

QR Ref: MCR-25-73

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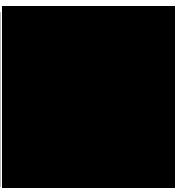
Dear Professor Menezes

**Queensland Rail's Draft Access Undertaking 3 (DAU3)
Submission Responding to the QCA December 2024 Discussion Paper**

Attached is Queensland Rail's response to the QCA's Discussion Paper dated 20 December 2024. I note that QCA agreed an extension for the submission of responses from 28 January 2025 to 7 February 2025.

Should your officers have any questions in relation to the attached submission they can contact Queensland Rail's Manager Policy and Regulations Mr Douglas Jasch on 0488 314 741 or by email at douglas.jasch@qr.com.au.

Yours sincerely



Kat Stapleton
Chief Executive Officer

7 February 2025

Attach (1)

Queensland Rail's Response to the QCA's Discussion Paper on Queensland Rail's Draft Access Undertaking 3 (DAU3)

7 February 2025

Commercial-In-Confidence

 QueenslandRail

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Introduction

1. This submission by Queensland Rail responds to the Discussion Paper provided by the QCA on 23 December 2024 in relation to DAU3 submitted by Queensland Rail to the QCA for approval on 10 November 2023 (**Discussion Paper**).
2. The QCA required interested parties to make submissions in response to the Discussion Paper by 28 January 2025.
3. In light of the significant and numerous issues raised by the QCA's Discussion Paper, and the material change to regulatory precedent being proposed in the Discussion Paper, Queensland Rail requested an extension of time to respond to the Discussion Paper. In response the QCA granted Queensland Rail and other parties an extension of 10 (calendar) days to make responsive submissions.
4. In any event, this submission addresses the issues in the Discussion Paper in as much detail as is possible in the time available. Queensland Rail reserves the right to raise additional and different issues in responding to any AU3 draft or final determination by the QCA, to the extent that any such determination reflects the positions being proposed by the QCA in its Discussion Paper.
5. During the collaboration period following the QCA's request for collaborative submissions in July 2024, Queensland Rail provided a significant volume of tariff modelling and costing information on different tonnage scenarios to customers. During that process Queensland Rail and its customers could not reach an agreement on an appropriate reference tariff.
6. Since the release of the Discussion Paper, the parties have re-engaged on West Moreton System tariff expectations. Queensland Rail has received a high level proposal from [REDACTED] that would leave Queensland Rail unable to recover its efficient costs.
7. On 31 January 2025, Queensland Rail received a more considered tariff pricing principles proposal from New Hope Group which is still being assessed.
8. The QCA requires agreement by all West Moreton coal mining companies. The QCA's proposed approach fails to recognise that there have already been unsuccessful attempts to reach agreement on a reference tariff and that two of the coal mining customers have existing contracts on foot, and therefore no incentive to negotiate a new reference tariff. In a letter dated 17 January 2025, [REDACTED] (see **Attachment 3**). This correspondence suggests there is little cause for optimism for an agreement being reached by all customers even if a counter-proposal is made to [REDACTED].
9. Further, the QCA's position that Queensland Rail should negotiate an agreement with all of the customers is not readily achievable as there is a legal concern regarding the ability of the customers to collectively negotiate over price terms. To overcome that concern, Queensland Rail has sought to negotiate with customers on an individual basis in an attempt to reach a common ground with customers, while still ensuring that Queensland Rail's legitimate business interests are met.

Queensland Rail intends to continue negotiations beyond the date for responses to the Discussion Paper.

10. The QCA has not indicated a willingness to delay a final decision, suggesting that the Access Undertaking be approved without Schedule D, leaving the parties to agree a reference tariff at a later date (and then to reflect that agreed tariff in a draft amending access undertaking) or, failing agreement, to have access charges determined by arbitration.
11. In its letter of 15 January 2025, the QCA takes issue with the fact that Queensland Rail's extension request focused on West Moreton System tariff issues. The QCA says that it is not appropriate to jeopardise "on-time" approval of a new access undertaking when West Moreton matters could be deferred. Queensland Rail respectfully requests that the QCA consider that:
 - (a) recovery of the efficient costs of providing its services is not an insignificant matter, and Queensland Rail should not be criticised or punished for prioritising that objective;
 - (b) all parties devoted time to considering the QCA's independent capacity assessment, which the QCA now acknowledges was incomplete;
 - (c) the time required to deal with a range of significant issues not addressed in the QCA's earlier Draft Determination, and new issues raised for the first time in the Discussion Paper, has hindered the ability of Queensland Rail and customers to reach consensus on various issues affecting Queensland Rail, access seekers and access holders;
 - (d) while there is benefit to all parties in process improvements being included in a new access undertaking, concentrating efforts on those issues to the detriment of material issues, such as the cost of access, is not warranted in circumstances where there is no credible suggestion that access seekers or access holders are unable to access the network on appropriate terms; and
 - (e) the 'statutory timeframe' the QCA mentions in its letter can be extended.
12. In the circumstances, notwithstanding Queensland Rail's willingness to continue to engage in genuine negotiations with customers in relation to the reference tariff issue, Queensland Rail is making this submission within the QCA's required timeframe. It is doing so in recognition of the fact that this will be the only opportunity to address the significant concerns Queensland Rail has with the QCA's foreshadowed approach, and to highlight the genuine risk of regulatory error if the QCA proceeds as proposed in its Discussion Paper.

Executive Summary

13. The QCA has raised the undefined concept of "affordability" of the reference tariff as the stated reason for its intended approach to not include any reference tariff in AU3. However, this goes against QCA precedent and creates uncertainty. By contrast, the QCA Decision on Queensland Rail's 2016 undertaking (**AU1**) states:

"While we have had regard to affordability and market conditions to the extent that they affect matters including the utilisation of the network, we also note that there are competing considerations. These include regulatory predictability and certainty in the regulatory process and its outcomes, achieved by applying commonly accepted regulatory methodologies consistent with the approval criteria in the QCA Act (s. 138(2))..."

On balance, we consider that, while affordability and relative prices are relevant to assessing the West Moreton and Metropolitan tariffs, they do not on their own outweigh the other considerations, including the consideration of whether the price of access generates 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.

Further, setting a price based on short-term affordability considerations would have the potential to promote inefficient development of high-cost mines, which would not be in the public interest, and would not promote efficient use of the rail infrastructure.

Therefore, it would not be an appropriate balance of, among other things, the interests of Queensland Rail, the public interest, the pricing principles and the interests of access seekers and access holders, for prices to be set in a manner that gives greater weight to supporting the profitability of access holders or seekers and their customers over the regulatory predictability and certainty that will come from establishing a transparent tariff methodology to apply over the long term.”¹

14. The approach proposed by the QCA in its Discussion Paper by which a reference tariff is not set by the QCA as part of AU3, and which leaves access charges to be arbitrated where they cannot be agreed, does not ensure that Queensland Rail will recover at least its efficient costs of providing the service and is inconsistent with:
- (a) regulatory precedent in respect of the West Moreton System where the QCA has approved successive access undertakings that have included a reference tariff since 2006;
 - (b) the concepts of regulatory certainty and predictability which underpin regulated access arrangements in Australia;
 - (c) the fundamental principles underlying the *Queensland Competition Authority Act 1997* (Qld) (**QCA Act**) including that an access provider should not be forced to provide a declared service at a loss;
 - (d) the generally accepted regulatory principle that access providers and access seekers should be provided with certainty as to the terms of access so as to ensure efficient investment; and
 - (e) the QCA's own stated position as quoted above in relation to Queensland Rail's Access Undertaking approved by the QCA in 2016.
15. Queensland Rail submits that in the absence of an appropriate reference tariff being set by the QCA, the QCA will be delivering a regulatory outcome that:
- (a) fails to ensure that Queensland Rail recovers at least its efficient costs to provide the service in contravention of the pricing principle in section 168A(a) of the QCA Act;
 - (b) fails to ensure proper regard is had to Queensland Rail's legitimate business interests, as required by section 138(2) of the QCA Act;

¹ QCA Decision on Queensland Rail's Draft Access Undertaking, June 2016 pages 115 – 116.

- (c) fails to ensure that Queensland Rail is not required to, in effect, financially underwrite the mining operations of its customers on the West Moreton System – something that the QCA Act does not require and the QCA itself has identified as an outcome that is not likely to be in the public interest²;
 - (d) proposes a subsidisation of coal mining operations on the West Moreton System by Queensland Rail or the State Government, again a matter which is not contemplated by the QCA Act and which is beyond the QCA's remit to require or suggest;
 - (e) defers rather than avoids the QCA's obligation to determine pricing for access – the QCA will almost certainly be required to make arbitration decisions on pricing at some stage in the near future if the parties are unable to agree a reference tariff despite repeated attempts;
 - (f) fails to ensure that Queensland Rail recovers its existing losses in the Loss Capitalisation Account over the life of AU3 and to recover any future loss – with the result that the QCA is effectively endorsing an outcome that means Queensland Rail is being required to provide the declared service at a loss;
 - (g) forces parties to economically inefficient, disparate and uncertain arbitration proceedings over a fundamental cornerstone of access arrangements – pricing – and against regulatory precedent (the West Moreton System has been subject of QCA approved reference tariffs through successive access undertakings); and
 - (h) allows coal mining customers to leverage the regulatory system in the expectation that the QCA will ultimately make access pricing determinations that favour them for fear of making a theoretical “regulatory error”, even if by failing to set a reference tariff the likely result will be an actual regulatory error, namely, requiring Queensland Rail to provide the service at an ongoing material loss, contrary to fundamental and well-established regulatory principles and the requirements of the QCA Act.
16. The concerns that Queensland Rail has with the likely outcomes that will flow from the position being proposed by the QCA in its Discussion Paper are real. As mentioned above, [REDACTED] has already foreshadowed in the letter included at **Attachment 3** the likely impacts on Queensland Rail of the QCA's approach should the parties fail to agree a reference tariff [REDACTED]. Those impacts mirror and expand on the negative consequences identified by Queensland Rail.
17. An independent report by HoustonKemp Economists annexed at **Attachment 1** concludes, amongst other matters, that there is no incentive on [REDACTED] to agree a price that is higher than their current access pricing, indexed for CPI and that the approach being proposed by the QCA is inappropriate from a regulatory perspective.
18. “Affordability” is not mentioned in the QCA Act as a relevant criterion to which the QCA must have regard in relation to the exercise of its regulatory discretion to approve a proposed access undertaking. In any event, given the adverse consequences for Queensland Rail should an appropriate reference tariff not be set, the QCA should not rely on assertions by coal mining companies that a proposed reference tariff is “unaffordable” without a detailed and independent

² Ibid.

assessment of that claim and without an assessment on a customer-by-customer basis noting that individual mining operations have different cost structures and profitability.

19. The claim by the QCA that the Queensland Rail proposed reference tariff is “more than 50% higher than the price in the 2020 undertaking” is incorrect for the reasons discussed in this submission.
20. The QCA's position in the Discussion Paper that Queensland Rail's proposal to include a mechanism in AU3 by which it can recover the amount in the Loss Capitalisation Account is a “secondary consideration” and “a distraction” fails to recognise that Queensland Rail has a legitimate business interest in recovering its full costs of providing the service and cannot be expected to provide the service at an ongoing loss. This is neither a “secondary consideration” or a matter of “distraction”.
21. It is anticipated that arbitrations on a customer-by-customer basis will be required to determine access prices – an outcome anticipated not just by Queensland Rail but also as indicated by [REDACTED]
22. In any arbitration before the QCA, the QCA Act requires the QCA to have regard to the criteria set out in section 120 of the QCA Act. The section 120 criteria mirror and expand on the criteria to which the QCA must have regard when approving an undertaking. Consequently, if arbitrations are likely to be required as anticipated, the QCA is effectively “kicking the can down the road” by failing to set an appropriate reference tariff in AU3, which in turn fails to give regulatory certainty and operates to create economic and practical inefficiencies.
23. For all of the reasons set out above, Queensland Rail submits that:
 - (a) it would not be appropriate for the QCA to proceed as proposed in the Discussion Paper by failing to set a reference tariff as part of AU3, unless it is agreed by the parties; and
 - (b) the QCA should instead set a reference tariff at the price it has specified in its Discussion Paper, namely, for an annual volume of 7.5 million tonnes a reference tariff of \$40.07/’000 gross tonne kilometres (gtk), or \$15.54 per net tonne (or failing that, at least at the lower level proposed by Queensland Rail in its Draft Access Undertaking and associated submissions including forecast AU2 capital expenditure in 2023/24 and 2024/25) adjustments to ensure that Queensland Rail can “*generate expected revenue for the service 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*” as required by the pricing principles in section 168A of the QCA Act; and
 - (c) a failure to set a reference tariff as part of AU3 at one of the levels specified in paragraph 22(b) will constitute a regulatory error.

