEs and scheduling of a particular system. In particular, Anglo American notes that since recent connections, cross system traffic has the potential to significantly degrade the capacity available to existing users of the Goonyella system, and this is not reflected or considered by the NBB Rules.

Anglo American is strongly of the view that priority scheduling should rest with End Users who require it most in order to ensure the efficient use of the CQCN and work to achieve railing of full contracted capacity, while maximising network capacity at the same time. This would mean that End Users requiring immediate shipping of their coal should receive priority over End Users who are subject to a stockpile system and whose TSEs are therefore not drastically affected by rail delays.

At the same time, Anglo American believes that in recognition of earlier contracting of expansion capacity compared to GAPE, a rule should be instituted (the 'status quo' rule) that requires the scheduling of Goonyella services for HPS and DBCT in the ITP and DTP before GAPE services are scheduled. This concept should be incorporated into the existing section 5.3.5 of the NBB Rules and will ensure that the foundation End Users of the Goonyella system, DBCT and HPS do not suffer from expansion compression resulting from the GAPE expansion scope or operations.¹³⁸

In a second submission, Anglo American provided alternative drafting for section 5.3.5 of the draft NBB system rules. This drafting aims to give effect to its proposed 'status quo rule'. It said the status quo rule:

...protects against compression of foundation users' contracted capacity due to connection of cross system train services which Aurizon Network has not adequately catered for, and recognises the prior investments and agreements reached with foundation Goonyella users.¹³⁹

¹³⁸ Anglo American, sub. no. 3: 4

¹³⁹ Anglo American, sub. no. 4: 2

Further, Anglo American said it:

...does not believe that the implementation of the status quo rule would create any disadvantage to other users, particularly if the GAPE enhancements are adequate (which Anglo American does not accept). Users operating through ports outside the Goonyella System are understood to have access to stockpile capacity or longer build times and will not be adversely affected by the alteration of the DTP.¹⁴⁰

Indec's recommendations

Indec said:

Indec believes that the high level objective of the system rules is to meet the delivery of the TSEs as specified in the ITP and DTP. A subordinate objective would be to maximize available paths to improve the efficiency of the network. Indec notes that the QCA has decided on similar objectives in the Capricornia system rules review.¹⁴¹

The efficient use of the coal supply chain network is dependent on optimising the mine head stockpile with the available rail network capacity within the available port stockpile. The optimisation of the network capacity can only occur within these parameters. Different end users will have differing views of what an optimal network capacity should look like and the real issue is how to establish the system rules to optimise the network's performance for all users and the total investment made by all parties.¹⁴²

QCA analysis and preliminary position

The CTPDMP provides for the system rules giving priority to certain train services or unloading facilities when assessing contested train paths.¹⁴³ Further, the TMDMM, allows Aurizon Network to have regard to coal supply objectives specified in the system rules for deciding how to prioritise train services on the day of operation.¹⁴⁴

If however, as per Anglo American's proposed 'status quo rule', a priority criteria for a specific port or system was implemented into the NBB system rules, we are of the view that the CTPDMP could become inequitable and may benefit one system's users over another's. To illustrate this, in the event that a Goonyella and cross-system train operator/end user requested the same train path, the result of using the CTPDMP in tandem with the 'status quo rule' would consistently be the Goonyella end user being granted the contested path due to the hierarchy of how contests are resolved.

In the context of the NBB system rules, we do not consider it appropriate to implement the proposed 'status quo rule' as it creates a precedence for prioritising the scheduling of one set of users of a shared system over others. It is our preliminary position that the system rules should support the equitable scheduling of train services. We are of the view that Aurizon Network's proposal of treating all train services equally once scheduled in the 48-hour schedule achieves this objective.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act ss. 138(2)(b), (e) and (h)).

¹⁴⁰ Anglo American, sub. no. 4: 3

¹⁴¹ Indec: 27

¹⁴² Indec: 42

¹⁴³ 2010 AU, Sch. G, App. 2, cl. (c)(i)

¹⁴⁴ 2010 AU, Sch. G, App. 3, Rule 8

Preliminary position

- 5.1 After considering Aurizon Network's proposed scheduling of GAPE cross-system traffic on the Goonyella system, our preliminary position is that we would approve Aurizon Network's proposal.**
- 5.2 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

5.2 Transfer of paths within an access holder's portfolio

The transfer of paths allows an access holder to temporarily transfer access rights from one mine–port combination to another without incurring any additional TSE consumption. Aurizon Network's draft NBB system rules provide for the transfer of paths within an access holder's portfolio.

Aurizon Network's proposal

Aurizon Network said:

An Access Holder may choose to reallocate Contracted TSE Orders amongst multiple TSEs by ordering less than the MTP TSE allocation for the Weekly Period for one (the original) Train Service (origin – destination TSE), and ordering more than the MTP TSE allocation for the Weekly Period for another Train Service (origin – destination TSE), provided that the total combined MTP weekly allocations are not exceeded, and Available Capacity exists to do so without adversely affecting Aurizon Network's ability to meet any other Access Holder's TSE for that Weekly Period. The Access Holder choosing to reallocate Contracted TSE Orders must specify any reallocation in the "Comments" section of their submitted Train Orders for the Weekly Period in the [sic] for contained in Appendix A.¹⁴⁵

Stakeholders' comments

Anglo American said:

End Users have no control over the pooling of train paths or ad hoc capacity and, as such, an important asset for producers is held at an operator level. While Aurizon Network is regulated, the operators are not and the QCA should not risk considerable operational power being inappropriately applied without user consent. As such, End Users should be able to nominate the level that their paths will be pooled at. They should also have use of ad hoc capacity applied against their Take or Pay for the month rather than paying twice.¹⁴⁶

...the NBB Rules indicates that only TSEs held by an Access Holder are able to be traded off against each other, meaning that individual end users have no control over their available capacity.¹⁴⁷

A more appropriate requirement would be that the end customer is able to nominate how their TSEs are pooled; either by Terminal, Operator or by Access Holder (eg, End User Access Agreement). Anglo American believes that while responsibility for pooling should be left at the Operator level, End Users should have the ability to nominate where their TSEs are pooled, thus giving End Users greater control of their capacity.¹⁴⁸

Asciano said:

¹⁴⁵ Aurizon Network, sub. no. 2: 19

¹⁴⁶ Anglo American, sub. no. 4: 1

¹⁴⁷ Anglo American, sub. no. 4: 3

¹⁴⁸ Anglo American, sub. no. 4: 3

Asciano believes that the current system rules can be improved by the development and implementation of clearer rules and processes that facilitate more pathing flexibility. While improvements in pathing flexibility require amendments to other processes and documents, not just the system rules, the system rules should be sufficiently flexible to accommodate improvements as they occur. Asciano strongly supports the development of processes that facilitate increased pathing flexibility¹⁴⁹.

QCA analysis and preliminary position

We are of the view that Aurizon Network's proposal is consistent with Schedule G of the 2010 AU. We are not convinced that Anglo American has no control over the pooling of train paths or ad hoc capacity. Until the 48-hour schedule is agreed, end users, through their access holders, are able to modify their train paths and train orders without incurring TSE consumption. In fact, we note Aurizon Network's proposal provides a level of scheduling flexibility that is greater than required by the network management principles, namely by allowing the transfer of paths within an access holder's TSE portfolio for the ITP scheduling process and not just the CTPDMP.

Further, we note that Asciano's comments recognise that improving train pathing flexibility will require amendments across various processes and documents, not just the NBB system rules. As such, we are of the view that if the issue of transferring paths within an access holder's portfolio is to be considered, this is best done as part of the UT4 process.

Against this background, we are of the view that, given the information available to date, Aurizon Network's proposal appears reasonable. We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

Preliminary position

5.3 After considering Aurizon Network's proposed transfer of paths within an access holder's portfolio, our preliminary position is that we would approve Aurizon Network's proposal.

5.4 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

5.3 Aurizon Network's supply chain objectives

The 2010 AU allows Aurizon Network to rely on the system rules in achieving coal supply chain objectives by:

- (a) scheduling trains – the ITP (schedule G, appendix 2, clause (c)(i))
- (b) managing conflicts on the day of operations – the TMDMM (schedule G, appendix 3, rule 8).

Given the network management principles refer to system rules for establishing supply chain objectives, the QCA's CSR draft decision said it was 'particularly important that the circumstances where these measures are applied, and how they will be applied, are clearly set out in the system rules'.¹⁵⁰

¹⁴⁹ Asciano, sub. no. 5: 5

¹⁵⁰ QCA, April 2013: 45

Aurizon Network's proposal

With regard to the system rules as a whole Aurizon Network said:

*These System Rules aim to provide transparency around the planning and scheduling decision making process. Their primary goal is to create certainty in respect to access entitlements for Access Holders, ensuring Aurizon Network's compliance with regulatory and contractual obligations. Their secondary goal is to provide a means of integrating and coordinating various operating parameters within contractual boundaries and the Supply Chain Operating Assumptions, so that operating modes such as cargo assembly operations can be accommodated with the purpose of maximising supply chain throughput.*¹⁵¹

With regard to scheduling Aurizon Network said:

*In scheduling Train Services, Aurizon Network's primary responsibility is to maximise the system available pathing for the equitable distribution of TSEs.*¹⁵²

Stakeholders' comments

Anglo American said:

*Anglo American is concerned ... with a[n Aurizon Network] potential objective to only maximise system throughput (rather than deliver contracted capacity).*¹⁵³

BMACC said:

*We have some hesitation in embedding an overriding System Rule within the Northern and Capricornia System Rules "to maximise system throughput". Such a rule does not recognise the contractual reality of the number of coal chains within each System. For example in the Northern Bowen Basin, would this System Rule relate to the maximisation of DBCT throughput to the detriment of BMACC and APCT throughputs, or would it relate to the maximisation of BMACC and/or APCT to the detriment of DBCT.*¹⁵⁴

Asciano said:

*The planning needs to be broadened to include mine, port and rollingstock considerations and the focus of the planning process should be maximising the volume of coal moved.*¹⁵⁵

*...the planning procedure should be re-cast to include a broader focus on ensuring that the planning results in a process which allows Aurizon Network to provide the TSEs necessary to meet its contractual obligations and if possible, provide additional train paths in order to maximise the volumes of coal moved.*¹⁵⁶

*Asciano strongly believes that ultimate goal of any supply chain performance measurement and performance management process must be to achieve higher supply chain throughput and / or lower supply chain unit costs.*¹⁵⁷

Indec's recommendations

Indec said:

...review of the draft system rules did not find that the rules establish a set of reasonable, well-defined coal supply chain objectives to manage day-of-operation variability...The NBB system rules would benefit from the development of a set of coal chain objectives to provide a

¹⁵¹ Aurizon Network, sub. no. 2: 3

¹⁵² Aurizon Network, sub. no. 2: 19

¹⁵³ Anglo American, sub. no. 4: 5

¹⁵⁴ BMACC, sub. no. 6: 2

¹⁵⁵ Asciano, sub. no. 5: 7

¹⁵⁶ Asciano, sub. no. 5: 8

¹⁵⁷ Asciano, sub. no. 5: 14

framework or reference for decision making. The inclusion of a clearly defined set of objectives ensures all stakeholders understand the outcomes being sought and what drives the decision making process. It would provide transparency in relation to the degree of operational flexibility afforded within the context of the objectives set for the system and allow Aurizon Network to demonstrate that it is not favoring one access seeker over another.