West Moreton Coal High Level Summary

24. A high level summary of Queensland Rail's submissions is set out in Table 2 below, followed by detailed submissions. Table 2 below highlights some of the important matters relating to the West Moreton coal System.

Table 2 - Summary - QCA December Discussion Paper – West Moreton System Reference Tariff

Issue	QCA Discussion Paper	Discussion
<p>The QCA in its Discussion Paper is moving away from its long-established principles on the West Moreton System with the consequence that Queensland Rail will not be able to recover its recover its efficient costs.</p>		
<p>No West Moreton coal reference tariff</p>	<p>The QCA is intending to not include a West Moreton coal reference tariff in AU3. The QCA Discussion Paper states:</p> <p><i>“We currently consider that it is not appropriate to include a West Moreton coal reference tariff in the 2025 DAU, unless Queensland Rail and its customers can find consensus on price and related matters that bridges the substantial differences between their current positions.”</i></p> <p>This concept is repeated throughout the QCA comments paper.</p>	<ul style="list-style-type: none"> • The QCA is intending to not include a West Moreton coal reference tariff in AU3. Rather Queensland Rail will have to negotiate with each individual new coal access seeker. By contrast, the QCA has required a coal reference tariff for the West Moreton System since 2006. • Existing coal contracts () include the current reference tariff, which is the lower incremental reference tariff, not the actual higher ceiling reference tariff. • The existing coal contracts provide that if a reference tariff ceases to apply, the existing price (i.e. the AU2 incremental tariff) continues to apply and is to be escalated annually by CPI for the duration of their term. Also, there would be no mechanism for the current loss capitalisation to be recovered. • Queensland Rail will not be able to recover its efficient costs of running the network including non recovery of its loss capitalisation balance that is owed to Queensland Rail.
<p>Price Differentiation Effect</p>		<p>In the absence of a reference tariff, Queensland Rail will be required to negotiate access charges on a case by case basis with each coal access seeker. However, the price differentiation requirements in DAU3 (and AU2) require Queensland Rail to charge the same access price as applies under then existing coal contracts which would be the current incremental reference tariff escalated annually by CPI. In those circumstances, Queensland Rail will not be able to recover its efficient costs including the loss capitalisation amount owed to Queensland Rail.</p>

Issue	QCA Discussion Paper	Discussion
<p>The appropriateness of leaving coal access prices for negotiation with customers</p>		<p>Queensland Rail is committed to working with the mines in good faith negotiations.</p> <p>The QCA's Discussion Paper does not address any detail about the parameters that would apply in negotiations.</p> <p>If the QCA does, as it suggests, treat coal access pricing in the same way as other access traffics, then the price differentiation rules in DAU3 (and AU2) would apply to prevent Queensland Rail from charging different access prices for train services that are alike and where the parties operate in the same end market.</p> <p>As discussed above, under existing coal access agreements, the AU2 incremental tariff would continue to apply from the commencement of AU3 until the expiry of all existing coal access agreements. This would mean that when negotiating a new coal access agreement, Queensland Rail could not impose different access charges unless the characteristics of the train services could be said to be sufficiently different.</p> <p>As noted above, given that existing access prices (indexed by CPI) will continue to apply for the duration of the existing access agreements, the relevant access holders will have no incentive to agree a different reference tariff or one that is in any way higher than what they individually consider to be "affordable".</p> <p>In addition, the QCA suggests that if an access charge cannot be agreed, the parties could bring an access dispute to the QCA for arbitration. This is inefficient, creates unnecessary uncertainty, and in light of the Section 120 factors that the QCA must apply in any arbitration, it is not clear how the QCA could determine a price other than one that returns to Queensland Rail its efficient costs of operating the service. Additionally, any access dispute</p>

Issue	QCA Discussion Paper	Discussion
		would be complex, time consuming and expensive to run, and therefore an inefficient mechanism by which to determine access charges.
<p>No Loss Capitalisation Account Recovery</p>	<p>The QCA is not proposing to include a loss capitalisation recovery mechanism for Queensland Rail in AU3.</p> <p>In its Discussion Paper, the QCA confirms that <i>“[W]here there is a no realistic prospect of accumulated losses being recovered, it is time to consider alternative approaches”</i> and that <i>“applying loss capitalisation [is] less viable in future as a way of achieving affordability”</i>.</p> <p>The QCA also states that <i>“if expected revenue continues to fall short of the efficient cost of providing the West Moreton service, the parties may want to negotiate a compromise approach to affordability that does not rely on unpredictable future events such as increased volumes”</i></p>	<p>Not including a requirement for loss capitalisation recovery by Queensland Rail results in below efficient costs and is effectively a subsidy for the mining industry.</p> <p>Queensland Rail provided short term financial assistance to coal companies using the West Moreton System at a time of depressed global coal prices. AU2 was approved on the basis that Queensland Rail would not charge users the full price for access required to meet its costs of providing the service. Instead AU2 operates to apply any shortfall between West Moreton coal access revenue and the Approved Ceiling Revenue to a Loss Capitalisation Account which would attract interest and be eventually recovered by Queensland Rail through the reference tariff.</p>
<p>Queensland Rail to Recover Less Than Efficient Costs effectively subsidizing the coal mines</p>		<p>Under the QCA’s proposal Queensland Rail will not be able to recover its efficient costs. This would effectively operate as a subsidy to the mining industry, is not in the public interest and is inconsistent with the QCA Act’s pricing principles.</p>
<p>Regulatory Uncertainty</p>		<p>The QCA Discussion Paper has:</p> <ul style="list-style-type: none"> indicated major changes compared to its previous West Moreton decisions, including the removal of the reference tariff for DAU3 and

Issue	QCA Discussion Paper	Discussion
		<p>ensuring Queensland Rail recovers less than its efficient costs of providing the service;</p> <ul style="list-style-type: none"> • made the concept of “affordability” (which is not a concept included in the QCA Act) the key rationale in its Discussion Paper for not approving a reference tariff; • failed to undertake any assessment of the claimed “unaffordability”; and • proposed excluding a mechanism for Queensland Rail to recover the loss capitalisation amount owed to it despite the QCA’s previous stated decision that Queensland Rail would be able to the amount in the Loss Capitalisation Account through future Access Charges. <p>The positions taken by the QCA in its Discussion Paper create regulatory uncertainty that will affect the willingness of both Queensland Rail and its customers to invest in the rail assets and their future mining operations, respectively. The QCA’s position is directly inconsistent with the QCA’s previous Decision on Queensland Rail’s 2016 undertaking in which the QCA championed the requirement for regulatory predictability and certainty in setting a price for access.</p>

West Moreton Access Terms

25. The QCA Discussion Paper states in the section headed "Next Steps" at page 2:

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

26. In Section 2 of the Discussion Paper, the QCA states:

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

27. The statement quoted in paragraph 25 is restated in various forms throughout Section 2 of the Discussion Paper. It is therefore clear that the QCA is not intending to determine a reference tariff for inclusion in AU3 unless a reference tariff has been agreed by Queensland Rail and its customers.

28. The QCA has also made clear in its Discussion Paper that it expects Queensland Rail to negotiate a reference tariff that has the effect of further subsidising the coal mining operations of users of the West Moreton system, entrenching ongoing losses for Queensland Rail in the provision of the declared service.³

29. In its draft decision on Queensland Rail's draft of AU3, the QCA similarly encouraged negotiations between Queensland Rail and its customers to seek agreement on a reference tariff and other issues.⁴

30. In accordance with the QCA's request, Queensland Rail consulted with customers in relation to the terms of proposed AU3. Those efforts resulted in a collaborative submission being made to the QCA on various aspects of AU3.

31. However, not surprisingly, despite good faith attempts to negotiate a reference tariff, the parties were unable to agree one and, as the QCA itself notes, there remain "substantial differences between their current positions"⁵. The QCA's consistent approach in setting reference tariffs in the past has no doubt resulted in the parties' belief that one would be set by the QCA in respect of AU3.

32. Following publication of the Discussion Paper, Queensland Rail has continued to engage with coal mining companies using the West Moreton System in an attempt to reach agreement on a reference tariff that is acceptable to all parties. As outlined at paragraph 7 above, a proposal was received from [REDACTED] on 31 January 2025. While Queensland Rail wishes to continue discussions, [REDACTED]

³ Appendix C, page 57 of the QCA Discussion Paper.

⁴ QCA, *Queensland Rail 2025 Draft Access Undertaking*, draft decision, June 2024, pages 9 and 77.

⁵ QCA Discussion Paper, page 6.

- [REDACTED]
- [REDACTED]
33. Reference tariffs have been a key feature of Queensland Rail's previous and current Access Undertakings for the West Moreton System. If the QCA elects not to include one in AU3, it will represent a significant departure from regulatory precedent. It will also be a decision by the QCA that fails to provide regulatory certainty and one which clearly offends against the approach the QCA so unequivocally and clearly articulated in relation to Queensland Rail's 2016 Access Undertaking.⁶
34. Queensland Rail is firmly of the view that a reference tariff should be included in AU3 in order to:
- (a) provide Queensland Rail with certainty that in providing the declared service, it will be able to generate revenue that is "at least enough to meet its efficient costs of providing access and which include a return on investment commensurate with the regulatory and commercial risks involved" – as contemplated by the pricing principle in section 168A(a) of the QCA Act;
 - (b) ensure that Queensland Rail is not subsidising the coal mining operations of users by providing the declared service at a loss;
 - (c) provide the coal companies that use the West Moreton System with certainty in relation to a necessary cost component of their operations when making investment decisions in relation to those coal mining operations; and
 - (d) avoid the cost, uncertainty and inefficiency associated with arbitration proceedings that the QCA acknowledges in its Discussion Paper will become necessary in the absence of a reference tariff and any agreements on a case-by-case basis between individual coal companies and Queensland Rail on the access charges to apply.
35. Queensland Rail also notes that in the QCA's Draft Decision on AU3 issued in June 2024, the QCA stated that if the parties could not agree a new reference tariff for the West Moreton system, "one appropriate approach may be for Queensland Rail to amend the 2025 DAU to provide for CPI escalation of the current (AU2) West Moreton reference tariff".⁷
36. The current AU2 West Moreton reference tariff only results in recovery of efficient maintenance and operating costs and a return on new capital proposed during the term of AU2. It excludes a return on pre-AU2 assets (i.e. assets in the West Moreton Regulatory Asset Base (**RAB**) that existed prior to 1 July 2020). Applying a CPI increase to a reference tariff that has already been discounted will not allow Queensland Rail to recover its efficient costs, including a return on its investment as contemplated by the pricing principle in Section 168A(a).
37. The other important point to note is that the AU2 West Moreton Reference Tariff of \$26.42 / 000 gtk (FY26\$s) was an affordable or incremental reference tariff set at a time of depressed global coal prices. The QCA approved a ceiling reference tariff of \$44.82 / 000 gtk (FY26\$s) based on

⁶ See Executive Summary and footnote 1.

⁷ QCA Draft Decision on Queensland Rail Draft 2025 Access Undertaking, page 93.

total forecast railings of 2.1 mtpa. Notwithstanding the difference in system tonnage profiles, the proposed AU3 ceiling reference tariff is actually less than the AU2 ceiling reference tariff.

38. The QCA has confirmed in its Discussion Paper and in previous regulatory decisions that Queensland Rail is entitled to recover the amount contemplated in Section 168A(a). Consequently, a regulatory decision which has the effect of simply applying a CPI increase to the AU2 reference tariff, or a regulatory decision which encourages Queensland Rail and users to agree access charges on that basis, would not be consistent with the requirements of the QCA Act or the QCA's previous decisions.⁸

Is the QCA right in assuming that Queensland Rail and its customers will be able to agree a reference tariff for inclusion in AU3?

39. The underlying logic behind the QCA's approach in suggesting that a reference tariff for AU3 appears to be that the parties are best placed to agree one, and naturally incentivised to do so:

*"The reference tariff is part of a package of service standards and risks, which reflects customers' preferences, the legitimate business interests of Queensland Rail, and other factors. Given Queensland Rail and its customers are best placed to assess their respective needs and preferences, we are keen for them to find the best outcome."*⁹

.....

*"We welcome the consensus positions that were included in the collaborative submissions and encourage the parties to continue their efforts to find common ground on matters where differences remain."*¹⁰

.....

*"Should the parties not be able to agree terms, they have the option of raising a dispute."*¹¹

40. The QCA's underlying logic that the parties are likely to be able to agree a reference tariff is open to challenge and not just because efforts to date have proved unsuccessful.

41. As the QCA is aware, the parties claiming that the reference tariff proposed by Queensland Rail is "unaffordable" and needs to be set at a lower level [REDACTED]

[REDACTED]

42. [REDACTED]

[REDACTED]

⁸ See for example the quote from the QCA's Final Decision recited in the Executive Summary of this Submission.