Indec believes that the high level objective of the system rules is to meet the delivery of the TSEs as specified in the ITP and DTP. A subordinate objective would be to maximize available paths to improve the efficiency of the network. Indec notes that the Authority has decided on similar objectives in the Capricornia system rules review.¹⁵⁸

In response to the Indec report, Aurizon network said:

The primary objective of the NBB System Rules are to provide certainty in respect of access entitlements for access holders through transparent process relating to the planning, scheduling and decision making processes.¹⁵⁹

QCA analysis and preliminary position

There are three areas in the 2010 AU's network management principles that refer to the system rules for supply chain objectives, namely:

- (1) the objectives of the system rules as a whole
- (2) scheduling—the CTPDMP allows Aurizon Network to base its contested-path allocations on 'any requirement for giving priority to certain train services or certain unloading facilities identified within the system rules' (Schedule G, Appendix 2, cl. (c)(i))
- (3) day of operation—the TMDMM allows Aurizon Network's train controllers to 'resolve conflicts that may arise in maximising coal supply chain throughput subject to meeting predefined and agreed objectives' (Schedule G, Appendix 3, Notes for the application of the TMDMM and Rule 8).

Our analysis on the interaction of system rules and supply chain objectives accordingly deals with:

- the objective of system rules
- scheduling
- day of operation.

System rules objectives

In our view, stakeholder submissions relating to this issue focus on the role of system rules with respect to the interaction of supply chain objectives and meeting TSE contractual entitlements. It is, however, not completely clear which objective takes precedence if they are in conflict, with stakeholders offering differing opinions.

We regard that, when there is a conflict:

- (1) the primary objective of the NBB system rules is to assist Aurizon Network in meeting its contractual obligations to all its customers, as defined in their access agreements; whilst ensuring compliance with regulatory requirements

¹⁵⁸ Indec:27

¹⁵⁹ Aurizon Network, sub. 9:1

- (2) the secondary goal relates to supply chain objectives and involves the maximisation of system pathing availability and the equitable distribution of additional train services over and above contractual entitlements, and
- (3) the third system rules objective is maximising of supply chain throughput.

We prioritise the goals in this way, because in our view, when Aurizon Network faces a conflict between supply chain objectives and meeting its customers' contractual entitlements, we consider that it is in access holders' interests to ensure their contractual rights are met (s.138(2)(h) of the QCA Act). In our view consciously choosing to meet supply chain objectives at the expense of contractual obligations can undermine medium- to long-term confidence in the train path allocation process and may engender undesirable behaviours, such as customers contracting for more access rights than needed. We do not consider such an outcome would appropriately align with the public interest or the object of the third party access regime in Queensland (ss.138(a),(d) and 69(E)).

Further, we consider our preliminary position consistent with the legitimate business interests of Aurizon Network (s.138(2)(b)).

Supply chain objectives for scheduling

In our view, where network capacity is sufficient to meet contracted demand we propose the hierarchy of the supply chain objectives for scheduling, in order of priority, should be:

- (1) meeting contractual obligations
- (2) maximising the available train paths and to equitably allocating train paths over and above contractual obligations amongst all access holders/end users, and
- (3) maximising supply chain throughput.

This broadly aligns with our findings in the CSR.

In other cases there is potential for conflict to arise between maximising supply chain throughput and meeting TSE contractual entitlements. In such circumstances, we consider it reasonable for the regulatory arrangements to support Aurizon Network meeting its contractual obligations to all of its customers – that is, Aurizon Network needs to allocate usable train paths to access holders who have contracts.

We are of the view that the above approach aligns with our approach to the overarching objective of the NBB system rules with respect to the interaction between contractual TSE entitlements and supply chain objectives. As such we consider our preliminary position is appropriate, having regard for the relevant factors of section 138(2) of the QCA Act.

Supply chain objectives for day of operation

We agree with Indec that the draft NBB system rules do not include objectives for day of operation management. During the day of operation, the role of scheduling/planning is largely complete, and the task of managing the network falls to train controllers. On the basis that safety considerations are met, we propose the hierarchy of the supply chain objectives for day of operation, in order of priority, should be:

- (1) meeting contractual obligations
- (2) maximising paths and distributing them equitably
- (3) maximising supply chain throughput.

We are of the view that this approach is consistent with our previous preliminary positions in this section and appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act ss. 138(2)(b), (e) and (h)).

Preliminary position

- 5.5 After considering Aurizon Network's proposal in respect of the supply chain objectives for the NBB system rules as a whole, and specifically for scheduling and day of operation, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 5.6 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to reflect that in all three cases the hierarchy of objectives is:**
- (i) meeting its contractual obligations to its customers**
 - (ii) maximising paths and distributing them equitably**
 - (iii) maximising supply chain throughput.**
- 5.7 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

5.4 Feedback on CTPDMP outcome

The CTPDMP in the 2010 AU contains criteria Aurizon Network must use to decide which access holder should be allocated a contested train path during the formulation of the ITP. One of the initial resolution methods is for all above rail operators (rather than end users) to meet and potentially agree who should be allocated the contested path.

Aurizon Network's proposal

Aurizon Network said:

... in developing the ITP, Aurizon Network will allocate the available paths by applying the Contested Train Path Decision-making Process in Appendix 2, Schedule G of the Access Undertaking (as also reflected in Access Agreements).¹⁶⁰

For the purpose of contesting a Train Path, performance will be measured by comparing an Access Holder's TSEs (subject to section 4.5 [of the draft NBB system rules]) against its TSE Consumption.¹⁶¹

Stakeholders' comments

Asciano said:

... in developing and finalising the Intermediate Train Plan and distributing the plan to the train operators Aurizon Network should also provide in writing the reason for not supplying any train services requested by the train operators including...details of any "won" and "lost" contested paths...¹⁶²

Indec's recommendations

Indec said:

¹⁶⁰ Aurizon Network, sub. no. 2: 20

¹⁶¹ Aurizon Network, sub. no. 2: 28

¹⁶² Asciano, sub. no. 5: 12

Clause 8.3 (ii) stipulates that 'where the relevant access holders agree amongst themselves who should be allocated the contested train path, the contested train path will be allocated as agreed by the access holders'.

To enable this, it is suggested that consideration be given to amending the clause or system rules (or both) to:

- *Facilitate the mechanism to enable this discussion to occur in a timely manner; and*
- *Provide transparency for access holders to have visibility of available surplus train paths in a form that indicates the time/distance (location) relationship of the train services and other activities (i.e. planned possessions) on the rail infrastructure.¹⁶³*

Responses to Indec's report

In response, Anglo American said:

A coal producer who is not "separately represented" as an Access Holder will have no way of knowing if their interests have been discriminated against by the "group" Access Holders in reaching agreement.

There should be some transparency and reporting in respect of the allocation of Contested Train Paths when it is by agreement amongst the Access Holders.¹⁶⁴

QCA analysis and preliminary position

Aurizon Network's draft NBB system rules correctly link the CTPDMP to the network management principles in the 2010 AU. We therefore accept the approach of applying the CTPDMP Aurizon Network has proposed in the draft NBB system rules.

We do, however, consider it important for Aurizon Network to provide enough information on CTPDMP outcomes to show that paths are being allocated equitably and no access holder is receiving unfair priority.

We agree with Asciano and Anglo American additional transparency on the CTPDMP is required. We note Aurizon Network has not volunteered to provide any information on the outcomes of the CTPDMP. Further, Aurizon Network does not notify end users when a contest is to take place.

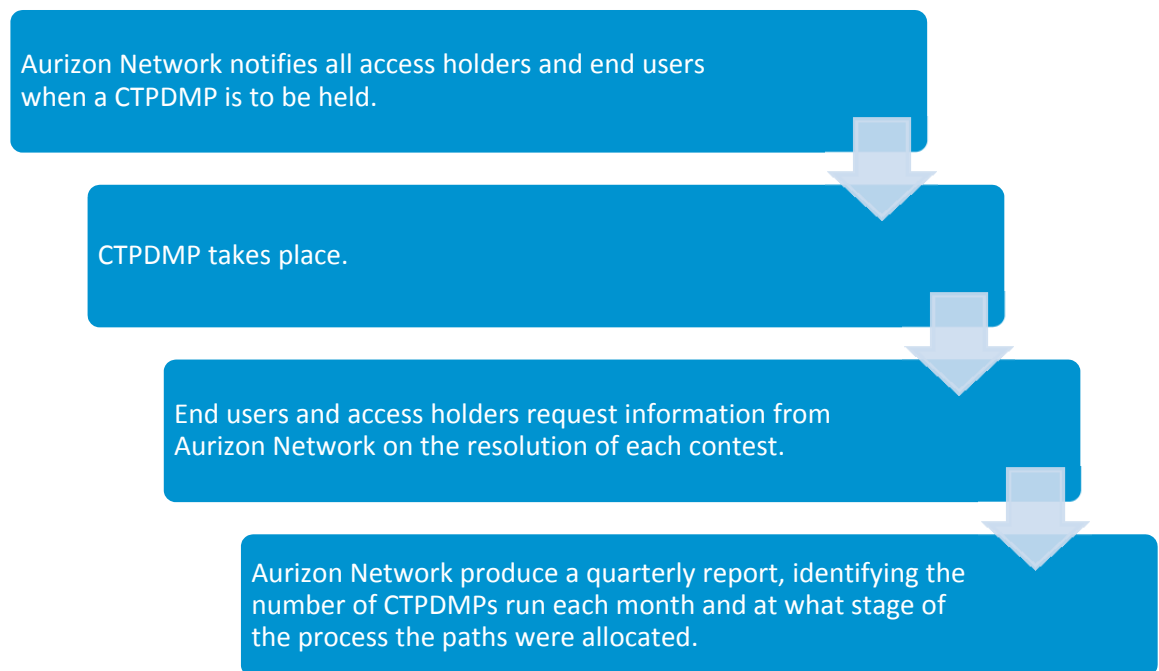
Our preliminary position is for Aurizon Network to notify all access holders and end users, simultaneously, of the time each CTPDMP will be run. Aurizon Network currently keeps records of the result of the CTPDMP if the process is resolved at the step where access holders (or Train Operations Agreement (TOA) holders) agree on how paths should be allocated (step b, see Appendix B).

We consider access holders and end users should be able to request information from Aurizon Network on the resolution of each contest. At a minimum Aurizon Network should be able to inform access holders and end users of the step at which the contested path was allocated.

We also suggest Aurizon Network produce a quarterly report, identifying the number of CTPDMPs run each month and at what stage of the process the paths were allocated. While the 2010 AU does not require Aurizon Network to provide such a report, we suggest it would be beneficial if Aurizon Network agreed to provide this report as part of the NBB system rules, as illustrated in **Figure 16**.

¹⁶³ Indec: 37

¹⁶⁴ Anglo American, sub. No. 10:7

Figure 16 QCA-suggested CTPDMP reporting process

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

Preliminary position

- 5.8** After considering Aurizon Network's proposal in respect of feedback on Contested Train Path Decision Making Process outcomes, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 5.9** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:
- (a) notify all access holders and end users simultaneously of the time each CTPDMP will be run
 - (b) inform access holders and end users of the step at which the contested path was allocated, upon request.
- 5.10** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Suggestion

- 5.11** Aurizon Network produce and distribute a quarterly report to all access holders and end users, identifying the number of CTPDMPs run each month and at what stage of the process the contested paths were allocated.

5.5 Alteration of scheduling requests

Access holders (above-rail operators and end users) are able to alter train services, once scheduled in the ITP, in a number of ways (as discussed in Section 4.2). Aurizon Network's draft NBB system rules provide for the transfer of paths across an access holder's portfolio of TSE entitlements, provided the transfer would not involve different above-rail operators (in the case of an end user). This section considers the implications for scheduled train services when an end user does wish to transfer access rights between different above-rail operators.

Aurizon Network's proposal

In section 6.1 of the draft NBB system rules, Aurizon Network outlines the types of requests to alter train services an access holder can make.¹⁶⁵

Indec's recommendations

Indec said:

It is a requirement under the SAA to provide flexibility for short term scheduling such that end users that are under the alternative SAAs can re-appoint above-rail operators to undertake the relevant train order at short notice.

In the Authority's final decision on the Capricornia System Rules it was stipulated that access holders could vary the allocation of their access rights provided they give Aurizon Network at least 56 hours' notice.

Indec has observed that the NBB system rules in Section 6.1 "Types of Requests to Alter Train Services" does not explicitly include the ability of access holders to reallocate their access rights between their nominated above-rail operators at short notice.¹⁶⁶

QCA analysis and preliminary position

The alternative-form SAAs allow an end user, within a single access agreement, to nominate multiple above-rail operators to give effect to its access rights. The ability to nominate multiple above-rail operators only applies to a transfer that relates to the same end user and the same origin–destination pair.

In these SAAs, an end user can request a short-term reallocation of access rights between its nominated above-rail operators, provided the end user gives Aurizon Network at least two business days' notice to implement that request.¹⁶⁷ An end user exercising this right will likely cause a variation to scheduled train services.

Our preliminary position is to require Aurizon Network to amend section 6.1 of its draft NBB system rules, so it accounts for the scheduling flexibility afforded to end users via the alternative-form SAAs (i.e. end users can reallocate access rights between their appointed above-rail operators with two business days' notice), consistent with the approved CSR.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), 138(2)(b), (e) and (h)).

¹⁶⁵ Aurizon Network, sub. no. 2: 23

¹⁶⁶ Indec: 28

¹⁶⁷ 2013 EUAA: 18

Preliminary position

- 5.12 After considering Aurizon Network's proposal in respect of alteration of scheduling requests, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 5.13 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to ensure section 6.1 of the NBB system rules reflects the flexibility end users are entitled to when contracting under the alternative-form SAAs provide for a 10-day rolling ITP.**
- 5.14 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

5.6 Scheduling of passing, crossing and dwelling times

Prior to the day of operation, Aurizon Network prepares the DTP as a scheduling tool to identify, in detail, the movement of all trains on the network during that 24-hour period. The DTP is based on the previously prepared and locked-down 48-hour schedule. The 48-hour schedule forms the basis of TSE consumption despite the fact that unlike the DTP it does not provide detailed information on the timing of train movements.

Aurizon Network's proposal

Aurizon Network said:

The Intermediate Train Plan will specify:

- (a) *Train Service numbers for each origin - destination TSE*
- (b) *Indicative departure and arrival times for planned Train Services at depots, loading and unloading facilities*
- (c) *Planned Dwells*
- (d) *Indicative Port sequencing*
- (e) *Known Possessions.*¹⁶⁸

and:

The 48 Hour Schedule will ... become visible on Aurizon Network's scheduling system each day at midnight. These confirmed paths will include all Train Services that are due to depart their respective depot in the next 48 hour period ... The 48 Hour Schedule sets the baseline for TSE Consumption. The 48 Hour Schedule will be reported to Access Holders daily via email.

The 48 Hour Schedule, together with agreed amendments will form the basis for the Daily Train Plan (DTP). The DTP will specify:

- (a) *departure and arrival times for planned Train Services at depots, loading facilities and unloading facilities; and*
- (b) *Port unloading schedule.*¹⁶⁹

Stakeholders' comments

Asciano said:

¹⁶⁸ Aurizon Network, sub. no. 2: 21

¹⁶⁹ Aurizon Network, sub. no. 2: 24

...the 48 hour schedule should include details of scheduled sectional running times including crossing times, passing times and above rail and below rail dwells. In the event that such information cannot be provided in the 48 hour schedule it should be provided in the 72 hour schedule.¹⁷⁰ [sic]

QCA analysis and preliminary position

We agree with Asciano's preliminary position that the 48-hour schedule and DTP should contain similar information. The 48-hour schedule forms the basis of the DTP. As the DTP is developed for the purpose of scheduling the movement of trains on the network, it relates directly to train control and, as such, contains detail of train services' section run times; passing, crossing and dwell times; as well as port arrival and departure times. Given the DTP's link with the 48-hour schedule and the 48-hour schedule's role in defining baseline TSE consumption, we see no practical or theoretical reason why the 48-hour schedule cannot contain similar information to that provided in the DTP.

Making more detailed information available to access holders, particularly above-rail operators, in the 48-hour schedule would assist them in better managing their assets. We are of the view this is appropriate as it assists in promoting the efficient operation (and use) of the rail infrastructure and coal supply chain, which, we consider, is in the public interest of Queensland (ss.138(2)(a), (d) and 69E of the QCA Act)). We also consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

138(2)(b)138(2)(b)

Preliminary position

- 5.15 After considering Aurizon Network's proposal in respect of scheduling of passing, crossing and dwelling times length of the ITP, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 5.16 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to include the following in the 48-hour schedule:**
- (a) departure and arrival times for planned train services at depots, loading facilities and unloading facilities**
 - (b) above- and below-rail dwell times**
 - (c) scheduled sectional running times including crossing and passing times.**
- 5.17 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

5.7 Timing of lockdown of the 48-hour schedule

There is an inconsistency in wording concerning the confirmation and finalisation of the 48-hour schedule.

Aurizon Network's proposal

Aurizon Network said:

¹⁷⁰ Asciano, sub. no. 5: 13

*Aurizon Network will confirm and lock down the next 48 hours worth of pathing daily at 16:00 hours. This is referred to as the 48 Hour Schedule.*¹⁷¹

Stakeholders' comments

Asciano said:

*The definition section of the Draft NBB System Rules states the 48 hour schedule is finalised each day at midnight, whereas section 6.3 describes the 48 hour schedule as being confirmed and "locked down" at 16:00 hours, becoming visible on Vizirail at midnight. If the 48 hour schedule is not finalised until midnight, an access holder should be able to request changes up to midnight, without consuming additional TSE. Stating the schedule is "locked down" at 16:00hrs implies additional TSE may be consumed for changes made between 16:00 and 00:00, thus effectively bringing the 48 hour schedule forward an additional 8 hours. The NBB System Rules should clarify that changes requested prior to 00:00 will not consume additional TSE.*¹⁷²

QCA analysis and preliminary position

In a coal system characterised by a high degree of scheduling variability the eight hours between 16:00 (when the 48-hour schedule is locked down) and midnight (when the 48-hour schedule is published) appears, in our view, to be of a duration within which it would be possible for Aurizon Network to accept access holders' proposed train service alterations, unless the TSE consumption matrix needed to be applied.

Given this, we consider there should be an avenue for access holders to make scheduling amendment requests between 16:00 and 00:00 hours, until the 48-hour schedule is finalised and actually locked down.

We are aware that this is inconsistent with our CSR final decision. We do, however, consider the NBB system is characterised by a higher degree of variability (cargo assembly and campaign raiiling) relative to the Capricornia system (higher port stockpile-to-throughput ratio). In this context, we are of the view that NBB access holders should have more flexibility around managing their train paths.

We consider this aligns with the object of Queensland's third party access regime (QCA Act s. 69E, 138(2)(a)), whilst appropriately balancing the legitimate business of Aurizon Network with the interests of access holders and seekers (QCA Act s.138(2)(b), (e) and (h)). Further, our preliminary position supports the concept that access holders' rights under their access agreements should be protected (2010 AU cl.5.2(e)(i)).

¹⁷¹ Aurizon Network, sub. no. 2: 24

¹⁷² Asciano, sub. no. 5: 13

Preliminary position

- 5.18** After considering Aurizon Network's proposal in respect of the timing of lockdown of the 48-hour schedule, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 5.19** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:
- (a) publish the draft 48-hour schedule via the Network Operations Path Planning tool (NOPP) as soon as possible after 16:00 hours
 - (b) propose an avenue for access holders to make scheduling amendment requests between 16:00 and midnight, without incurring TSE consumption
 - (c) publish the final 48-hour schedule in ViziRail at midnight.
- 5.20** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

5.8 Acceptance of the 72-hour schedule

Aurizon Network schedules trains at a minimum three days in advance of the day of operation. This is referred to as the 72-hour schedule. The 72-hour schedule includes 48 hours of locked pathing (48-hour schedule) for the first two days of the three day period and a pathing plan for the train services departing on the third day.

Aurizon Network's proposal

Aurizon Network said:

The 72 Hour Schedule will be communicated to Access Holders and Port Operators via email daily at 16:00 hours. Access Holders are to provide written acknowledgement of receipt and acceptance of the 72 Hour Schedule each day by 17:00 hours by email to NetworkAccess.Goonyella&Newlands@aurizon.com.au. Once that confirmation is received, the 72 Hour Train Schedule will be finalised at 18:00 hours. Where written acknowledgement of receipt and acceptance does not occur by that time, the relevant Access Holder is deemed to have accepted the 72 Hour Schedule, and Aurizon Network will schedule Train Services for that Access Holder.¹⁷³

Stakeholders' comments

Asciano said:

Section 6.2 notes that acceptance of the 72 hour schedule is required within 1 hour of the schedule being released at 16:00. Acceptance of the schedule is assumed if acceptance has not occurred by this time. Asciano believes that this time frame may be too limited in the event that there is an issue with the schedule, and if there is communication between an access holder and Aurizon Network that there is an issue with the schedule then acceptance should not be assumed at 17:00.¹⁷⁴

QCA analysis and preliminary position

In our view once the draft 72-hour schedule is received, access holders and end users need a reasonable opportunity to assess how their train orders have been scheduled, the operability of the schedule from an asset and resource management point of view and to confirm whether

¹⁷³ Aurizon Network, sub. no. 2: 23

¹⁷⁴ Asciano, sub. no. 5: 13

the 72-hour schedule is consistent with their rights under the relevant access agreements. Given this, we accept Asciano's position that one hour may be an unreasonably short time period to complete the review and confirm acceptance of the 72-hour schedule.