⁹ QCA, draft decision on Queensland Rail's 2025 Draft Access Undertaking, June 2024, page 9 and repeated commencing on pages 4 of the QCA's Discussion Paper.

¹⁰ Discussion Paper, page 5.

¹¹ Discussion Paper, page 7.

- [REDACTED]
- [REDACTED]
45. The disincentive to agree a new (higher) reference tariff that would allow Queensland Rail to recover its efficient costs of providing the service is also supported by clause 3.3(d) of AU2 and its equivalent in the DAU for AU3.
46. Those provisions will operate to prevent price discrimination between customers where there is no reference tariff, (other than to allow for differences in costs and risks associated with the provision of the service).
47. Queensland Rail's concern [REDACTED] allow Queensland Rail to recover at least its efficient costs of providing the service, is borne out by recent correspondence.
48. In a letter to Queensland Rail dated 17 January 2025 [REDACTED] stated:

".....

(b) In the absence of a reference tariff, [REDACTED] existing access agreement will provide for pricing components to be escalated a CPI until the end of its term – i.e. resulting in a materially lower price that QR is currently seeking;

(c) under a negotiate-arbitrate model, pricing will be negotiated and likely arbitrated in respect of different users at different times – making it practically impossible for QR to continue to base pricing on an allocation between different users of system allowable revenue that adjusts for matters like capex variations and changes in volume), and eliminating any prospect of recovering any capitalised loss;

(d) in the absence of a reference tariff, [REDACTED] will not support, and considers the QCA will not determine in any arbitration:

(a) any loss capitalisation regime (or recovery mechanism for previously capitalised losses)

(ii) any arrangement that seeks to adjust pricing upwards for system issues (such as overspend on capex or reductions in volume);

(iii) any retrospective adjustments for periods before any new pricing is determined;

(e) [REDACTED] remains very confident that in a QCA arbitration an affordability tariff will ultimately be determined by the QCA if required:

....."

49. In its letter of 17 January 2025 [REDACTED] is effectively confirming that in the absence of a reference tariff set by the QCA in AU3 [REDACTED]:
- (a) can hold out on agreeing any reference tariff that it considers “unaffordable, knowing that Queensland Rail will be stuck on current access charges (indexed by CPI) to at least the end of 2026, noting that the price will be lower than Queensland Rail (and the QCA confirms in its Discussion Paper) requires to meet its efficient costs of providing the service;
 - (b) considers that arbitration and not negotiation is the most likely path to setting access charges;
 - (c) confirms its view that arbitrated outcomes will need to be the subject of separate arbitrations with “different users at different times”;
 - (d) notes that individual arbitrated outcomes will make it “practically impossible” for Queensland Rail to make necessary allocations and adjustments to address system allowable revenue, capex variations and capex adjustments for changes in volume;
 - (e) confirms that in its view, the QCA will not make any arbitration determination that would allow Queensland Rail to recover past or future capitalised losses; and
 - (f) confirms its expectation that the QCA will ultimately make an arbitration determination that sets an affordable tariff in favour of [REDACTED] and other users.
50. Queensland Rail submits that in the absence of an appropriate reference tariff being set by the QCA, the outcomes predicted by [REDACTED] set out above are likely to occur. The effect of this is that the QCA will be delivering a regulatory outcome that:
- (a) fails to ensure that Queensland Rail recovers at least its efficient costs to provide the service in reach of the pricing principle in section 168A(a) of the QCA Act and to ensure proper regard is had to Queensland Rail’s legitimate business interests as required by section 138(2) of the QCA Act;
 - (b) fails to ensure that Queensland Rail is not required to, in effect, financially underwrite the mining operations of its customers on the West Moreton System;
 - (c) defers rather than avoids the QCA’s obligation to determine pricing for access – the QCA will almost certainly be required to make arbitration decisions on pricing at some stage in the near future;
 - (d) fails to ensure that Queensland Rail recovers its existing losses in the Loss Capitalisation Account over the life of AU3 and to recover any future loss;
 - (e) forces parties to economically inefficient and disparate arbitration proceedings over a fundamental cornerstone of access arrangements – pricing – and against regulatory precedent (the West Moreton System has been subject of QCA approved reference tariffs through successive access undertakings); and
 - (f) allows coal mining customers to use the regulatory system in the expectation that the QCA will ultimately make access pricing determinations that favours them for fear of making a theoretical “regulatory error”, even if that results in an actual regulatory error

namely, requiring Queensland Rail to provide the service at an ongoing material loss against fundamental and well-established regulatory principles and the requirements of the QCA Act.

Is it possible to approve an undertaking without a reference tariff?

51. The QCA says that there is no mandatory requirement that an access undertaking include a reference tariff. The QCA relies on Section 137 of the QCA Act as the basis for that view, stating that section 137 provides an undertaking “may” include how charges for access to the service are to be calculated.
52. The QCA also relies on:
- (a) the 2017 Dalrymple Bay Terminal access undertaking as a “precedent” for an undertaking approved without a reference tariff; and
 - (b) an argument that the West Moreton System should be treated like the other systems where the “terms of access are negotiated without a reference tariff”.
53. Queensland Rail submits that:
- (a) the 2017 DBCT access undertaking is not a relevant precedent because in that case the service provider, DBIM, was not proposing to include a reference tariff. Here, the access provider, Queensland Rail, is requesting that a reference tariff be included for reasons that are consistent with regulatory precedent and the objects of the QCA Act. It is only the QCA that is arguing for the lack of a reference tariff in AU3; and
 - (b) the West Moreton System is different and should therefore be treated differently to the other Queensland Rail systems because:
 - (i) West Moreton coal is a homogenous product being railed from several mines on the same rail network;
 - (ii) coal railings on the West Moreton rail system are the predominant traffic on the West Moreton rail system (>85% of total freight);
 - (iii) West Moreton coal is a relatively high value product where users have an ability to pay access charges;
 - (iv) road haulage is not able to compete with rail due to scale and would require special permissions to operate;
 - (v) West Moreton coal is the only traffic on the network where Queensland Rail can expect a return (regulated) on efficient costs/investment (as contemplated by Section 168A of the QCA Act);
 - (vi) the Mount Isa Line has multiple commodities (mineral concentrates, metals, fertiliser, mining inputs), and an inability to pay a ceiling reference tariff (as a result of relatively low volumes over a large network) and faces road competition which effectively sets a cap on pricing; and
 - (vii) the North Coast Line users also have an inability to pay a ceiling reference tariff (due to relatively low volumes over a large network) and the North Coast Line faces road competition which effectively sets a cap on access pricing.

- (c) Unlike the 2017 DBCT access arrangements, Queensland Rail has proposed a reference tariff as part of all its regulatory undertakings, including the proposed AU3, because it needs to recover its efficient costs of providing access and a return on its investment in relation to the West Moreton System. As the QCA knows, Queensland Rail has already been required to reduce its access charges in the West Moreton system by means of the Loss Capitalisation Account.
- (d) A decision by the QCA not to include a reference tariff in the hope or expectation that it will force a negotiated price for access that is lower than the price that is both:
- (i) lower than the price flowing from the reference tariff previously proposed by Queensland Rail; and
 - (ii) lower than the price flowing from the reference tariff that the QCA itself has confirmed in its Discussion Paper as necessary to enable Queensland Rail to recover its efficient costs,

is an inappropriate exercise of the QCA's regulatory discretion. This is particularly the case where it is clear that the parties have already failed to negotiate a reference tariff acceptable to all parties and consequently, the only way in which an agreed outcome could be reached is if Queensland Rail further subsidises access to the West Moreton System.

54. The QCA is also asked to note the fact that Yancoal has already confirmed that there will be adverse outcomes for Queensland Rail should it fail to agree a price that is lower than Queensland Rail believes is necessary to recover at least its efficient costs of providing the service.
55. Queensland Rail will not agree to, and cannot be required to, supply below rail services on the West Moreton System at a price that would not allow it to recover its efficient costs and a return commensurate with its commercial and regulatory risks.
56. In any event, for the reasons outlined below, it is not appropriate for the QCA to approve AU3 without a reference tariff.

Is it “appropriate” for the QCA to approve AU3 without a reference tariff?

57. The QCA may approve a draft access undertaking only if it considers it appropriate to do so having regard to each of the factors set out in Section 138(2) of the QCA Act.
58. Relevantly, from Queensland Rail's perspective in relation to the matters raised in the Discussion Paper on the West Moreton reference tariff, the factors to which the QCA must have regard are:

“...

(b) *the legitimate business interests of the owner or operator of the service;*

...

(g) *the pricing principles mentioned in section 168A”.*

59. The access regime reflected in the QCA Act is not designed to force a provider of a declared service to run at a loss.
60. That fundamental tenet of the QCA Act regime is reflected in the pricing principles.
61. It follows that Queensland Rail should not be placed at risk of having to provide the declared service on the West Moreton System at a loss.
62. In that regard, Queensland Rail notes that the QCA has estimated an "indicative cost recovery price of \$40.07/000 gtk, or \$15.54 per tonne" on an annual coal volume of 7.5 million tonnes.
63. In effect therefore, the QCA is confirming that any determined, negotiated or arbitrated price for access at less than \$15.54 per tonne for a volume of 7.5 mtpa would necessarily mean that Queensland Rail would be providing the service at less than its costs of doing so.
64. By refusing to approve AU3 with a reference tariff that ensures that Queensland Rail recovers at least \$15.54 per tonne and suggesting the parties could seek to negotiate an access charge, or failing to agreement, could have an access charge determined by arbitration, the QCA is clearly flagging that it expects Queensland Rail to incur an even greater loss through the negotiate/arbitrate process.
65. In relation to the negotiation of a price, this is particularly evident given that Queensland Rail's customers have already refused to accept the reference tariff proposed by Queensland Rail, (which was actually less than the \$15.54 per tonne identified by the QCA as necessary to enable Queensland Rail to recover its costs).
66. Queensland Rail's concerns are further heightened by the QCA's statement that:
"If a price that fails to recover a significant majority of Queensland Rail's efficient costs is required to make West Moreton coal haulage viable, it is best that it be set through negotiation between Queensland Rail and its customers".¹² (emphasis added)
67. The quoted statement indicates that the QCA is not seeking to reflect the pricing principles or to address Queensland Rail's legitimate business interests in relation to the price for access.
68. The QCA has itself acknowledged that a price that fails to recover "a significant majority" of Queensland Rail's efficient costs will not meet the criterion of being in the legitimate business interests of Queensland Rail.¹³
69. The pricing principle in Section 168A(a) does not merely require a service provider to recover "a significant majority" of its costs of providing a service, it requires that the expected revenue be "at least enough to meet the efficient costs of providing access and include a return on investment...". It is not clear where the QCA has found justification for a price that only recovers "a significant majority" of a services provider's costs of providing the service.

¹² Discussion Paper, page 7.

¹³ Ibid.

What is the QCA's rationale for not determining a reference tariff?

Affordability

70. Relevantly, from the users' perspective in relation to the matters raised in the Discussion Paper in respect of the West Moreton reference tariff, the Section 138(2) factors to which the QCA must have regard are:

“... ”

(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 have been adversely affected.”

71. The QCA has sought to justify its view that it would not be appropriate to approve AU3 with a reference tariff and to effectively leave the parties to 'sort it out amongst themselves', on the basis that a reference tariff set by the QCA may result in 'unaffordability' for the coal miners. For example, the Discussion Paper states that:

“Stakeholders have said that the price proposed by Queensland Rail is unaffordable”.¹⁴

and

“If we attempt to set an affordable price there will be a significant chance of a regulatory error”.

72. The concept of “affordability” is not expressly mentioned in Section 138(2). There is also no statutory test for “affordability”.
73. Further, if the QCA is seeking to link the concept of “affordability” to the Section 138(2) factors referred to above (which are the only Section 138(2) factors which could arguably be relevant to that issue), the QCA cannot rely on the concept of “affordability” to refuse to approve a reference tariff as part of a draft access undertaking without unequivocal evidence that the reference tariff is “unaffordable” for the users of the relevant system.
74. It is difficult to see how the QCA can justify the position it proposes in the Discussion Paper without analysing and defining what constitutes “affordability” particularly in circumstances where:
- (a) to the extent that Yancoal and New Hope provided any evidence that the reference tariff was “unaffordable” (which is not evident to Queensland Rail based on the submissions

¹⁴ Ibid

published on the QCA's website) that "evidence" has not been independently verified and assessed by or for the QCA;

- (b) as noted above, the QCA Act does not include any concept of "affordability" and does not define how it might be assessed;
- (c) as a matter of principle, the concept of "affordability" cannot be assessed other than on a user by user basis – what is affordable for one user may not be affordable for another. Affordability depends on individual circumstances; and
- (d) the QCA has itself acknowledged in its Discussion Paper that a reference tariff of less than \$15.54 per tonne on an annual tonnage of 7.5 million tonnes would result in Queensland Rail recovering less than its costs of providing the service which means that any decision resulting in that outcome would offend against express factors in Section 138(2).