Our preliminary position is to request Aurizon Network amend the draft NBB system rules to use reasonable endeavours to provide access holders and end users an extension of time to confirm acceptance of the 72-hour schedule.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

Preliminary position

- 5.21 After considering Aurizon Network's proposal in respect of acceptance of the 72-hour schedule, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 5.22 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to use reasonable endeavours to provide access holders and end users an extension of time to confirm acceptance of the 72-hour schedule.**
- 5.23 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

5.9 Scheduling of cross-system trains

Trains arrive at NBB coal system mines from the Newlands, Goonyella and Blackwater rail systems. Due to the nature of the time/distance relationship of arriving and departing train movements across and onto the NBB systems, trains may arrive at a mine loadout at times different to originally scheduled.

Aurizon Network's proposal

Aurizon Network said:

*In the event that the ITP planning process identifies that there is congestion at a specific mine loadout as a result of a requested Cross System Train Service(s), Trains will be planned and scheduled into the mine loadout based on order of arrival. Aurizon Network's Northern planning team will consult with its Southern planning team when scheduling Cross System Train Services that relate to an Individual Coal System outside the NBB Coal Systems.*¹⁷⁵

Stakeholders' comments

Anglo American said:

Where there is potential for congestion at a particular loadout for cross system trains, trains must be planned and scheduled into the loadout as per the mine's determination of which service is to receive priority. This is opposed to the possibility of releasing trains on an 'on arrival' basis (assuming that is what the reference in the draft NBB Rules means). The mine making the determination should be required to consider (among other things):

- (a) production continuity;
- (b) stockpiling capacity;
- (c) coal availability; and

¹⁷⁵ Aurizon Network, sub. no. 2: 20

(d) shipping order of arrival.

The mine's determination is particularly required for both the management of shipping demurrage and for avoiding production outages resulting from becoming 'stock bound'.¹⁷⁶

Asciano said:

The Draft NBB System Rules propose to resolve mine load out congestion as a result of cross system traffic on the basis of "order of arrival". Asciano is concerned that there is potential [for] the "order of arrival" to be manipulated by train operators and/or network planners in order to secure the mine slot. A more transparent process should be considered. For example the existing Schedule G Contested Train Path process could be considered. There appears to be no reason why the Contested Train Path process cannot be applied despite each train departing from a different origin¹⁷⁷.

QCA analysis and preliminary position

It is possible for potential congestion at the mine loadout to be identified either during the scheduling phase (ITP, 72- or 48-hour schedule and DTP) or during the day of operation. The scheduling phase ceases upon the finalisation of the DTP at 14:00 on the day prior to the day of operations.

In our view, during the scheduling phase, it is appropriate for Aurizon Network to liaise with access holders and end users in an attempt to resolve reasonably foreseeable congestion. We believe that during this phase there is sufficient time for coal chain participants to coordinate equitable outcomes and minimise supply chain disruption. If a coordinated solution is not achievable, our preliminary position is that the miner should decide which train is given priority to enter the loadout. We consider this ensures that the mine is able to manage its product stockpile to match the vessel queue and port product volume requirements, thus reducing demurrage risk and maximising the efficiency of the supply chain. If the mines do not have a preference or cannot agree, Aurizon Network should apply the CTPDMP to determine the order of arrival.

By contrast, during the day of operation, we consider that for practical reasons it is more difficult to coordinate the arrival times of multiple trains, in a specific order, to a single mine loadout. Our preliminary position is, to the extent possible, the miner should determine the order of arrival. However, we are of the view practical considerations require Aurizon Network's train controllers have the final decision on the movement of trains consistent with the terms of the TMDMM.¹⁷⁸

Further, we consider that nominating to modify the order of arrival of trains to minimise loadout congestion, whether due to cross system traffic or not, may result in additional TSE consumption if these amendments are made during the 48-hour lockdown period.

We consider our preliminary position aligns with the object of Queensland's third party access regime (QCA Act s. 69E and 132(2)(a)) and appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

¹⁷⁶ Anglo American, sub. no. 3: 4

¹⁷⁷ Asciano, sub. no. 5: 11-12

¹⁷⁸ 2010 AU, Schedule G.

Preliminary position

- 5.24** After considering Aurizon Network's proposal in respect of scheduling of cross-system trains, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 5.25** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to include:
- (a)** During the planning and scheduling phase (i.e. until the finalisation of the DTP), if, after consulting with the supply chain stakeholders, a coordinated solution is not achievable, the end users should decide which train should be given priority to enter the loadout. If the end users do not have a preference or cannot agree, Aurizon Network should apply the CTPDMP to determine the order of arrival.
 - (b)** During the day of operations, to the extent possible, the end users should determine the order of arrival. However, Aurizon Network's train controllers have the final decision on the movement of trains consistent with the terms of the Traffic Management Decision Making Matrix.
- 5.26** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

6 GENERAL AMENDMENTS AND ADMINISTRATION

Stakeholders raised six issues which we could not categorise in the previous chapters, we have therefore grouped them here.

6.1 Review period for delays and cancellations

Aurizon Network's draft NBB system rules set out protocols for recording delays and cancellations of train services, and a process for resolving scheduling and train-control disputes. Disputes need to be resolved in a way that allows access holders (and other supply chain participants) to be confident the cause of a delay will be appropriately identified.

Aurizon Network proposal

Aurizon Network proposed to consult with supply chain stakeholders to ascertain the causes of delays or cancellations using a 'root-cause analysis' approach.

With regards to identifying the cause for **delay**, Aurizon Network proposed to limit the review to possible causal incidents that occurred on or after the **last** train cycle's commencement.

With regards to identifying the cause for **cancellations**, Aurizon Network proposed to limit the review to possible causal incidents that occurred on or after the commencement of the **previous** train cycle.¹⁷⁹

Stakeholders' comments

BMA said the review period should be at least two cycles.¹⁸⁰

Vale said the review period should cover the start of the 48-hour lockdown period in which the delay/cancellation/diversion occurred. Vale reasoned that when a train service is locked down in the 48-hour schedule, it is important for the analysis to identify what happened during that period to warrant the delay.¹⁸¹

Indec's recommendations

Indec said the review period should be at least two cycles (i.e. 48 hours), as this was consistent with the QCA's CSR final decision.¹⁸²

Responses to Indec's report

Aurizon Network agreed with the Indec recommendation, however noted the timeframe should be aligned to the CSR, which is 48 hours.¹⁸³

QCA analysis and preliminary position

We support Aurizon Network's proposal to use root-cause analysis, as it is a well-established method of determining which supply chain participant has caused a delay on the day of operation, or a train service cancellation.

¹⁷⁹ Aurizon Network, sub. no. 2: 30

¹⁸⁰ BMA, sub. no. 6: 5

¹⁸¹ Vale, sub. no. 8: 3

¹⁸² Indec: 18

¹⁸³ Aurizon Network, sub. no. 9: 8

We also support Aurizon Network's response to the Indec report where it volunteered to make the review period 48 hours prior to the event. We believe this time period is more appropriate than the last/previous train cycles, because the true cause of the delay may have occurred before that train cycle began, especially when a significant disruption has caused cascading delays to network operations over an extended duration.

Our preliminary position is the review period for both cancellations and delays should be extended to 48 hours prior to the event, consistent with the approved CSR, to provide a sufficient amount of information to determine causality. By covering a longer review period, access holders would have more information to verify whether Aurizon Network is attributing causes of delays/cancellations equitably.

We consider this will promote the efficient operation and use of the rail infrastructure (s. 138(2)(a)) and coal supply chain in the long run because:

- there will be greater understanding around the delay/cancellation causes, and
- this may provide supply chain stakeholders better scope to tackle potential underlying issues.

We consider these preliminary positions also serve the public interest through the efficient operation of the coal supply chain (s.138(2)(d)) and appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (ss. 138(2)(b), (e) and (h)).

Preliminary position

- 6.1 After considering Aurizon Network's proposed review period for delay and cancellation causes, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 6.2 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:**
 - (a) extend the review period for delay to 48 hours prior to the delay.**
 - (b) extend the review period for cancellation to 48 hours prior to the cancellation.**
- 6.3 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

6.2 Delays and cancellations cause attribution

Once the 48-hour train schedule has been locked down, a train service may run as scheduled or be:

- cancelled, which can occur before or on the day of operation
- delayed, on the day of operation.

Aurizon Network's proposal

Aurizon Network said:

Train performance on a particular day, including on-time running and delays, will be measured against the original DTP published for that day unless such changes have been agreed between Aurizon Network and the relevant Access Holder(s).

[For delays:]

For a delay to a Train Service that has occurred in exception to the DTP, Aurizon Network will identify and consult with relevant Supply Chain Stakeholders in determining the cause of the delay by conducting a root cause analysis.

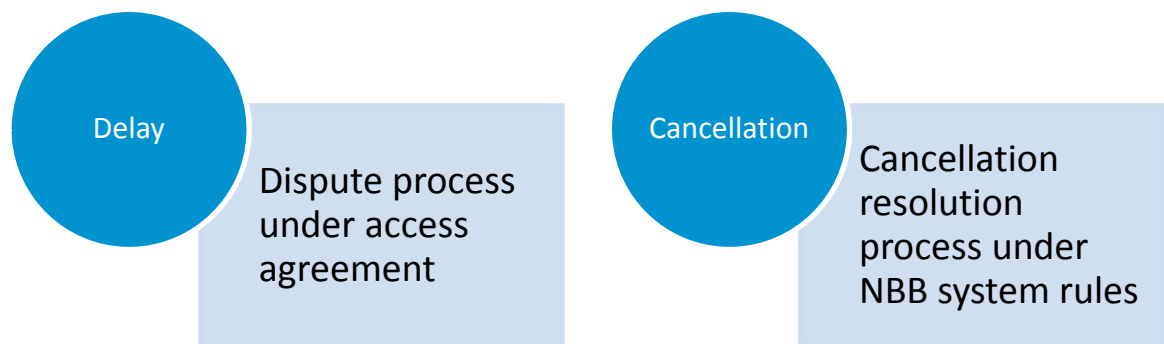
Where no decision can be reached collectively, Aurizon Network will determine the cause of the delay. Where a dispute arises with the determined cause, the affected Access Holder can escalate the dispute through the dispute resolution mechanisms of their relevant Access Agreement.

[For cancellations:]

For a cancellation of a Train Service from the DTP, Aurizon Network will identify and consult with relevant Supply Chain Stakeholders in determining the cause of the cancellation by conducting a root cause analysis.