75. In any event, as the QCA decided in relation to a previous Queensland Rail draft Access Undertaking:

"... setting a price based on short-term affordability considerations would have the potential to promote inefficient development of high-cost mines, which would not be in the public interest, and would not promote efficient use of the rail infrastructure."¹⁵

76. Queensland Rail also notes that in its submission of July 2024, Yancoal stated that:

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

77. Yancoal is effectively submitting that the cost of access to the West Moreton system is the one, single, cost input that would result in Cameby Downs becoming so unprofitable that it would result in Yancoal being forced to shut down that mine. It is difficult to envisage how that could be the case. Effectively Yancoal is inviting the QCA to make a decision which would cause Queensland Rail to potentially run at a loss so as to subsidise Yancoal's operations. That, despite the fact that Yancoal's mine may be unprofitable for any number of reasons unrelated to access charges.

78. Queensland Rail submits that forcing or expecting Queensland Rail to subsidise unprofitable mines is not an appropriate regulatory outcome. That view is supported by the QCA's own reasoning:

"Therefore, it would not be an appropriate balance of, among other things, the interests of Queensland Rail, the public interest, the pricing principles and the interests of access seekers and access holders, for prices to be set in a manner that gives greater weight to supporting the profitability of access holders or seekers and their customers over the regulatory predictability and certainty that will come from establishing a transparent tariff methodology to apply over the long term".¹⁶

79. In its Discussion Paper, the QCA also appears to be accepting, at face value, the claims by Yancoal and New Hope that the Queensland Rail proposed reference tariff (and by necessary implication, the higher tariff estimated as being necessary by the QCA) are unaffordable. Based on publicly

¹⁵ QCA Decision on Queensland Rail's Draft Access Undertaking, June 2016 page 116.

¹⁶ QCA Decision on Queensland Rail's Draft Access Undertaking, June 2016 page 116.

available information and information reported to shareholders by Yancoal and New Hope, the evidence does not support the claim that the reference tariff proposed by Queensland Rail is unaffordable for either Yancoal or New Hope. Further, there are other costs such as above rail operators and Port charges. Queensland Rail should not be a balancing item in supply chain costs.

Is the indicative cost recovery price of \$15.54 “more than 50% higher than the price in the 2020 undertaking”?

80. Although not directly linked in the Discussion Paper to the affordability point, the QCA's Discussion Paper claims that the indicative cost recovery price on annual volumes of 7.5 million tonnes estimated by the QCA is “more than 50% higher than the price in the 2020 undertaking”.¹⁷
81. In practical terms that claim is incorrect.
82. The QCA appears to base its claim on a comparison between the current AU2 Incremental West Moreton reference tariff of \$26.42 / 000 gtk (FY26 \$s) and the QCA Indicative West Moreton reference tariff for AU3 of \$40.07 / 000 gtk – a 52% increase.
83. However, when the headline reference tariff is converted to a path charge and a variable component, it reveals that:
 - (a) what the coal companies would actually be paying under AU3 is a significantly lower rate than the 50 percent increase claimed by the QCA in its Discussion Paper; and
 - (b) for the scenario in which 7.5 mtpa are railed on the West Moreton System, and using Queensland Rail's headline tariff of \$37.75 / 000 gtk (FY26\$s) for the West Moreton System, the percentage price increase ranges from 9% for New Acland mine, to 16% for Cameby Downs mine.
84. The relevant per net tonne rates under the 7.5 mtpa scenario using the Queensland Rail headline tariff and the applicable increases as compared to the per tonne rates currently being paid under AU2 are shown in the table below. These proposed tariffs and net tonne rates will need to be adjusted to take account of capital expenditure in FY24 and FY25.

¹⁷ Discussion Paper, pages 1 and 6.

		One-part Headline \$ / 000 gtk (\$FY26)	Cameby Downs \$ / nt Rate (\$FY26)	New Acland \$ / nt Rate (\$FY26)	Wilkie Creek \$ / nt Rate (\$FY26)
Currently Paying under AU2	West Moreton Escalated AU2 Incremental	\$26.42	██████	██████	██████
	Brisbane Metro	\$21.93	\$██████	██████	██████
	Total		██████	██████	██████
Proposed under 7.5mtpa Scenario	West Moreton	\$37.75	██████	██████	██████
	Brisbane Metro	\$21.93	██████	██████	██████
	Total/(% incr.)		██████████	██████████	

Is it appropriate to contemplate subsidies?

- 85. The QCA's Discussion Paper expressly contemplates that "direct financial assistance" from the Queensland Government in the form of subsidies to users or Queensland Rail may be required. In the case of Queensland Rail this suggestion by the QCA is clearly made in recognition of the fact that Queensland Rail is at risk of not recovering its efficient costs of providing the service.
- 86. Queensland Rail submits that it is not appropriate for the QCA to make a determination not to include a reference tariff in AU3 on the basis of an assumption or expectation that the Queensland Government will subsidise Queensland Rail at taxpayer expense to the extent that Queensland Rail does not recover its cost of providing the services on the West Moreton line.

Is it appropriate to require Queensland Rail to write-off the Loss Capitalisation Account debt?

- 87. As the QCA is aware, to provide financial assistance to coal companies using the West Moreton system at a time of depressed global coal prices, AU2 was approved on the basis that Queensland Rail would not charge users the full price for access required to meet its costs of providing the

service. Instead AU2 operates to apply any shortfall between West Moreton coal access revenue and the Approved Ceiling Revenue to a Loss Capitalisation Account which would attract interest.¹⁸

88. The Loss Capitalisation drafting of AU2 reflects the intention for Queensland Rail to recover the amount in the Loss Capitalisation Account (including interest) as volumes increased.¹⁹
89. In its Discussion Paper, the QCA confirms that, “[w]here there is no realistic prospect of accumulated losses being recovered, it is time to consider alternative approaches” and that “applying loss capitalisation [is] less viable in future as a way of achieving affordability”.²⁰
90. The QCA also states that, “if expected revenue continues to fall short of the efficient cost of providing the West Moreton service, the parties may want to negotiate a compromise approach to affordability that does not rely on unpredictable future events such as increased volumes”.²¹
91. Queensland Rail also notes with some concern the QCA’s statement:
- “As long as there is a question of whether a price can be found that retains the customers that might underwrite past and future capital expenditure, the recovery of past capitalised losses would seem to be a secondary consideration, and potentially a distraction.”²²*
92. The recovery of Queensland Rail’s past losses in providing the declared service in the context of an access regime specifically designed to ensure Queensland Rail recovers at least its efficient costs and is not required to run at a loss, cannot be fairly described as either a “secondary consideration” or a potential “distraction”.
93. The QCA has invited the parties to seek to agree a reference tariff.
94. Queensland Rail submits that there would be no incentive for users to agree a reference tariff that would allow Queensland Rail to recover the amount currently in the loss capitalisation account. Consequently the approach being proposed by the QCA will help to ensure that Queensland Rail does not recover the costs of providing the service. This, in effect, means that Queensland Rail is being asked to subsidise the operations of the coal companies on the West Moreton service.
95. Queensland Rail’s concerns in this regard are heightened by the paragraphs quoted above on the Loss Capitalisation Account from the Discussion Paper because, by those statements, the QCA is clearly signalling to users that it does not consider it necessary for the users of the West Moreton system to compensate Queensland Rail for its costs of providing the service to date.
96. Nothing in the QCA Act empowers the QCA to make a decision that would have the effect of requiring a service provider to subsidise the operations of access holders. As stated earlier, the QCA’s approved provisions in AU2 indicate the intention that Queensland Rail would recover the loss capitalisation balance through a reference tariff. Additionally, the QCA during its approval of AU2 advised that Queensland Rail would be able to recover its loss capitalisation account balance through a reference tariff. For example, in its AU2 Draft Decision the QCA wrote:

“A maximum premium of 15 per cent can be applied to the tariff to recover capitalised losses.”²³

¹⁸ Clause 8.6 of Schedule D of Queensland Rail’s 2020 Access Undertaking.

¹⁹ Clause 8.8. of Schedule D of Queensland Rail’s 2020 Access Undertaking.

²⁰ Discussion Paper, page 64.

²¹ Ibid.

²² Discussion Paper, Appendix C, page 63.

²³ QCA Draft Decision Queensland Rail’s 2020 Draft Access Undertaking, April 2019, p.42.

97. If the QCA had advised that it would not facilitate recovery through a reference tariff, Queensland Rail would have had the option of not including a loss capitalisation account in AU2. The QCA's approach results in regulatory uncertainty and uncertainty around investment decisions.

Is the QCA's negotiate/arbitrate solution appropriate?

98. The QCA has indicated in its Discussion Paper that it does not propose to include a reference tariff in AU3 unless it has been proposed by Queensland Rail following negotiations with users to agree to a subsidised price for access.
99. The QCA has also stated that if a reference tariff is not agreed by the parties for inclusion in AU3, access holders and Queensland Rail will be able to negotiate access charges and failing agreement will "have the option of raising a dispute".
100. As the QCA is aware, despite numerous past and ongoing good faith efforts by Queensland Rail, the users of the West Moreton and Queensland Rail have failed to agree a reference tariff to date. The QCA's Discussion Paper indicates a price for access that is even higher when including forecast AU2 capital expenditure in 2023/24 and 2024/25 adjustments.
101. Against that background, there would appear little prospect of agreement on a reference tariff as there is no incentive on the users to agree a higher price for access than they are currently willing to pay. This effectively means that, in the absence of a reference tariff in AU3, Queensland Rail, will not earn the regulatory return on its efficient costs and investments in the West Moreton rail system.
102. [REDACTED] has confirmed in writing to Queensland Rail that arbitration is likely to be necessary on a case-by-case basis and its expectation that the QCA will decide any arbitration on the basis of a price for access that is "affordable" to coal mining companies and contrary to Queensland Rail's legitimate interests to recover the cost of access and its past losses.
103. If arbitration is required as anticipated, the arbitrations for each customer will be before the QCA and the QCA will be required to make a determination having regard to the factors set out in Section 120 of the QCA Act.
104. Pursuant to Section 120 of the QCA Act, the matters which the QCA must have regard to in making a determination include:
- "...
- (b) the access provider's legitimate business interests and investment in the facility;
- (c) the legitimate business interests of persons who have, or may acquire, rights to use the service;
- (d) the public interest, including the benefit to the public in having competitive markets;
- ...
- (f) the direct costs to the access provider of providing access to the service, including any costs of extending the facility...
- ...
- (j) the economically efficient operation of the facility."

105. The factors to which the QCA must have regard under Section 120 mirror and expand on the factors listed in Section 138(2) to which the QCA must have regard in considering whether to approve an access undertaking.
106. It is likely that the QCA will be forced to make an arbitral determination about access charges at some point in the future if it does not make that determination now in relation to the inclusion of a reference tariff in AU3.
107. In making an arbitral determination, it is difficult to see how the QCA could avoid making a decision that arrives at a cost recovery price at less than \$15.54 per tonne based on an annual volume of 7.5 million tonnes given that the QCA has already stated that this is the price which is necessary for Queensland Rail to recover its costs of providing the service.
108. Queensland Rail also submits that forcing access holders and Queensland Rail to potentially arbitrate access charge disputes on an access holder-by-access holder basis is inefficient as compared to the setting of a reference tariff as part of an access undertaking. In this regard, we note the QCA's comment that negotiated outcomes apply to other lines in the Queensland Rail network, however, those other lines are clearly distinguishable from the West Moreton system for the reasons articulated in paragraph 5.3(b) of this submission.
109. Queensland Rail also notes that the QCA is proposing that the parties determine access charges through the negotiation and arbitration process because the QCA is concerned that if it "*attempt[s] to set an affordable price, there will be significant change of regulatory error. The most appropriate affordable price is likely to depend on future circumstances and decisions that [the QCA does] not control and cannot predict with any reliability*".
110. Queensland Rail respectfully submits that the uncertainty and inefficiency associated with prices having to be negotiated and potentially arbitrated on a case-by-case basis far outweighs the downside of any risk of regulatory error in relation to a proposed undertaking that has been the subject of detailed analysis by the QCA and independent consultants appointed by it.
111. Queensland Rail also submits that the QCA's unwillingness to determine a reference tariff for inclusion in AU3 because it is likely to depend on future circumstances and decisions beyond the QCA's control and capacity to predict is not a valid basis for avoiding the QCA's regulatory burden. That reasoning could equally apply to any other aspect of AU3 in respect of which the QCA is proposing to exercise its discretion to approve AU3, including by varying aspects of it that were previously proposed by Queensland Rail.
112. Attachment 1 to this submission is an economic assessment of the QCA's Discussion Paper carried out by economist firm, HoustonKemp. The HoustonKemp report concludes, inter alia, that:

"based on existing contractual rights, the existing access holders do not have an incentive to agree access chargers that are higher than their existing chargers, escalated by CPI;

the outcomes contemplated by the QCA Discussion Paper are "inconsistent with the QCA Act", for instance, because Queensland Rail will not be able to recover its total efficient costs, contrary to the Queensland Rail's interest and the QCA Act pricing principles; and

uncertainty regarding access pricing will increase the financial risks associate with investing in coal mines and could delay investment decisions to expand the network by Queensland Rail."

Regulatory certainty

113. Whilst preserving some flexibility in regulatory decisions, it is a fundamental objective underpinning access regimes that the parties subject to those regimes have regulatory certainty. This has been recognised by the QCA and other regulators in various access regimes, for example:
- (a) The QCA has acknowledged the importance and application of regulatory certainty in a number of previous decisions.
 - (i) In relation to Queensland Rail's 2016 Access Undertaking, the QCA emphasised the importance of *"regulatory predictability and certainty that will come from establishing a transparent tariff methodology to apply over the long term"*.²⁴
 - (ii) In its August 2016 Draft Decision in respect of Aurizon Network's Amended 2014 draft access undertaking, the QCA stated: *"The QCA recognises the importance of maintaining regulatory certainty in the context of the application of the various statutory factors [section 138 factors]"* (page 12).
 - (iii) Similarly, in the QCA's February 2014 Position Paper for the review of the Long Term Regulatory Framework for SEQ Water Entities, the QCA noted that it, *"agrees that regulatory certainty is an important objective."* (page 23)
114. The ACCC refers to the principle of regulatory certainty throughout its August 2016 'Part IIIA access undertaking guidelines'. The ACCC acknowledges that certain decisions in relation to access undertakings *"will need to carefully balance considerations of providing regulatory certainty with retaining regulatory flexibility and discretion."*
- (a) When referring to an access undertaking that had a special longer term of close to 30 years (NBN Co Special Access Undertaking), the ACCC provided that different provisions of the AU applied in different phases to allow a balance between certainty about long-term cost recovery and flexibility to respond to changing circumstances.
 - (b) Further, in issuing its Draft Statement of Principles the ACCC stated that it:
"intends to use ... [them] ... as a guide and recognises that trade-offs may need to be made between providing regulatory certainty and working with the flexibility required to deliver the best regulatory outcomes."
115. The AER has considered the principle of regulatory certainty within its decisions.
- (a) In a final decision (that was the subject of a Tribunal review in Re: Application by ElectraNet Pty Limited (No 3) [2008] ACompT 3), the AER sought to preserve regulatory certainty and the reliance investors can place on a regulator's undertaking.
 - (c) In response to its draft decision in this matter, the AER noted it had considered past decisions and statements of policy by the ACCC and applied the approach taken in those decisions, including consideration of the desirability of regulatory certainty.
 - (d) Finally, the AER stated that it promotes efficient investment in, and efficient operation and use of, electricity services in the long term interests of consumers, by promoting regulatory certainty.
116. The price for access is clearly an important aspect of an access undertaking and informs investment decisions by both the access provider and access seekers and holders. The QCA's

²⁴ See footnote 1.

proposal not to include a reference tariff unless it's been agreed by the users and Queensland Rail and to force the parties to future negotiations and potential arbitration of access charges fails to meet the objective of regulatory certainty.

117. As noted above, there would appear to be little prospect of a negotiated outcome on the reference tariff for AU3 and consequently, little prospect that access charges will be negotiated successfully in the future. The QCA's approach has the consequence of significantly increasing regulatory uncertainty that will impact negatively on the ability of Queensland Rail and the users of the West Moreton system to make informed decisions in relation to their investments and future operation in relation to that line.

Conclusion

118. For all of the reasons set out above, Queensland Rail submits that:
- (a) it would not be appropriate for the QCA to proceed as proposed in the Discussion Paper by failing to set a reference tariff as part of AU3 unless it is agreed by the parties; and
 - (b) the QCA should instead set a reference tariff at the price it has specified in its Discussion Paper, namely, for an annual volume of 7.5 million tonnes at \$40.07/000 gross tonne kilometres (gtk), or \$15.54 per net tonne (or failing that at least at the lower price proposed by Queensland Rail in its Draft Access Undertaking and associated submissions) including forecast AU2 capital expenditure in 2023/24 and 2024/25 adjustments, to ensure that Queensland Rail can "*generate expected revenue for the service 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*" as required by the pricing principles in section 168A of the QCA Act.
119. in addition, the QCA should approve a mechanism triggering a reduction in the reference tariff, set at the rate specified for the 9.6 mtpa tonnage scenario in Queensland Rail's Collaborative Submissions to reflect an increase in railings if New Wilkie Energy commences and reaches sustained monthly railings in excess of 1.4mtpa for a six month period. The decrease should take effect immediately from the first day of the month following the end of that six month period. Queensland Rail will provide drafting to reflect this requirement.
120. In the event that the QCA decides not to set a reference tariff as proposed above, Queensland Rail asks the QCA to provide it with at least 14 days written notice prior to issuing any final determination in respect of AU3 so that Queensland Rail can consider any steps it may be advised to take to protect its legitimate interests.

The West Moreton System Capacity Analysis

QR Response to Demand and Capacity Issues

Demand Forecast

121. In its Discussion Paper²⁵, the QCA has again raised the issue of the uncertainty of the coal volume forecast and that it might not be appropriate to use it as a basis for a decision regarding approving West Moreton Reference Tariffs. The QCA cited legal and financial challenges faced by two of the mines, which in its view casts doubt over whether these volumes would be contracted if system capacity was available. However, since the time of publishing the Discussion Paper, it is notable that this 'coal volume uncertainty' now has largely been removed for at least the 7.5mtpa system tonnage scenario with Cameby Downs raiiling at contracted capacity and, as discussed below, uncertainty around New Hope's New Acland mine has been resolved.
122. On 14 January 2025, New Hope Group²⁶ advised that the Oakey Creek Action Alliance (**OCAA**) had withdrawn its appeal against the state government's 2022 decision to grant an associated water licence to New Hope Group's New Acland Stage 3 mine. The Land Court of Queensland²⁷ has also formally confirmed that the appeal proceedings are finalised and closed. The withdrawal of OCAA's Land Court appeal removes the legal impediment to the New Acland Stage 3 development and will give the company confidence to progress the ramp up of the project to approximately 5 million tonnes of coal per year. The Company's Chair, Mr Robert Millner, stated "*the conclusion of OCAA's final legal challenge will give certainty for the local community and concludes many years of opposition and legal challenges mounted by OCAA against New Acland Stage 3. The end of OCAA's challenge gives us the confidence to progress our ramp up plan and develop the Manning West mining area.*"
123. New Wilkie Energy (**NWE**) entered into a binding Deed of Company Arrangement (**DOCA**) with its creditors in September 2024 that outlined how the company would trade out of administration. The DOCA had a number of Effectuation Steps that had to be satisfied or waived by 13 January 2025 for it to take effect. [REDACTED]
124. These recent developments with New Hope give greater certainty to West Moreton coal volumes during the AU3 period with the 7.5mtpa tonnage scenario now being reasonably certain. If New Wilkie Creek mine does restart and is able to sustain coal railings of 2.1mtpa, the 9.6mtpa tonnage scenario could then addressed during AU3 through a Review Event in DAU3 or an amending access undertaking.

²⁵Queensland Competition Authority, Queensland Rail 2025 Draft Access Undertaking – Discussion Paper, pg. 34.

²⁶New Hope Group, New Acland Stage 3 Update, ASX Release 14 January 2025.

²⁷New Hope Group, New Acland Stage 3 Update, ASX Release 15 January 2025.

Capacity Issues

125. The QCA state that it *“remain[s] concerned that the capacity of the [West Moreton] network is not sufficient to achieve the highest coal volumes that Queensland Rail is proposing, without significant capital investment in addition to what Queensland Rail has already put forward”*²⁸.
126. To address this concern, the QCA engaged Arcadis to analyse Queensland Rail's 9.6 mtpa and 7.5 mtpa scenarios and to provide advice on a sustainable volume for the West Moreton system in its current configuration. Arcadis concluded that Queensland Rail's capacity forecasts were unlikely to be achieved and estimated that²⁹ *“5.9–6.8 mtpa [is] a reasonable estimate of capacity that can be contracted for coal services on a sustainable basis on the West Moreton system in its current configuration”*.
127. As the infrastructure owner and network manager, Queensland Rail does not support Arcadis' capacity estimate and maintains that the system **can support 9.6mtpa** based on:
- (a) previous capacity modelling work
 - (b) historical West Moreton system railings; and
 - (c) identified errors in Arcadis' assumptions regarding Capacity Utilisation and Daily Operating Hours.
128. The following sections provide a detailed analysis of these issues, demonstrating why Arcadis' capacity estimate is inconsistent with both historical system performance and a realistic assessment of operational constraints.

Queensland Rail's Capacity Analysis

129. Capacity analysis conducted by Queensland Rail in December 2022 - January 2023, incorporating current and future operating assumptions (including the post Cross River Rail sectorised timetable), indicates that there is sufficient capacity to support Queensland Rail's proposed 9.6mtpa. The development of draft Master Train Plans (**MTPs**) confirmed:
- (a) available capacity for 97 return coal paths per week, plus 16 non-coal return paths (totalling 113 return paths);
 - (b) full coal train cycles (i.e. from depot to mine to port and back to depot) with operator preferences for crew rostering and train consist utilisation can be delivered following consultation with the above rail operator (Aurizon Coal).
130. The draft MTP preserves 14 non-coal return freight paths and 2 return passenger paths per week. In FY24 there was an average of only 3.1 return non-coal freight paths used per week (i.e. 0.4 return paths for livestock and 2.7 return paths for grain) used in the West Moreton System. The remaining non-coal freight paths provide an 11% capacity buffer, which Arcadis' modelling has not accounted for.

²⁸ Queensland Competition Authority, Queensland Rail 2025 Draft Access Undertaking – Discussion Paper, pg. 1.

²⁹ Queensland Competition Authority, Queensland Rail 2025 Draft Access Undertaking, pg. 38.

Queensland Rail's Analysis of the 2009 CRIMP

131. Arcadis references the 2009 QR Network Coal Rail Infrastructure Master Plan (CRIMP)³⁰ to support its 5.1mtpa to 6.8mtpa capacity estimate. However, Queensland Rail contends that this reference actually supports coal railings in excess of 7.9mtpa.
132. The 2009 CRIMP Discussion Paper states that 7.4mtpa of export railings (plus 0.5mtpa of domestic coal railings to Swanbank Power Station i.e. 7.9mtpa) could be achieved with certain infrastructure enhancements. Queensland Rail provides the following updates on these projects:

Discussion Paper Enhancement Requirements ³¹	Queensland Rail Comments
A balloon at the Fisherman Islands port to increase holding capacity and reduce turn time	<ul style="list-style-type: none"> Fisherman Islands has always been configured with a balloon loop for coal unloading.
Balloon loops at coal loading points	<ul style="list-style-type: none"> Cameby Downs mine is serviced by the Columboola balloon loop. New Acland Stage 3 mine will be serviced by a new spur and balloon loop to be constructed within two years of commencing operation. [REDACTED]
Additional Holding Tracks and a cross over at Fisherman Islands	<ul style="list-style-type: none"> Two additional coal train holding roads were constructed at Fisherman Islands in circa 2010.
Track strengthening including replacement of wooden sleepers, heavier rail for main track as well as turnouts, concrete sleepers on tight curves and rail welding	<ul style="list-style-type: none"> This is an ongoing project for Queensland Rail. Since 2019, 41kg rail on the loaded Down Road (Rosewood - Jondaryan) was upgraded to heavier 50kg rail. Heavy rail and concrete sleepers have been extended west beyond Jondaryan to Koomi and 16km between Chinchilla and Columboola. This will extend to Dalby by 2027. Only the unloaded Up Road remains with 41kg rail and timber/steel interspersed sleepers.
Formation strengthening (Gowrie - Macalister)	<ul style="list-style-type: none"> Since 2019, reconditioned sections beyond Jondaryan to Koomi and Chinchilla have included formation strengthening. Future sections to Dalby will also be strengthened. The next project (2025) will strengthen Toowoomba to Kingsthorpe, which already has 50kg rail and concrete sleepers (installed more than 20 years ago).

³⁰ Queensland Competition Authority, Queensland Rail 2025 Draft Access Undertaking, pg. 38.

³¹ Queensland Competition Authority, Queensland Rail 2025 Draft Access Undertaking – Discussion Paper, Box 2, pg. 39.