Where no decision can be reached collectively, Aurizon Network will determine the cause of the cancellation. Where a dispute arises with the determined cause, affected Access Holders can escalate the dispute by submitting a "Contested Cancellation Request Form". The determination will be in accordance with the Cancellation Resolution Process in Appendix D.¹⁸⁴

We have displayed this graphically as:



Stakeholders' comments

Vale said:

Due to conflict concerns, Vale does not support the process that allows Aurizon to be the final determinant of any cause of delay or cancellation. Vale believes the causation of a disputed delay or cancellation should be completed by an independent body that does not have any commercial incentives in the process. Vale also notes that the 10:00 hour morning phone hookup does not include the producers and there would need to be clear guidelines on how this group works to ensure an efficient process that includes the input of the producer before any cause was attributed to them.¹⁸⁵

BMACC said:

In terms of Delay Cause Identification, we would like to see the Authority's position in section 4.1 of the Draft Decision on the Capricornia System Rules applied to section 10.2.2 of the NBB System Rules.¹⁸⁶

We recommend the Authority consider how to improve the casual identification processes to ensure that service providers do not use the attribution of losses process by AN to unfairly protect their commercial position and hide behind a culture of "blame shifting". We recommend the process be re-worked so that service providers are encouraged to problem-solve and identify potential improvements which could be made in schedule performance to improve reliability and

¹⁸⁴ Aurizon Network, sub. no. 2: 30

¹⁸⁵ Vale, sub. no. 8: 3

¹⁸⁶ BMACC, sub. no. 6: 4

*delivery of all contracted services. More clarity is also required on the reasons for schedule non-performance. The aim is to generate more openness and understanding by service providers and producers to enable the different industry forums, established to optimise coal throughput in a specific coal chain, to better understand the corrective mechanisms available to the System to mitigate coal chain losses in the DOO.*¹⁸⁷

Asciano said:

*... the QCA Draft Decision on the Capricornia System Rules discussed dispute resolution options. Asciano believes that any finding in the QCA Final Decision on the Capricornia System Rules in relation to dispute resolution should be reflected in the NBB System Rules.*¹⁸⁸

Indec's recommendations

Indec recommended the following change:

*Review the cost effectiveness of an independent third party to arbitrate any disputes arising from train service delays/cancellations and any reviews of the cause of train service delay/cancellation exceeding the review timeframe. Indec does not believe that it would be cost effective for an independent party to review all causes of train service delay/cancellation.*¹⁸⁹

Responses to Indec's report

Anglo American said:

It is Anglo American's understanding that there are a significant number of disputes as to the cause of train service delays or cancellations. It is also Anglo American's understanding that some of these disputes have been unresolved for in excess of 12 months.

Anglo American is of the view that it is important that these matters be resolved as there are consequences under UT3 where the cause of the delay or cancellation is an Aurizon Network cause. For example, the question of whether a particular train path has not been used due to an Aurizon Network cause is important to:

- (a) the determination of Take or Pay revenue under clause 2.2.3 of Part B of Schedule H; and*
- (b) determining who gets priority under the Contested Train Path Decision-Making Process under paragraph (c)(iii) of Appendix B.*¹⁹⁰

Anglo American said it is critical to have an independent party as the ultimate arbiter of the cause of delay and suggested three options:

- (1) an already constituted entity such as an expander-charter Integrated Logistics Company (ILC)
- (2) a panel of, or an, independent expert(s), established under the access undertaking, with limits on submissions, evidence and time, or
- (3) a time-constraint dispute raised to the QCA for a final binding decision.¹⁹¹

Aurizon Network said:

The increased levels of transparency provided by any approved System Rules should provide confidence to affected parties that decisions are fair and equitable. If Access Holders believe that this is not the case, then there are complaint and dispute mechanisms within the access

¹⁸⁷ BMACC, sub. no. 6: 6

¹⁸⁸ Asciano, sub. no. 5: 15

¹⁸⁹ Indec: 19

¹⁹⁰ Anglo American, sub. no. 9:9

¹⁹¹ Anglo American, sub. no. 9:9

*agreements and 2010AU that incorporate the use of independent 3rd parties. Systems rules should not contain an additional dispute resolution process.*¹⁹²

QCA analysis and preliminary position

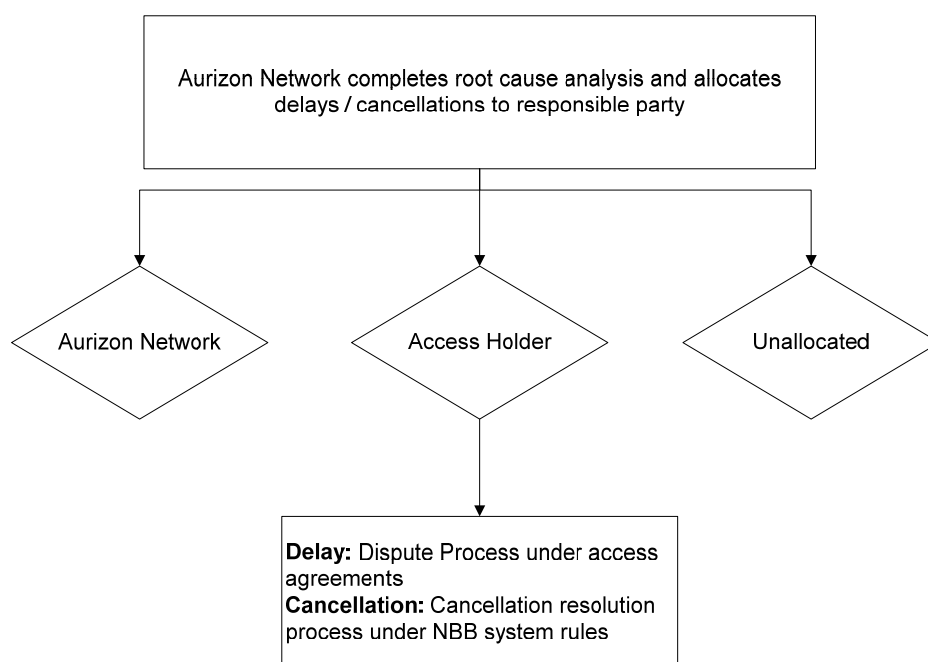
We recognise there needs to be a process for establishing the causes of delays and cancellations on the network, allocating them to supply chain stakeholders and a process to resolve any resulting disputes. This section deals with a number of issues, namely:

- Aurizon Network's proposal vs. QCA's preliminary position
- the definition of 'unallocated' delays/cancellations
- the best-placed party to allocate delays and cancellations
- the allocation of 'unallocated' delays/cancellations
- disputing allocated delays and cancellations
- when the dispute process should be resolved

Aurizon Network's proposal vs. QCA's preliminary position

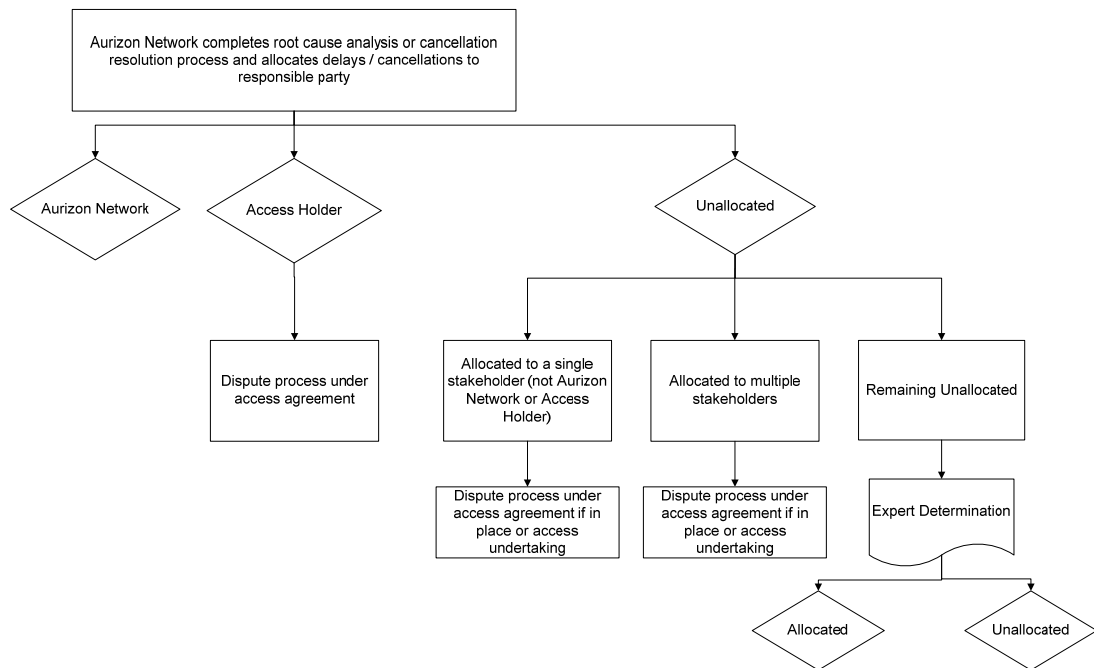
Figure 17 and **Figure 18** are graphical representations of our understanding Aurizon Network's proposal and the QCA's preliminary position regarding this topic.

Figure 17 Aurizon Network's proposed process of allocating cause for supply chain delays / cancellations



¹⁹² Aurizon Network, sub. No. 9: 9

Figure 18 The QCA's proposed process of allocating cause for supply chain delays / cancellations



The proposed process introduces a mechanism of providing supply chain stakeholders with additional information regarding the 'unallocated' delays/cancellations. Its primary aim is to provide supply chain stakeholders greater transparency of the causes of delay/cancellation on the NBB system. Secondly it aims to facilitate Aurizon Network nominating single or multiple supply chain stakeholders to each delay/cancellation that occurs on the network and if not achievable by Aurizon Network requires this be completed by an expert if possible.

The definition of 'unallocated' delays / cancellation

Under section 9.1 of the 2010 AU Aurizon Network is required to produce a quarterly report containing information on the reliability of train services, transit times, network availability, safety etc. A key input into this report is the allocation of causes of delays/cancellations to either:

- Aurizon Network
- an access holder, or
- neither of the above—defined as 'unallocated'.¹⁹³

For clarity, 'unallocated' delays can be caused by:

- an end user
- a port
- an adjoining network manager
- a train operator on an adjoining network
- multiple supply chain stakeholders.

¹⁹³ 2010 AU, Section 12.1: 153

Who is best placed to allocate delays/cancellations?

We accept correctly attributing the cause of delays/cancellations is important for the effective operation of the supply chain. Stakeholders have raised concerns that Aurizon Network proposes to be the ultimate arbiter of the cause of delays and cancellations.

We have identified two legitimate reasons for this concern:

- (1) Aurizon Network has a commercial interest in not allocating a delay/cancellation cause as Aurizon Network cause. Take or pay revenue is reduced where paths have not been provided due to Aurizon Network cause.
- (2) Aurizon Network may have a bias against attributing delays/cancellations to Aurizon Holdings (its above rail related party).

The QCA considers the process in the system rules for determining the causes of delays needs to be consistent with the 2010 AU and with access agreements. Because of the requirements specified in the 2010 AU, its role in the supply chain and the visibility this affords it, we believe Aurizon Network is best placed to investigate, assign and report the cause of delays/cancellations in the first instance.

Allocation of unallocated delays/cancellations.