Discussion Paper Enhancement Requirements ³¹	Queensland Rail Comments																																	
Elimination of short timber bridges West of Toowoomba	<ul style="list-style-type: none"> Ongoing project - 71 timber remain. The current stage will be completed in 2025, with further work to follow. 																																	
Lengthening of passing loops (Macalister – Miles)	<ul style="list-style-type: none"> Most of the turnout upgraded pre-2009 can accommodate 2 x DEL and 42 Wagon trains 669m long. Current loop lengths between Macalister and Miles from the Operational Route Manual are follows: <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Crossing Loops (Length shown in metres)</th> <th style="text-align: left;">Station</th> <th style="text-align: left;">Length</th> </tr> </thead> <tbody> <tr> <td></td> <td>Baining</td> <td>*753tp</td> </tr> <tr> <td></td> <td>Macalister</td> <td>*699tp</td> </tr> <tr> <td></td> <td>Macalister</td> <td>*1405tp</td> </tr> <tr> <td></td> <td>Coal Loop</td> <td>*744tp</td> </tr> <tr> <td></td> <td>Warra</td> <td>**750tp</td> </tr> <tr> <td></td> <td>Chinchilla</td> <td>*756tp</td> </tr> <tr> <td></td> <td>Rywung</td> <td></td> </tr> <tr> <td></td> <td>Columboola</td> <td></td> </tr> <tr> <td></td> <td>Balloon Loop</td> <td>*574tp</td> </tr> <tr> <td></td> <td>Miles</td> <td>*549tp</td> </tr> </tbody> </table>	Crossing Loops (Length shown in metres)	Station	Length		Baining	*753tp		Macalister	*699tp		Macalister	*1405tp		Coal Loop	*744tp		Warra	**750tp		Chinchilla	*756tp		Rywung			Columboola			Balloon Loop	*574tp		Miles	*549tp
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133. The above comparison indicates that the assumed Capacity Enhancement Projects outlined in the 2009 CRIMP to obtain the W8 Planning Scenario (i.e. 7.4mtpa export coal plus 0.5mtpa domestic coal) are substantially complete or in progress.

Additional Capacity Enhancements

134. Beyond the infrastructure upgrades referenced in the 2009 CRIMP, Queensland Rail has undertaken additional system enhancements, including:

- (a) 2019 Infrastructure Enhancements:
 - (i) Minor upgrades in the West Moreton System and Fisherman Islands, which enabled Aurizon to increase train size from 41 wagons to 42 wagons.
 - (ii) This resulted in a 2.4% increase payload (from 1960t to 2006t), and a corresponding increase in West Moreton system capacity.
- (b) Master Train Plan (MTP) Scheduling Efficiencies:
 - (i) Adoption of a structured path allocation approach, particularly on the Toowoomba Range.
 - (ii) Better alignment of maintenance closures across SEQ and non-metro systems;
 - (iii) Improved possession window management to balance maintenance needs and train operations;

- (iv) More detailed pathing-level planning; and
- (v) Adaptive scheduling for changing traffic patterns (cotton, grain and coal).

Historical Railings versus Arcadis Capacity Estimate

135. The Arcadis West Moreton capacity estimate of 5.1mtpa to 6.8mtpa is inconsistent with historical railings regularly achieved in the West Moreton and Metropolitan systems.
136. Figure 1 presents monthly annualised railings in the West Moreton System since FY11, alongside total annual coal demand for each financial year. The data highlights that:
- (a) On nine occasions, monthly annualised railings exceeded 8.0 mtpa.
 - (b) The highest annual system demand reached 7.46mtpa in FY12.
 - (c) In four financial years (FY12, FY13, FY14 and FY18), actual West Moreton annual railings exceed Arcadis' upper capacity estimate of 6.8mtpa.

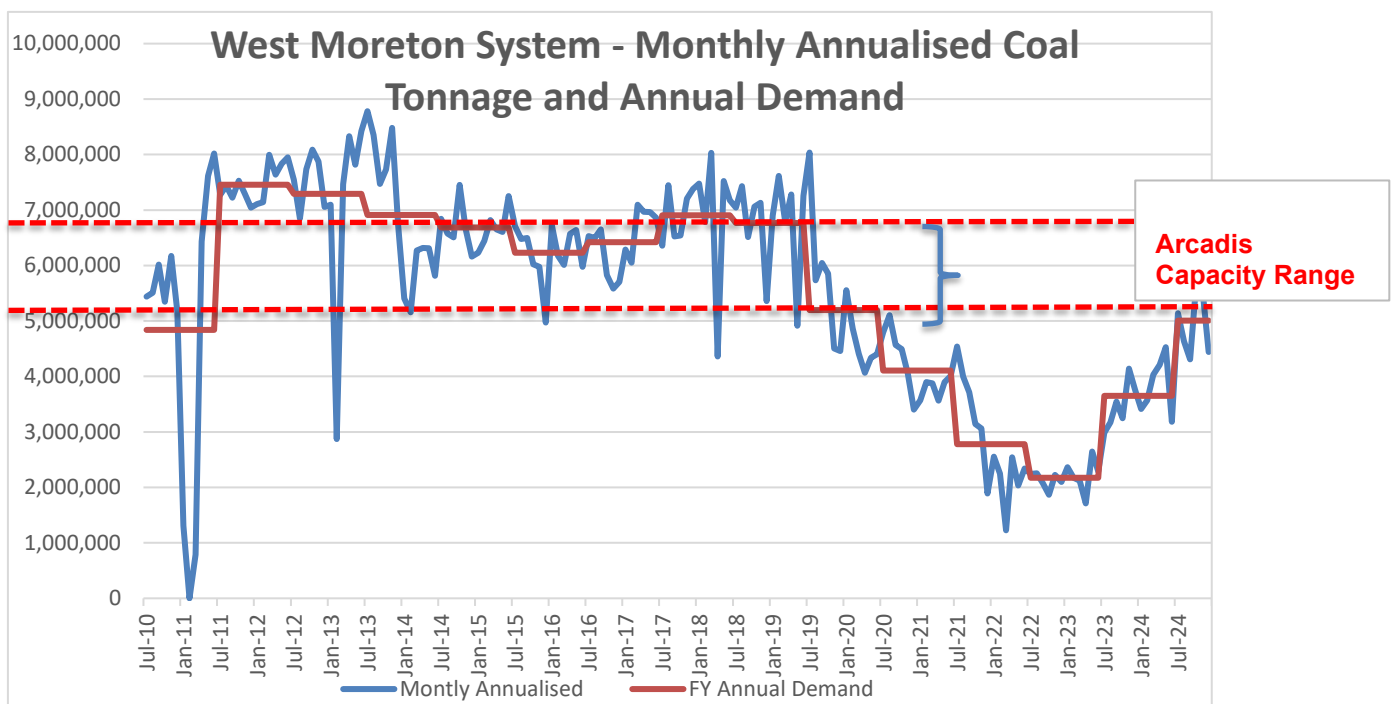


Figure 1 - West Moreton System – Monthly Annualised Coal Tonnage and Annual Demand

137. These figures indicate that Arcadis' capacity assumptions are overly conservative and do not align with demonstrated system performance.

Arcadis Capacity Assessment and Key Assumptions

138. On 17 January 2025, the QCA arranged a workshop where Arcadis presented its West Moreton rail system capacity analysis. The workshop provided useful insights, particularly from RailSys modelling which included:
- (a) Rail infrastructure data inputs (e.g. grades, curves, passing loops, etc);
 - (b) Rolling stock characteristics (e.g. locomotive specifications and train loads); and
 - (c) Theoretical number of trains paths available.
139. Arcadis' RailSys modelling determined that the theoretical number of train paths in the West Moreton system is 168 return paths per week or 15.87 mtpa of coal capacity, after deducting 16 preserved non-coal return paths.
140. Queensland Rail agrees with Arcadis' assessment of 168 return paths per week as the theoretical maximum, acknowledging the single line constraints on the Toowoomba Range are a limiting factor. However, the remainder of Arcadis' capacity assessment relies on a simplistic spreadsheet model with two key assumptions:
- (d) Capacity Utilisation: Arcadis assumes a utilisation rate of 75%.
 - (e) Daily Operating Hours: Arcadis calculates 12.6 hours per day in the 7.5mtpa scenario.
141. Queensland Rail challenges both assumptions, as they fail to reflect actual West Moreton system operations. Notably:
- (f) Arcadis' daily operating hours figure does not account for reduced maintenance possession requirements following completed capital works; and
 - (g) the assumed 75% capacity utilisation does not align with historical or operating requirements on the West Moreton System.

AECOM Independent Review

142. AECOM (Attachment 2) has reviewed Arcadis' approach and determined revised values that better reflect actual operating conditions:
- (h) Capacity Utilisation: 83% derived from the theoretical maximum annual hours available and assumptions previously approved by the QCA in its AU1 decision.
 - (i) Daily Operating Hours:
 - (i) 13.9 hours per day to haul 7.5mtpa; and
 - (ii) 16.2 hours per day to haul 9.6mtpa.

143. These revised figures are based on:
- (a) Actual maintenance possession requirements; and
 - (b) Adjustments for reduced variable maintenance possessions due to completed capital works.
144. Using these more accurate operational variables, AECOM concludes that the West Moreton system is capable of supporting both 7.5 mtpa and 9.6 mtpa coal volumes.

Queensland Rail's Position on Sustainable Capacity

145. Queensland Rail maintains that the 9.6 mtpa capacity estimate is achievable, based on:
- (a) Historical system performance, which frequently exceeded Arcadis' upper capacity estimate;
 - (b) RailSys modelling which confirms 168 return paths per week; and
 - (c) AECOM's independent assessment, demonstrating that more realistic operational assumptions support higher capacity.
146. Queensland Rail opposes the QCA's reliance on Arcadis' capacity estimate and urges the QCA to adopt a more accurate, evidence-based approach in its final determination.

Reporting

Reporting Obligations

147. Queensland Rail acknowledges the QCA's intent to enhance transparency and improve the clarity of performance reporting³².
148. However, Queensland Rail already publicly reports on more KPIs and below rail financial statements than equivalent non-integrated rail organisations. In addition, as demonstrated in Queensland Rail's previous submissions, Queensland Rail provides extensive information through providing information through Queensland Rail's network access agreements and operational meetings or corridor user groups.
149. Any proposed new reporting needs to be practical and provide important information to assist access seekers. Where it is not based upon Queensland Rail's current reporting systems industry should fund the reporting changes which typically can be expensive, with Queensland Rail recovering its efficient costs of providing the service in accordance with the requirements of the QCA Act.
150. Queensland Rail's existing reporting framework, as outlined in the Access Undertaking, is already highly prescriptive. In addition to meeting these requirements, Queensland Rail provides tailored reports to access holders to assist in operational planning. These reports, as referenced in

³² QCA Queensland Rail 2025 Draft Access Undertaking Comments Paper 20 December 2024, page 12.

Queensland Rail's Response to Industry Comments on DAU3³³, strike a balance between high-level transparency and stakeholder-specific data, supporting both regulatory compliance and the practical needs of access holders.

151. Complementing these reports, Queensland Rail hosts regular customer and user-group meetings to discuss key topics, including service performance, upcoming possessions, network management activities, and other operational metrics. These meetings rely on detailed information compiled in advance from various systems and operational areas. This multi-pronged approach, combining tailored reports with direct stakeholder engagement, ensures that access holders receive actionable, customised insights that address their specific needs. Queensland Rail believes this collaborative strategy is far more effective than rigid, prescriptive reporting requirements for achieving meaningful transparency.
152. The variability across the Queensland Rail network, including differences in train types, product types, service durations, and operational practices, must also be considered when evaluating changes to reporting requirements. Overly detailed reporting risks diluting meaningful insights and could lead to misinterpretation of performance metrics.
153. Certain proposed metrics, such as tracking maintenance work hours within possessions or linking rescheduled services to possessions, present significant challenges. Delivering these metrics would require substantial system upgrades or manual data reconciliation, leading to increased administrative burden and operational costs without proportional benefits. Queensland Rail already addresses stakeholder data needs effectively through regular user-group meetings and other communication channels. These forums provide a practical means to address specific data requirements without overburdening reporting frameworks.
154. A breakdown of the proposed changes, along with commentary on the specific challenges and practical considerations for each reporting element are outlined in the table below.

Existing Requirement	Proposed Change/Addition	Comments
<p>Train service delays: Reporting the number and percentage of train services that did not reach their destination within the allotted time threshold and outlining whether delays were due to rail network issues or operator-related issues.</p>	<p>Report the number and percentage of train services for which the operator was running on time (within the agreed threshold). Of those, report the number and percentage that reached their destination on time. For services not running on time, report the number and percentage that did not deteriorate further.</p>	<p>Queensland Rail does not support this proposal. Queensland Rail believes this is best addressed through operational reporting between stakeholders.</p> <p>Granular reporting at the level proposed is unworkable due to the complexity of train operations. Individual services traverse multiple network sections, with diverse factors contributing to delays.</p> <p>For example, a northbound intermodal service operating Rockhampton to Stuart travels over approximately 60 sections. From section to section there may be diverse reasons for failing to meet schedule</p>

³³ Queensland Rail's Response to Industry Comments on DAU3 11 March 2024, page 47.