Stakeholders' comments appear to contain a perception that reporting delays and cancellations as 'unallocated' allows Aurizon Network to potentially:

- hide Aurizon Network and/or Aurizon Holdings caused delays
- act as a basket to collect delays/cancellations which are yet to be allocated to a supply chain stakeholder, or
- act as a collection of delays which are attributable to multiple stakeholders.

We understand this perception can be heightened by the high percentages of unallocated delays in Aurizon Network's quarterly reports. For illustrative purposes, **Table 3** provides a summary example of a recent quarterly report. This is indicative only.

Table 3 Summary of on time running percentages for coal carrying trains in the NBB, 1 April to 30 June 2015

		<i>Goonyella</i>	<i>Newlands</i>
<i>On time</i>		40.35%	47.09%
<i>Not on time</i>	<i>Below rail</i>	0.24%	1.61%
	<i>Above rail</i>	12.77%	6.04%
	<i>Unallocated</i>	46.64%	45.25%

Data source: Aurizon Network, Public Quarterly Performance Report, 4th Quarter 2014-15, April-June 2015:1

In our view, the system rules should aim to alleviate those concerns, so access holders and end users have confidence the process is being executed appropriately.

To address the negative perception of the reporting of unallocated delays we consider Aurizon Network should use best endeavours to allocate delays/cancellations to a single or multiple supply chain proponents in as many cases as possible through the proposed root-cause

identification process, as illustrated in Figure 15.¹⁹⁴ We recognise this is not a requirement of the 2010 AU; however, we believe, it would increase the transparency and ultimately benefit the supply chain if diligently performed.

For the remaining unallocated delays/cancellations, our preliminary position is for an independent expert to investigate their causes and, if possible, assign these to a single or multiple supply chain stakeholders. For clarity, the expert's mandate includes allocating delays/cancellations to all supply chain stakeholders including Aurizon Network and/or access holders where appropriate. We agree with stakeholders that this should be completed in a timely and cost effective manner. There are a number of possible entities that could be regarded as a preferred independent expert such as the ILC (with an expanded mandate to include the Newlands System), one agreed by all stakeholders or referred to the QCA for determination. We seek stakeholders submissions regarding the selection of an appropriate independent expert.

This process should result in the majority of delays/cancellations being allocated to one or multiple supply chain stakeholders. We do consider that some cancellations/delays may not be able to be allocated to a single or multiple stakeholders so have retained an 'unallocated' classification.

Once decisions are final, Aurizon Network or the expert should notify the relevant supply chain stakeholder/s delays/cancellations have been allocated to them. Further, although not required by the 2010 AU, we suggest the details of all allocated delays/cancellations should be included in the Aurizon Network quarterly performance report, including those allocated (in parts) to multiple stakeholders.

Disputing allocated delays and cancellations

Once allocated, Aurizon Network's draft NBB system rules proposes to treat delays and cancellations differently with regard to access holders' ability to dispute this allocation.

In the case of delays, the draft NBB system rules makes allowance for access holders to dispute the allocation of delays through the dispute resolution mechanism in their access agreements.

In the event of a cancellation the draft NBB system rules identifies a cancellation resolution process in Appendix D. In the event that agreement cannot be reached on the allocation of the cancellation, Aurizon Network will make the final decision and allocate the cancellation. The process does not specify that the access holder can use a dispute resolution process to progress the issue further.

Access holders, end users or any other supply chain stakeholder allocated delays and/or cancellations by Aurizon Network, with which they disagree, should be able to use the dispute resolution processes available in the SAAs and the 2010 AU. In certain situations the matters can also be referred to the QCA for resolution.

Our preliminary position is for Aurizon Network to amend the draft NBB system rules to include a dispute step after their final decision is made.

In the event that an expert makes a determination on the allocation of 'unallocated' delays/cancellations, our preliminary position is for this to be a final, binding decision. We propose no dispute process be available once the expert determination is made.

¹⁹⁴ Aurizon Network, sub. no. 2: 30

When should the dispute process be resolved?

Scheduling and train control disputes need to be resolved in a way that provides confidence to access holders (and other supply chain stakeholders) that fault will be appropriately attributed. This is so that:

- take or pay can be calculated accurately at the end of the year
- the CTPDMP can use accurate TSE consumption figures in allocating train paths to the access holder who is most behind.

Allocation of delays/cancellations and resolution of related disputes will help achieve transparent, efficient and equitable system rules, which improve the operation of the coal supply chain. With this objective in mind, our preliminary position is that all disputes regarding how delays/cancellations have been attributed should be completed prior to the annual anniversary of the contract.

We consider these preliminary positions also serve the public interest in the efficient operation of the coal supply chain (s.138(2)(d)) and appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (s. 138(2)(b), (e) and (h)).

Preliminary position

- 6.4 After considering Aurizon Network's proposal in respect of the delays and cancellations cause attribution, our preliminary position is that we would refuse to approve Aurizon Network's proposal.**
- 6.5 The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to:**
- (a) use best endeavours to allocate delays/cancellations to a single or multiple supply chain proponents in as many cases as possible through the proposed root cause identification process**
 - (b) Modify the cancellation resolution process to include a dispute step after the final decision is made**
 - (c) facilitate an independent expert to investigate the causes of any remaining unallocated delays/cancellations and, if possible, assign these to a single or multiple supply chain stakeholders in a timely and cost effective manner**
 - (d) notify the relevant supply chain stakeholder/s delays/cancellations have been allocated to them**
 - (e) resolve all disputes related to how delays/cancellations have been attributed prior to the annual anniversary of the contract.**
- 6.6 We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.**

Suggestion

- 6.7 Aurizon Network include the details of all allocated delays/cancellations in their quarterly performance report, including those allocated (in parts) to multiple stakeholders.**

6.3 Review and amendment of the NBB system rules

The process for the review and amendment of the NBB system rules drew a large number of stakeholder submissions. Concerns centred around Aurizon Network's ability to unilaterally determine what changes will be made to the system rules, the process of review and consultation, and the lack of external oversight in the event the NBB system rules are amended.

Aurizon Network's proposal

Aurizon Network said:

These System Rules will be reviewed and updated in due course when Aurizon Network's draft access undertaking (UT4) currently lodged with the QCA has been approved by the QCA.¹⁹⁵

Aurizon Network will perform a review of these System Rules after the first year, and following this, will perform subsequent annual reviews. Any Supply Chain Stakeholders may request additional reviews at any time where required and Aurizon Network will consider any such requests. All reviews of these System Rules conducted by Aurizon Network will include consultation with the relevant Supply Chain Stakeholders.¹⁹⁶

Stakeholders' comments

Anglo American and Peabody said the opportunity for end users and access holders to trigger an amendment process to the system rules was inadequate. While the rules provide that supply chain stakeholders can request reviews, Anglo American considered Aurizon Network still had significant discretion to decide whether to undertake those reviews.¹⁹⁷

Anglo American noted, under the current drafting of the NBB system rules, Aurizon Network could unilaterally amend the system rules, and the only grounds for an access holder to object to the amendments was for the amendments to be inequitable. Anglo American considered broader criteria were required to ensure the factors described in the QCA Act s. 138(2)(b), (e) and (h) are applied to the NBB system rules.¹⁹⁸

As the NBB system rules are an operational document, Anglo American said the system rules:

- should encourage an adequate review process, based on a short and simple process underpinned by the access undertaking
- rely on flexibility and efficient timing to be effective, and that any dispute process pertaining to them should reflect that reality.¹⁹⁹

Vale said the proposed rules lacked clarity and definition around the form of stakeholder consultation and the timing thereof. Vale was concerned at Aurizon Network's lack of meaningful consultation with stakeholders and that this may compromise the requirement for the NBB system rules to operate equitably. To address this, Vale said the consultation process for any of Aurizon Network's proposed rule amendments should include:

- clear guidelines on what information will be provided
- response timeframes for stakeholders
- the level of acceptance access holders must provide for the amendment to be endorsed.

¹⁹⁵ Aurizon Network, sub. no. 2: 3

¹⁹⁶ Aurizon Network, sub. no. 2: 11

¹⁹⁷ Anglo American, sub. no. 3: 3; Peabody, sub. no. 7: 2

¹⁹⁸ Anglo American, sub. no. 3: 6

¹⁹⁹ Anglo American, sub. no. 3: 7

Vale said there should be automatic triggers for reviews, namely where there are capacity expansions or changes in system operating assumptions. Anglo American shared a similar view, saying there should be quantitative targets around capacity numbers to trigger a review of the NBB system rules and used the connection of the Galilee Basin mines to the Newlands system as an example.²⁰⁰

Indec's recommendations

Indec said the proposed amendment process for the rules was not equitable as the process restricts the submissions on proposed changes to 'affected person' rather than 'affected parties', despite 'affected parties' potentially being impacted.²⁰¹

To address this, Indec said the system rules modification process should include 'affected parties' in the consultation process to ensure the parties are informed of any proposed rule amendments. However, Indec said only Affected Persons could refer disputes on Aurizon Network's proposed rule amendments to the QCA.

In addition, Indec agreed with stakeholders the system rules needed to consider the impact of large capacity increases. Indec recommended that, prior to new adjoining-infrastructure connections to the NBB system, the system rules should be automatically reviewed.

Responses to Indec's report

Aurizon Network suggested the specifics of any review requested by an 'Access Holder' be collated into an annual review process to avoid unproductive use of Aurizon Network's resources.

Aurizon Network agreed connections with adjoining infrastructure should potentially trigger a review of the rules. However, it said the definition of 'adjoining infrastructure' should exclude private infrastructure such as some spurs and balloon loops.²⁰²

QCA analysis and preliminary position

Schedule G, Appendix 1 of the 2010 AU provides the flexibility to amend the system rules to reflect new circumstances. However, the 2010 AU only provides for Aurizon Network to propose changes to the system rules.

While stakeholders have identified inadequacies in the system rules amendments arrangements in the 2010 AU, we consider addressing many of the issues raised would require amendments to the 2010 AU. This position paper deals with the draft NBB system rules and does not address amendments to the 2010 AU. We consider potential amendments to the undertaking are best addressed as part of the UT4 process. The remainder of this section considers the following in more depth and how they relate to our overall position:

- issuing of notices and provision of proposed amendments
- consultation with affected parties
- dispute process
- triggers for review and amendments

²⁰⁰ Vale, sub. no 8: 1-2; Anglo American, sub. no. 3: 6-7

²⁰¹ Affected Persons - affected access holders, seekers and their customers.

Affected Parties - as Affected Persons, Affected Infrastructure Service Providers, and Railway Operators.

²⁰² Aurizon Network, sub. no. 9: 2, 6

Issuing of notices and provision of proposed amendments

Appendix 1 of Schedule G of the 2010 AU requires Aurizon Network to issue a notice and provide a copy of the proposed amendments to the system rules to all of the following supply chain stakeholders:

- (a) access holders and access seekers who will be affected by any amendments
- (b) infrastructure providers who form part of the supply chain
- (c) infrastructure service providers
- (d) railway operators
- (e) the QCA.

Consultation with affected parties

Aurizon Network is required to consult with all of the identified stakeholders, except the QCA. Clause (e) Appendix 1 of Schedule G of the 2010 AU, addresses that the Affected Person (being access holders and access seekers) should provide a written submission to Aurizon Network within thirty days of being issued the above notice. Although this clause specifically nominates the 'Affected Person' our preliminary position is there is no specific restriction on other supply chain stakeholders ((a)-(d) in the list above) from making a submission to Aurizon Network.

Dispute process

We do not agree with Indec's position that only 'affected persons' could refer disputes, on Aurizon Network's proposed system rule amendments, to the QCA. In our view, depending on the nature of the dispute, Clause 10.1.1(a)(i) of the 2010 AU could be used by a party other than an 'affected person' to raise a dispute in relation to anything required to be done by Aurizon Network under the undertaking, including the provisions relating to amendments to System Rules in Appendix 1 of Schedule G.

Triggers for review and amendments

Stakeholders have requested the NBB system rules contain automatic triggers for reviews/amendments of the system rules, including step capacity increases and connections to new coal basins. We note Indec supports those views and Aurizon Network broadly agreed.

In summary:

- we acknowledge stakeholders' concerns with the existing provisions of the 2010 AU and consider these concerns can be best addressed as part of the UT4 process
- depending on the dispute, it may be possible for supply chain stakeholders to trigger the dispute mechanism in the 2010 AU
- we consider it beneficial to include automatic triggers within the NBB system rules for reviews/amendments to account for step capacity increases and connections to new coal basins is of benefit; given the scale and subsequent implications of such events.

We consider our preliminary positions appropriately balance the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

Preliminary position

- 6.8** After considering Aurizon Network's proposal with respect to the trigger to review and amend the NBB system rules, our preliminary position is that we would refuse to approve Aurizon Network's original proposal.
- 6.9** We consider that the automatic review/amendment of the system rules in the event of step capacity increases and connections to new coal basins proposed in Aurizon Network's July 2014 submission is appropriate. The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to include the automatic review/amendment in the event of step capacity increases and connections to new coal basins.
- 6.10** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Preliminary position

- 6.11** After considering Aurizon Network's proposal with respect to the review and amendment of the NBB system rules, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 6.12** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to consult with all supply chain stakeholders other than the QCA regarding the proposed amendments.
- 6.13** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

Suggestion

- 6.14** We consider it would be appropriate for Aurizon Network to receive and consider written submissions from all supply chain stakeholders on the review and amendment of system rules.

6.4 Business Execution Rules

This topic was raised by Indec in their report as a result of discussions held with the Control Centre Manager during a site visit to the Aurizon Network Train Control Centre at Rockhampton.

Indec's recommendations

Indec said Aurizon Network's Business Execution Rules (BER) should be independently verified to confirm their consistency with the 2010 AU network management principles. Indec said once compliance has been ascertained, the BER should be incorporated in the NBB rules.²⁰³

Responses to Indec's report

Aurizon Network said:

²⁰³ Indec: 25

*The Business Execution Rules (BERs) are a commercial-in-confidence document created by Aurizon Network for its benefit only. They are developed with consideration to the obligations of the 2010AU and supporting System Rules. They outline internal process, standards, strategy and other day-to-day operational activities of Aurizon Network. As they are developed with consideration to the System Rules, the operational practices of Aurizon Network would in itself be a verification of their compliance. In the event any Access Holders had concerns with the operational practices of Aurizon Network, there are complaint and dispute mechanism within both Access Agreements and the 2010 AU that they can access.*²⁰⁴

Anglo American said:

Whilst Anglo American generally agrees with [Indec's recommendation], it believes that Aurizon Network should be required to establish why the document is confidential and to explain the real detriment that would flow if the document was made public.

*Although Anglo American accepts that there may be a need for a document, which is separate from the System Rules that plays a role such as the current Business Execution Rules, these must be transparent to all parties to ensure that there is no discrimination between rail operators. For example, the rules in respect of overloaded wagons need to be clear and consistently applied to all operators equally.*²⁰⁵

QCA analysis and preliminary position

At this time we do not consider it necessary for Aurizon Network to submit the BER document for review. Our preliminary position is for Aurizon Network to ensure that the BER is consistent with the 2010 AU network management principles and NBB system rules once they are approved. For avoidance of doubt this does not preclude us requesting that the BER, or other similar operational documents, are submitted to us for review and subsequently published unless there are legitimate grounds for confidentiality.

Further, in the event that stakeholders have a concern with the operational practices adopted by Aurizon Network with respect to the practical application of the system rules, they can raise a complaint or dispute under their access agreement or the 2010 AU. We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

6.5 Perception of vertical integration

Under Part 3 of the 2010 AU, Aurizon Network is subject to ringfencing arrangements which aim to separate the management and operation of CQCN rail infrastructure by Aurizon Network from the management and operation of CQCN train services by Aurizon Network's parent company, Aurizon Holdings.

Aurizon Network's proposal

The introduction of Aurizon Network's draft NBB system rules includes the following map of the NBB coal systems.

²⁰⁴ Aurizon Network, sub. no. 9: 8-9

²⁰⁵ Anglo American, sub. no. 10: 3



Source: Aurizon Network, sub. no. 2:10

Stakeholders' comment

Asciano said:

*Figure 1 makes reference to QRN above rail operations in the Legend but does not refer to Pacific National above rail operations. Figure 1 should be amended to provide the perception of that Aurizon Network is a ring fenced network operator.*²⁰⁶

QCA analysis and preliminary position

We understand the map presented as figure 1 of the draft NBB system rules is representative of Aurizon Holdings' above rail operations (as it includes rollingstock and train crew depots). We agree with Asciano's that the map may give the perception Aurizon Network is not a ring fenced network operator. Therefore we consider Aurizon Network should replace this map with a map which only refers to the below-rail operations of Aurizon Network.

In our view changing the map is consistent with the intent of the ring fencing requirements in the 2010 AU, which is in the interests of access holders and access seekers, and does not impact on Aurizon Network's legitimate business interests (s.138(2)(b), (e) and (h)).

²⁰⁶ Asciano, sub. no. 5: 7

Preliminary position

- 6.15** After considering Aurizon Network's proposed map of the NBB coal systems, which is Figure 1 in Aurizon Network's draft NBB system rules, our preliminary position is that we would refuse to approve Aurizon Network's proposal.
- 6.16** The way in which we consider it appropriate that Aurizon Network amend its draft NBB system rules is to replace Figure 1 with a below-rail map of the NBB coal chains.
- 6.17** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

6.6 Hierarchy of system rules, access undertaking and access agreements

Aurizon Network's proposal

Aurizon Network said:

If this document is inconsistent with the Access Undertaking or an Access Agreement, then the Access Undertaking or Access Agreement (as applicable) prevails to the extent of that inconsistency.

Nothing in this document constitutes a waiver by Aurizon Network of any rights, or any compliance with obligations or requirements, under the Access Undertaking or any Access Agreement.²⁰⁷

Stakeholders' comments

Asciano said:

Clarity is required surrounding what takes precedence when there are inconsistencies with the NBB System Rules, Access Undertaking or an Access Agreement. On the bottom of page 5, it states that if there are inconsistencies between these documents, then the Access Undertaking or Access Agreement (as applicable) prevails to the extent of that inconsistency. Asciano is of the view that there may be situations where only one of these documents can prevail in such situation. Asciano believes that a hierarchy of documents should be included.

QCA analysis and preliminary position

Aurizon Network's proposal is adequate.

We consider the wording 'as applicable' sufficiently clear because the access agreements take precedence over the access undertaking in the case of inconsistencies, as per section 168 of the QCA Act. Some clauses in access agreements specifically refer back to the access undertaking, these would constitute the 'applicable' cases. In all cases both the access agreements and 2010 AU take precedence over the NBB system rules.

Aurizon Network goes further in stating that nothing in the NBB system rules releases it from any rights, obligations or requirements under the 2010 AU or any access agreement.

Our preliminary position is Aurizon Network's proposal is adequate and we do not require a hierarchy of documents to be specified.

We consider our preliminary position appropriately balances the legitimate business interests of Aurizon Network with the interests of access holders and seekers (QCA Act s. 138(2)(b), (e) and (h)).

²⁰⁷ Aurizon Network, sub. no. 2: 5

Preliminary position

- 6.18** After considering Aurizon Network's proposed hierarchy of system rules, access undertaking and access agreements, our preliminary position is that we would approve Aurizon Network's proposal.
- 6.19** We consider it appropriate to come to this preliminary position having regard to each of the Approval Criteria for the reasons set out in our analysis above.

GLOSSARY

A

Access Undertaking	QCA Approved 2010 Access Undertaking
AN	Aurizon Network
APCT	Abbot Point Coal Terminal
Approval Criteria	By operation of clauses 7.1(d) and 5.2(e) of the 2010 AU, we may approve these draft system rules only if we: <ul style="list-style-type: none"> are satisfied that the draft system rules are consistent with the undertaking, including the standard access agreement (SAA) principles (Schedule E of the 2010 AU) and clause 5.2(n) of the 2010 AU (the alternative SAAs), as applicable consider it appropriate to do so having regard to the matters listed in section 138(2) of the Queensland Competition Authority Act 1997 (QCA Act) have published Aurizon Network's draft system rules, invited stakeholders to make submissions on them, and considered all submissions received in the permitted time (clause 5.2(d))
Aurizon Network	Aurizon Network Pty Ltd ACN 132 181 116
Aurizon Network cause	As defined in the 2010 access undertaking
ARTC	Australian Rail Track Corporation

B

BMA	BHP Billiton Mitsubishi Alliance
BMACC	BMA coal chain
BMC	BHP Billiton Mitsui Coal

C

CAAC	Critical Asset Alignment Calendar
CACS	Critical Asset Constraint Summary
CQCN	Central Queensland Coal Network
CSR	Capricornia System Rules
CTPDMP	Contested Train Path Decision Making Process

D

DAAU	Draft amending access undertaking
DAU	Aurizon Network's 2014 draft access undertaking
DBCT	Dalrymple Bay Coal Terminal
DCCC	Dalrymple Coal Chain Coordination
DOO	Day of Operations
Draft system rules	The proposal submitted by Aurizon Network to the QCA on 5 August 2013.
DTP	Daily Train Plan

E

F

G

GAP	Goonyella to Abbot Point
GAPE	Goonyella Abbot Point Expansion
GPC	Gladstone Ports Corporation
Goonyella System	The Rail Infrastructure comprising the rail corridor from the ports at Hay Point and Dalrymple Bay to Hail Creek mine, Blair Athol mine, North Goonyella mine and the junction with the Gregory mine branch line and all branch lines directly connecting coal mine loading facilities to those corridors, with the exception of: <ul style="list-style-type: none"> (a) the branch line to Gregory mine; and (b) the corridor beyond North Goonyella mine to Newlands mine (and beyond)
Goonyella to Abbot Point system	The Rail Infrastructure comprising: <ul style="list-style-type: none"> (a) the Goonyella Newlands Connection; and (b) that part of any other Individual Coal System which is used by a Train Service that also uses or connects to any part of the Goonyella Newlands Connection, except where that Train Service originates or terminates south of Gregory.