Existing Requirement	Proposed Change/Addition	Comments
		<p>including adjoining network issues, train crew, speed restrictions, crossing activities, attachments/detachments etc.</p> <p>For public stakeholder reporting, these complexities are better captured by existing roll-up categories (Below-Rail, Above-Rail, and Unallocated Delays), which provide sufficient insight into delay attribution.</p> <p>Introducing additional layers would result in excessive administrative burden and limited practical benefits.</p>
<p>Delays per 100 train kilometres: Reporting the average above-rail delay, below-rail delay, and unallocated delay (in minutes) for aggregated train services.</p>	<p>Report delays in minutes per transit hour.</p>	<p>Queensland Rail does not support this proposal.</p> <p>Delays per 100 train kilometres normalise performance across diverse services, and infrastructure, making it a superior metric.</p> <p>Transit-hour-based reporting introduces inconsistencies due to variable definitions and operational differences, such as whether scheduled activities (e.g., crew changes, dwell times) are included.</p> <p>The change would lead to distorted comparisons between short-haul and long-haul services, undermine transparency, and increase the complexity of data collection.</p> <p>Maintaining the existing metric ensures clarity and consistency in benchmarking network performance.</p>
<p>Planned possessions: Reporting the number and percentage of planned possessions that start and finish on time.</p>	<p>Report the number and percentage of train services cancelled or rescheduled due to network possessions.</p> <p>Report the percentage of maintenance work (hours) delivered during planned possessions.</p>	<p>Queensland Rail does not support this proposal. Queensland Rail's existing possession planning system does not link possessions to specific cancellations or maintenance work hours.</p> <p>Possessions are safety-focused planning tools. Attempting to record the granular details proposed would require a complete overhaul of existing systems. Additionally, possession-related data varies significantly depending on geographic regions and workgroup activities, making the proposed</p>

Existing Requirement	Proposed Change/Addition	Comments
		metrics infeasible without significant investment in data infrastructure.
<p>Cancellations: Reporting the number and percentage of train services scheduled in the DTP that were cancelled.</p>	<p>Clarify the definition of a "cancellation" in the context of DTP reporting.</p>	<p>Queensland Rail considers that this proposal requires further consideration: The definition of cancellations must account for cancellations occurring across multiple planning stages, including the MTP, STP and DTP. For example, services may be modified or cancelled during the STP phase or well before their scheduled date due to planned network disruptions. A practical and standardised definition of cancellations is critical to avoid misinterpretation and ensure clarity in reporting.</p>
<p>Passenger priority: Giving priority to passenger services in the Metropolitan system during peak periods to prevent on-time passenger services from becoming late.</p>	<p>Publish the applicable passenger peak periods for the Metropolitan system.</p>	<p>Queensland Rail considers that this proposal requires further consideration: Peak periods vary by location within the system. However currently, <u>for inner city services</u>, peak generally falls within the bands below:</p> <p>AM Peak: Arrivals at Central Station between 06:00–09:00.</p> <p>PM Peak: Departures from Central Station between 15:30–18:30.</p> <p>Publishing based on a standardised definition will help ensure clarity; however, overly rigid definitions risk diluting the data’s relevance to access holders and access seekers. For example, contra-peak services may have different priorities that cannot easily fit into a single definition of “peak.”</p>

Amendments to DAU3 and the Standard Access Agreement

Standard Access Agreement - Assignment of Queensland Rail's rights

155. Queensland Rail does not object to a requirement that potential assignees comply with the QCA Act. However, the requirement that assignees comply with Queensland Rail's access undertaking is unworkable. An assignee cannot be required to comply with Queensland Rail's access undertaking, and the QCA will have no ability to enforce Queensland Rail's access undertaking against it.

Attachment 1 HoustonKemp Economists Expert Report



HOUSTONKEMP
Economists

Economic assessment of QCA's discussion paper

A report for Queensland Rail

19 January 2025

Commercial-in-Confidence

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Executive summary

We have prepared this report at the request of Queensland Rail. Our report assesses the position of the Queensland Competition Authority (QCA) put forward in its discussion paper dated 20 December 2024, in which the QCA proposes that the West Moreton system reference tariff be excluded from Queensland Rail's Access Undertaking 3 (AU3) for the 2025-30 regulatory period.

In this report, we assess:

- the economic implications of not setting a reference tariff for West Moreton coal services; and
- the economic rationale for setting reference tariffs to recover total efficient costs of providing the service.

Context for QCA's position

The QCA considers that it is not appropriate to include a West Moreton coal reference tariff in the AU3, unless Queensland Rail and its customers can find a consensus on price and related matters.

In coming to this conclusion, the QCA noted the significant chance of regulatory error involved in determining an appropriate reference tariff. Instead of setting a reference tariff, the QCA has put forward a position that negotiated outcomes would better promote the objectives of the QCA Act and that the regulatory approach for the West Moreton system should be consistent with that for the rest of Queensland Rail's network, ie, without a reference tariff.

Notwithstanding, the QCA outlines several economic factors it would consider when setting a reference tariff for the West Moreton system. In particular, the QCA indicates that a reference tariff would need to balance Queensland Rail's ability to recover efficient costs against the risk that prices above 'affordable' levels would result in demand not materialising.

There are several considerations for the West Moreton system that are relevant to our assessment of the QCA's position. These include that:

- the AU2 reference tariff was set to recover incremental costs;
- recent developments mean that demand uncertainty is now largely resolved;
- Queensland Rail's proposed tariffs for AU3 are marginally higher than existing tariffs and modest relative to the current world price for thermal coal;
- Queensland Rail faces asset stranding risk while significant capital expenditure could be required to expand capacity to meet forecast demand;
- there is potential for insufficient capacity to give rise to the need to allocate capacity; and
- in contrast to coal carrying train services, non-coal carrying train services on Queensland Rail's network would not receive much benefit from the existence of a reference tariff.

Assessment framework

We have adopted the QCA's assessment framework when making our assessments and recommendations in this report. The following criteria are of particular relevance to our assessment:

- the three dimensions of efficiency, which comprise productive efficiency, allocative efficiency and dynamic efficiency;
- the pricing principle that prices should generate revenue for the service that is at least enough to meet efficient costs of providing access to the service; and

- the requirement that the interests of Queensland Rail, existing access holders, and potential access seekers should be protected.

Assessment of the proposed reference tariff removal

Our assessment of the proposed West Moreton reference tariff removal can be broken down into two key findings.

First, we find that **removing the West Moreton reference tariff will likely give rise to negotiations between Queensland Rail and access seekers that are less efficient**, due to both restrictions imposed by existing contracts and the extent of interdependencies between the different West Moreton coal mines.

Existing contractual terms have the potential to stifle negotiations between Queensland Rail and access holders or seekers for coal carrying train services. This is because:

- in the absence of a reference tariff, existing access charges are set to be escalated by changes in the consumer price index (CPI), with those existing charges presently set to recover only incremental costs in AU2; and
- Queensland Rail is prohibited from price discriminating between mines, except to account for differences in costs or risks of providing the service.

This combination of arrangements implies that existing access seekers will have a disincentive to renegotiate their contract if the revised access charge exceeds their current charge escalated by CPI.

Similarly, Queensland Rail will have a disincentive to renew an existing contract and a disincentive to enter a new contract with an access seeker, given these charges will only recover incremental cost. Rather, Queensland Rail would have an incentive to wait until the expiry of all existing contracts, as well as enter short term contracts with the same expiration date, to increase its flexibility of changing its prices in the future such that they align with changes in the costs of providing services.

These incentives are likely to lead to outcomes that are inconsistent with the QCA Act. For instance:

- access seekers may only be provided with access on an ad hoc basis if at all, which would be contrary to the interests of access seekers; and
- Queensland Rail will not be able to recover its total efficient costs, which would be contrary to the interests of Queensland Rail and inconsistent with the QCA Act pricing principles.

The extent of interdependencies between the different West Moreton coal mines may also restrict the efficiency of negotiations between Queensland Rail and access seekers. These interdependencies are as follows:

- limits on price differentiation require that access charges be the same for all coal carrying trains using the West Moreton system, except to account for differences in costs and risk of providing the service;
- costs incurred by Queensland Rail in providing access to one access seeker on the West Moreton system will depend on total demand for access to this system; and
- Queensland Rail has finite capacity on the West Moreton system to supply to access seekers such that, in the event of scarce or insufficient capacity, providing access to one user may mean not providing access to another.

The removal of the West Moreton reference tariff will affect the efficiency of bilateral negotiations because the outcomes of one bilateral negotiation and/or agreement will affect another. For example, removing the reference tariff is likely to result in bilateral negotiations that occur over a longer period due to the need for Queensland Rail to have interdependent bilateral negotiations, and is likely to increase the risk of dispute, given the increased uncertainty in price related issues. Such outcomes are inconsistent with the objectives of the QCA Act.

Second, we find that **the full consequences of removing the West Moreton reference tariff are not canvassed** in the QCA's discussion paper.

This is first evidenced by the QCA's reasoning that the removal the West Moreton reference tariff on the basis that there is uncertainty regarding future circumstances, ie, future demand for access to the West Moreton system and the total efficient costs of providing access.

However, we expect that the QCA will still need to make a decision regarding forecast demand and efficient costs as arbiter to a dispute between Queensland Rail and stakeholders, which is likely given the circumstances in which the discussion paper was published (ie, uncertainty regarding future demand and the required total efficient costs to service demand, and lack of agreement between parties) and in the absence of a reference tariff. That is, the QCA will still need to determine:

- whether investments made by Queensland Rail are prudent and efficient, which in turn involves an assessment of the reasonableness of Queensland Rail's total demand forecast; and
- whether revenue collected by Queensland Rail is no more than the prudent and efficient costs of providing the service.

In addition, the QCA also appears to imply that, unlike the current arrangements, removing the reference tariff will facilitate negotiations between Queensland Rail and access seekers regarding the approach charge. However, this is already possible under the existing arrangements.

The above findings on aggregate suggest that removing the West Moreton reference tariff will not enhance the ability of Queensland Rail and access seekers to negotiate outcomes. Rather, the existence of a default reference tariff would assist negotiations, addressing the identified negotiation inefficiencies that may arise in the absence of the reference tariff. Furthermore, maintaining the reference tariff is reasonable given:

- the prospect of the QCA needing to resolve disputes by arbitration imply it will need to make decisions regarding the two key inputs to the reference tariff – forecast aggregate demand and total efficient cost – regardless of whether the reference tariff is maintained or removed; and
- Queensland Rail can still negotiate access charges with access seekers that fall below its total efficient cost under the current arrangements, given the reference tariff reflects information on the maximum price that Queensland Rail can charge.

Reference tariffs should reflect total efficient costs

Relevant to the QCA's discussion paper are submissions from West Moreton coal mines in favour of settling an 'affordable' reference tariff, which implies that Queensland Rail's West Moreton reference tariff should be set below the price required to meet its efficient costs of providing access to the service including a return commensurate with the regulatory and commercial risks involved.

In response, we provide the economic rationale for setting reference tariffs with reference to total efficient costs.

First, **setting an 'affordable' reference tariff is inconsistent with the QCA Act**. Critically, affordability is not an explicit consideration for the QCA when deciding whether to approve a draft access undertaking, as it is not an objective of the QCA Act.

Rather, setting an 'affordable' reference tariff would be inconsistent with the QCA Act given:

- it would be contrary to the interests of Queensland Rail and QCA Act pricing principles as it would fail to recover Queensland Rail's efficient costs;
- it would be contrary to the interests of access seekers as it may discourage Queensland Rail from providing access to the West Moreton system, given it would not recover its efficient costs; and

- it would not promote efficient use of rail infrastructure, nor would it be in the public's interest, if it promoted the inefficient development of high-cost mines.

Second, we explain why **cost reflective prices promote economic efficiency**. Specifically, a reference tariff determined by reference to total efficient costs promotes allocative efficiency in that:

- setting prices to align with the cost of providing the service promotes allocative efficiency as a user will only purchase the service if their willingness to pay exceeds the cost of providing the service; and
- a service provider will have a financial incentive to provide the service only if is able to recover the costs of providing the service.

Conversely, setting reference tariff to a level below total efficient costs at an 'affordable' level has the potential to lead to allocative inefficiency as:

- users could end up purchasing the service in circumstances when costs of provision exceeds the user's willingness to pay – that is, the costs of providing the service exceeds the benefits obtained by the user; and
- the service provider could decide not to provide the service, even when users are willingness to pay is higher than the cost of providing the service.

1. Introduction

The below-rail service provided by Queensland Rail on the West Moreton system is a declared service for the purposes of Queensland's third party access regime established under Part 5 of the Queensland Competition Authority (QCA) Act. Under this access regime, Queensland Rail is required to submit a draft access undertaking (DAU) for consideration and approval by the QCA.