H

HPSCT	Hay Point Services Coal Terminal
-------	----------------------------------

I

ILC	Integrated Logistics Company
ITP	Intermediate Train Plan

J

K

L

M

Mainline Path	That part of any Train Path (in relation to an NBB Coal System) that is between: <ul style="list-style-type: none"> (a) Coppabella and Jilalan (in the Goonyella System); or (b) Collinsville and Pring (in the Newlands System), as applicable.
MTP	Master Train Plan
Mtpa	Million tonnes per annum

N

NBB	Northern Bowen Basin
NBB Coal Systems	The Northern Bowen Basin coal systems, including the Goonyella System, the Newlands System and the Goonyella to Abbot Point System.
Newlands System	The Rail Infrastructure comprising the rail corridor from the port of Abbot Point to Newlands mine, and all branch lines directly connecting coal mine loading facilities to that corridor, with the exception of the corridor between the Newlands mine and the North Goonyella mine (and beyond).

NOPP Network Operation Pathing Planner

O

P

Possession The temporary closure and/or occupation by Aurizon Network on part of the Rail Infrastructure (including closure of Track or isolation of any electrical overhead traction system) for the purposes of carrying out:

- (c) Planned Possessions, Urgent Possessions or Emergency
- (d) Possessions;
- (e) Infrastructure Enhancements;
- (f) maintenance work; or
- (g) other work on or in the proximity of the Rail Infrastructure which may affect the safety of any person or property.

Q

QCA Act *Queensland Competition Authority Act 1997*

R

S

2010 AU Schedule G Network Management Principles

SAA Standard Access Agreement

2010 AU Schedule E Standard Access Agreement Principles

Supply Chain Stakeholders Access Holders and Access Seekers (and their Customers, if any), Railway Operators, Port Operators, Adjoining Network Managers and Infrastructure Service Providers, relevant to any of the NBB Coal Systems.

T

TMDMM Traffic Management Decision Making Matrix

TOA Train Operations Agreement

TSE Train Service Entitlement

U

UT3 Approved 2010 Access Undertaking

V

W

WICET Wiggins Island Coal Export Terminal

X

Y

Z

APPENDIX A: THE NATURE OF THE MTP IN SCH. G OF THE 2010 AU

For convenience, we reproduce here the clauses related to the nature of the MTP.

2. **Master Train Plan Principles**

- (a) *The MTP will detail the Existing Capacity required for the provision of Train Service Entitlements and periods of time allocated for the purposes of providing Planned Possessions, in a form that indicates the time/distance (location) relationship of the Train Services and other activities on the Rail Infrastructure in question. The MTP will separately identify where applicable:*
 - (i) *for Timetabled Traffics, the particular Train Paths allocated in accordance with the Train Service Entitlements;*
 - (ii) *for Cyclic Traffics:*
 - (A) *in an Individual Coal System, the System Paths that are available for scheduling Cyclic Traffics from a specified location within that Individual Coal System to the Nominated Unloading Facilities, where those System Paths have been declared in the relevant System Rules; and*
 - (B) *the Train Paths (including System Paths) allocated to Cyclic Traffics, where such Train Paths reflect the Existing Capacity required for the maximum level of operation for such Train Service Entitlements, but may not necessarily reflect the particular Train Paths that those Train Services will operate on; and*
 - (iii) *time allocated for Planned Possessions.*
- (b) *Unless otherwise expressly provided in an Access Holder's Access Agreement (where Access Rights are held via an EU Access Agreement, unless otherwise expressly provided in a relevant TOA Access Agreement), the MTP may be modified, as specified in Clauses 2(c), (d), (e) and (f) of these MTP Principles, where:*
 - (i) *an Access Holder (where Access Rights are held via an EU Access Agreement, a relevant TOA Access Holder) notifies QR Network that it wishes to make a long-term change to the times at which its Train Service/s, as scheduled in the MTP, operate, provided that change is within the scope of its Train Service Entitlement, and does not result in any other Access Holder's scheduled Train Service/s not being met, or a Planned Possession not being met;*
 - (ii) *QR Network receives a request from a party to run an Ad Hoc Train Service, provided that the Ad Hoc Train Service would not result in any existing Access Holder's scheduled Train Service/s not being met, or a Planned Possession not being met;*
 - (iii) *a Planned Possession is cancelled;*
 - (iv) *QR Network notifies all affected parties that a new or additional Train Service Entitlement has been created, through the signing of an Access Agreement, or the negotiation of a variation to an Access Holder's Train Service Entitlement, provided that the new or additional Train Service Entitlement does not result in any other Access Holder's scheduled Train Service/s not being met, or a Planned Possession not being met;*

- (v) *QR Network notifies all affected parties that it wishes to make a long-term change to the times² at which one or more scheduled Train Service/s operate, provided that change is within the scope of the relevant Access Holders' Train Service Entitlement/s and is intended to accommodate:*
- the creation of a new or additional Train Service Entitlement, through the signing of an Access Agreement, or the negotiation of a variation to an Access Holder's Train Service Entitlement, where that new or additional Train Service Entitlement cannot otherwise be reasonably accommodated on the MTP;*
 - the creation of new Planned Possessions or the modification of existing Planned Possessions; or*
 - any other Operational Constraint affecting the MTP;*

- (vi) *QR Network notifies all affected parties that it wishes to make a long-term change to the times³ at which one or more scheduled Train Service/s operate, whether or not within the scope of the affected Access Holders' Train Service Entitlement/s, provided that change is intended to accommodate:*

- the creation of new Planned Possessions or the modification of existing Planned Possessions;*
- the creation of an additional Train Service Entitlement, through either the signing of an Access Agreement or the variation of an existing Access Agreement; or*
- any other Operational Constraint affecting the MTP,*

provided that where the change to the times at which scheduled Train Service/s operate results in any existing Access Holder's Train Service Entitlement not being met, such change is only made with the agreement of such Access Holder/s, such agreement not to be unreasonably withheld;

- (vii) *QR Network notifies all affected parties, within the time period specified in the affected parties' Train Service Entitlements, of a long-term change to the times⁴ at which one or more scheduled Train Service/s operate, whether or not within the scope of the affected Access Holders' Train Service Entitlements, for the purpose of carrying out Major Periodic Maintenance provided that, where such change is not within the scope of the affected Access Holders' Train Service Entitlements, QR Network has made reasonable efforts to mitigate the impact on that Access Holder. Any limitations upon QR Network's ability to exercise this right will be specified in individual Access Agreements;*
- (viii) *an Access Holder's Access Agreement allows QR Network to alter the Access Holder's Train Service Entitlement, for instance (other than in the case of TOA Access Agreements) by resuming Access Rights through the capacity resumption process outlined in Part 7 of this Undertaking; and*

² Importantly, this provision only covers a change to the **TIME or TIMES** at which Train Service/s run, and not the other conditions under which a party has an entitlement to run Train Service/s, for instance, the Rollingstock or Rollingstock Configuration that the party may run under their Access Agreement, and the Nominated Network on which it may operate.

³ See footnote 2 above.

⁴ See footnote 2 above.

- (ix) *QR Network, Infrastructure Service Providers, and all affected Access Holders (where Access Rights are held via an EU Access Agreement, each affected TOA Access Holder), otherwise agree.*

APPENDIX B: CONTESTED TRAIN PATH DECISION-MAKING PROCESS

For convenience, we reproduce here the Contested Train Path Decision-Making Process (Appendix 2 of Schedule G of the 2010 AU).

Appendix 2 Contested Train Path Decision-making Process

Where Access Rights are held via an EU Access Agreement, all references to an 'Access Holder' in this Appendix will be to the TOA Access Holder which the EU Access Holder has nominated as the operator for the Train Service Entitlement relevant to the Contested Train Path.

QR Network will determine who is allocated a Contested Train Path, by:

- (a) firstly, eliminating from consideration any Access Holder whose request for the Contested Train Path is outside the scope of its Train Service Entitlement. Where this step eliminates all of the parties seeking the Contested Train Path, but QR Network still has spare Existing Capacity available, QR Network may determine which of the parties seeking the Contested Train Path is allocated that path by considering the following three (3) matters. In addition, where this step does not eliminate all of the parties seeking the Contested Train Path, but there is still more than one party seeking the Contested Train Path, QR Network may determine which of the parties is allocated the path by considering the following three (3) matters;*
- (b) next, considering whether the parties contesting the Contested Train Path agree amongst themselves who should be allocated the relevant path. Where this is the case, the Contested Train Path will be allocated as agreed by the parties, and QR Network will document the parties' agreement and keep a record of such;*
- (c) then, considering the number of Train Services per week that each Access Holder has a contractual entitlement to in accordance with their Train Service Entitlement ("Nominated Weekly Entitlement"), subject to Existing Capacity availability, QR Network will prioritise allocation based on:*
 - (i) any requirement for giving priority to certain Train Services or certain Unloading Facilities identified within the System Rules;*
 - (ii) if:*
 - an Access Holder submits Train Orders for less than its Nominated Weekly Entitlement for one Train Service Entitlement ("First Entitlement") and the path is not allocated in accordance with paragraph (i); and*
 - that Access Holder also submits Train Orders for a different Train Service Entitlement in excess of its Nominated Weekly Entitlement,**then the path will be allocated to those other Train Orders in the manner requested by the Access Holder and that allocation will be documented and is deemed to be performance of the First Entitlement by QR Network for the purposes of scheduling the Access Holder's future Train Orders;*
 - (iii) priority will then be given to allocating the path to an Access Holder for whom QR Network is most behind (in the contract year to date) in providing its contracted Train Services due to a QR Network Cause (when assessed in terms of Train*

Services not provided due to a QR Network Cause as a percentage of contracted Train Services); and

- (iv) priority will then be given to allocating the path to the Access Holder for whom QR Network is most behind (in the contract year to date) in providing with its contracted Train Services (when assessed in terms of the percentage of aggregated Train Services as a percentage of aggregated contracted Train Services); and*
- (d) finally, where the above considerations do not assist QR Network in making a decision regarding which requested Train Service is scheduled, QR Network will unilaterally determine which Train Service/s is scheduled, and will keep a record of that decision and the reasoning behind that decision. QR Network will ensure that, over time, no Access Holder is favoured over another and, where possible, if one Access Holder is favoured this time, taking into account the Train Service Entitlement held by an Access Holder, next time they are not favoured. In other words, if one Access Holder has an entitlement to 10 services per week, and another Access Holder has an entitlement to 20 services per week, then it could not be said that favouritism was shown to the second Access Holder if they received priority over the first Access Holder on two out of three consecutive occasions.*

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LIST OF SUBMISSIONS

<i>Organisation</i>	<i>Submission number</i>
Anglo American	3, 4, 10
Asciano	5
Aurizon Network	1, 2, 9
BHP Billiton Mitsubishi Alliance and BHP Billiton Mitsui Coal (BMACC)	6
Glencore	11
Peabody	7
Vale	8