The current access undertaking, AU2, is set to expire on 30 June 2025. Queensland Rail submitted its DAU3 to the QCA in November 2023. In its December 2024 discussion paper, the QCA considers that:¹

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

The QCA has invited interested parties to make a submission on the discussion paper.

Queensland Rail has asked us to provide economic advice on the position on reference tariffs put forward by the QCA in its discussion paper. Specifically, Queensland Rail has asked us to assess:

- the economic implications of not setting a reference tariff for West Moreton coal services; and
- the economic rationale for setting reference tariffs to recover total efficient costs of providing the service.

The remainder of the report is structured as follows:

- in section 2 we set out the context for the QCA's position in relation to reference tariffs, including relevant considerations for the West Moreton system;
- in section 3 we set out the assessment framework that will guide our analysis;
- in section 4 we assess the QCA's proposal to no longer to determine a West Moreton reference tariff; and
- in section 5 we set out the economic rationale for setting a reference tariff with reference to total efficient costs.

In appendix A1, we set out our methodology for estimating the historical and current thermal coal price, which we compare to the proposed increase in reference tariff proposed by Queensland Rail.

¹ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 6.

2. Context for QCA's position

In this section we provide the context relevant to our assessment of the QCA's position. Specifically, we describe:

- the reasoning underpinning the QCA's position not to determine a reference tariff; and
- several relevant considerations for the West Moreton system and its reference tariff.

2.1 QCA's position in its discussion paper

The QCA considers that it is not appropriate to include a West Moreton coal reference tariff in the AU3, unless Queensland Rail and its customers can find a consensus on price and related matters.

In coming to this conclusion, the QCA noted the significant chance of regulatory error involved in determining an appropriate reference tariff, stating that:²

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

Instead of setting a reference tariff, the QCA has put forward a position that negotiated outcomes would better promote the objectives of the QCA Act and that the regulatory approach for the West Moreton system should be consistent with that for the rest of Queensland Rail's network.³

The QCA contrasts Queensland Rail's approach for the West Moreton system relative to the rest of its network, where access charges are negotiated without a reference tariff and disputes can be raised to the QCA:⁴

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

Notwithstanding, the QCA states that there are mechanisms to reintroduce a reference tariff following its final decision or after the 2025 undertaking has commenced, including agreed amendments to the DAU after its final decision or a draft amending access undertaking after the 2025 undertaking has commenced.⁵

Further, the QCA outlines several economic factors it would consider when setting a reference tariff for the West Moreton system. The QCA indicates that a reference tariff would need to balance Queensland Rail's ability to recover efficient costs against the risk that prices above 'affordable' levels would result in demand not materialising.⁶

² QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 7.

³ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 7.

⁴ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 7.

⁵ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 8.

⁶ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 7.

In considering efficient costs, the QCA provides an indicative cost recovery price of \$40.07/000 gross tonne kilometres (gtk) based on annual volumes of 7.5 million tonnes per annum (mtpa), maintenance expenditure of \$141.3 million, operating expenditure of \$74.6 million, and capital expenditure of \$256.6 million over the five-year undertaking period.⁷ The QCA notes that these costs reflect what it considers necessary to maintain sustainable operations at this volume.

2.2 Relevant considerations for the West Moreton system

Several considerations for the West Moreton system are relevant to our assessment of the QCA's position in its discussion paper. Specifically, these are that:

- the AU2 reference tariff was set to recover incremental costs;
- recent developments mean that demand uncertainty is now largely resolved;
- Queensland Rail's proposed tariffs for AU3 are marginally higher than existing tariffs and modest relative to the current world price for thermal coal;
- Queensland Rail faces asset stranding risk while significant capital expenditure could be required to expand capacity to meet forecast demand;
- there is potential for insufficient capacity to give rise to the need to allocate capacity; and
- in contrast to coal carrying train services, non-coal carrying train services on the West Moreton system would not receive much benefit from the existence of a reference tariff.

We explain these considerations in the material below.

2.2.1 AU2 reference tariff was set to recover incremental costs

Queensland Rail's AU2 includes a reference tariff for coal carrying train services that access the West Moreton system. The QCA Act defines a reference tariff as a price, or formula for calculating a price, which sets the basis for negotiating access prices:⁸

reference tariff, for a service, means a price, or formula for calculating a price, that has been approved by the authority to **set the basis for negotiation of the price for access** to the service under an access agreement. (emphasis added)

We understand that the reference tariff represents the maximum charge that Queensland Rail can set for the reference service. It follows that Queensland Rail and users have the potential to negotiate a price that is below the reference tariff.

Further, AU2 prevents Queensland Rail from price discriminating between coal carrying services negotiating access charges for the West Moreton system so as not to affect downstream market outcomes, except where required to reflect difference in the cost or risk to Queensland Rail in providing access to a given access seeker relative to the reference services used as the basis for determining the reference tariff.⁹

AU2 comprises the two following West Moreton system reference tariffs:¹⁰

- a ceiling reference tariff; and
- an incremental (or 'affordable') reference tariff.

⁷ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 54.

⁸ Queensland Competition Act 1997, s 101(7).

⁹ Queensland Rail, *Queensland Rail's Access Undertaking 2*, 1 July 2020, p 36.

¹⁰ Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, p 8.

The ceiling reference tariff was determined on the basis of the building block approach, as previously done for the 2008 Access Undertaking and AU1, assuming contract tonnages were 2.1 mtpa.¹¹

By contrast, the incremental reference tariff was determined with reference to incremental costs, as Queensland Rail was concerned at the time as to ability of mines operating on West Moreton system to afford the ceiling reference tariff.¹²

AU2 applies the incremental reference tariff and includes a trigger to reset the reference tariff should contract tonnages reach 4.1 mtpa during AU2.¹³ However, this trigger has not been reached to date. Consequently, Queensland Rail has incurred a loss under the existing West Moreton reference tariff for AU2. This loss is recorded in Queensland Rail's loss capitalisation account, which reports the annual difference between the incremental reference tariff and ceiling reference tariff, ie, the building block reference tariff.¹⁴

A reference tariff for coal carrying train services on the West Moreton system constrains Queensland Rail's ability to exercise monopoly power on the West Moreton system while simultaneously providing Queensland Rail the opportunity to recover its efficient costs. Further, a reference tariff also provides price certainty for both Queensland Rail and relevant stakeholders during the negotiations process by providing insight on the maximum price that Queensland Rail can charge. We understand that currently all coal carrying services pay the reference tariff, with adjustments to reflect differences in risks or costs of providing the relevant service.

2.2.2 Recent developments mean that demand uncertainty have been largely resolved

Queensland Rail prepared its DAU3 when there was significant uncertainty regarding the future volume of coal that would be transported on the West Moreton system. When DAU3 was submitted on 10 November 2023, Queensland Rail expected that coal volumes would increase to 9.6 mtpa during DAU3 regulatory period. This was based on the assumptions that:

- Cameby Downs mine would continue to operate, with forecast tonnages reaching 2.5 mtpa;
- New Wilkie mine would continue to operate, forecast tonnages reaching 2.1 mtpa; and
- New Acland Mine Stage 3 expansion would proceed, with forecast tonnages reaching 5.0 mtpa.

However, developments before and after the submission of the DAU3 caused some uncertainty regarding future volumes of coal that would traverse the West Moreton system, ie:

- New Acland Mine Stage 3 was subject to a legal challenge launched by the Oakey Coal Action Alliance on 16 May 2023 regarding the site's water licence over concerns that it would interfere with groundwater;¹⁵ and
- New Wilkie Energy entered administration on 27 December 2023.¹⁶

¹¹ Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, pp 8 and 55.

¹² Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, pp 54-55

¹³ Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, p 55

¹⁴ Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, p 55.

¹⁵ Environmental Defenders Office, *Oakey Coal Action Alliance launches legal challenge against New Acland*, 16 May 2023, accessed from: <https://www.edo.org.au/2023/05/16/oakey-coal-action-alliance-launches-legal-challenge-against-new-acland/>.

¹⁶ Chen, D, *More than 100 workers laid off after Queensland coal miner New Wilkie Energy enters administration*, ABC News, 4 January 2024, accessed from: <https://www.abc.net.au/news/2024-01-04/queensland-coal-mine-administration-wilkie-creek/103284808>.

In light of the above, in its collaborative submission submitted on 8 November 2024, Queensland Rail noted that the potential outcomes of these ongoing developments meant that volumes transported on the West Moreton system during AU3 could be:^{17,18}

- 2.5 mtpa if only Cameby Downs remains in operation;
- 7.5 mtpa if both Cameby Downs and New Acland Mine Stage 3 remain open; or
- 9.6 mtpa if all three mines continue to operate.

Queensland Rail considers that demand uncertainty on the West Moreton system is now largely resolved for the 7.5 mtpa system tonnage scenario following New Hope's announcement on 14 January 2025 that it had agreed terms to discontinue the Oakey Coal Action Alliance's appeal against the granting of a water licence for New Acland Mine Stage 3.¹⁹

This suggests that 7.5 mtpa of coal volumes can be expected with reasonable certainty during AU3.

2.2.3 Proposed AU3 reference tariffs are marginally higher than existing tariffs

Given most of Queensland Rail's volume uncertainty has been resolved, Queensland Rail now considers that the 7.5mtpa scenario is the appropriate base case for assessing tariffs.

[Redacted content]

Table 2.1: Converted net tonne rates for mines on the West Moreton network (\$/nt, \$FY26)

[Redacted content]

Source: HoustonKemp analysis of data provided by Queensland Rail.
 Note: Rebates and other payments include access facilitation deed payments. Further, the proposed AU3 reference tariff excludes AU2 capital adjustments for FY24 and FY25.

We note that Queensland Rail proposes to recover the loss capitalisation account over the first four years of AU3, which is based on the difference between the approved ceiling coal reference tariff of \$44.82/000 gtk (\$FY26) and the incremental 'affordable' reference tariff of \$26.42/000 gtk (\$FY26).

¹⁷ Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 7.

¹⁸ Queensland Rail acknowledges a fourth demand volume scenario of 5.0 mtpa, assuming only New Acland Mine Stage 3 proceeds. However, it decided with New Hope and Yancoal that the 7.5 mtpa scenario (ie, Cameby Downs and New Acland Mine Stage 3) would serve as an alternative to the 9.6 mtpa scenario. See: Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 7.

¹⁹ New Hope Corporation Limited, *New Acland Stage 3 Update*, ASX release, 14 January 2025.

Queensland Rail's estimated increases in proposed tariffs for coal mines expected to operate during AU3 are very modest relative to the current thermal coal price as well as the increase in thermal coal prices since the determination of AU2.

For reference, thermal coal prices:²¹

- were around \$115 per tonne (\$AUD, \$FY26) in December 2019, ie, the last quarter of data the QCA would have considered in making its February 2020 AU2 determination; and
- are currently around \$167 per tonne (\$AUD, \$FY26).

It follows that world coal prices have increased by around \$52 per tonne since December 2019, an increase of around 45 per cent.

It follows that coal mines operating on the West Moreton system would have to be of very marginal long term viability if the proposed reference tariffs prompted their closure.

2.2.4 Asset stranding risk while significant capital expenditure could be required

Queensland Rail's capital expenditure allowance for AU2 assumed coal volumes of 2.1 mtpa on the West Moreton system.²² However, Queensland Rail will need to invest significant capital expenditure to service 7.5 mtpa.

Specifically, Queensland Rail estimates that the capital expenditure required to service 7.5 mtpa on the West Moreton system during AU3 is 68 per cent higher than Queensland Rail's capital allowance for AU2 (ie, \$246.6 million, \$FY26).²³

Queensland Rail explains that the increase in demand volumes will 'significantly increase the stress on the network and the forecast capital investment required so that the mines can achieve their tonnages and Queensland Rail can provide a fit for purpose, operationally efficient, safe and cost-effective network'.²⁴

²⁰ Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 54.

²¹ We provide our methodology for estimating coal prices in appendix A1.

²² Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 24.

²³ Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 24.

²⁴ Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 24.

However, the two West Moreton coal mines expected to operate in AU3 are expected to close sometime between 2034 and 2044.²⁵ Specifically:

- the expected remaining life of New Acland Stage 3 mine suggests it will cease production by 2034; and
- the expected remaining life of Cameby Downs suggests it will cease production by 2044.

The expected decline and cessation of coal traffic on the West Moreton system by 2044 means that Queensland Rail faces a significant risk of the assets necessary to service a potential increase in demand volumes from West Moreton coal mines in the AU3 regulatory period becoming stranded within a relatively short period thereafter. Queensland Rail has addressed this risk via its proposed application of accelerated depreciation to assets.²⁶ However, this is only an effective means of mitigation if there is sufficient demand from customers to recover its costs from.

Economic efficiency requires that the benefits arising from investments exceed the associated costs. Therefore, if the costs associated with expanding the West Moreton system to service an increase in demand for coal traffic volumes exceed the benefits of this investment (ie, West Moreton coal mines' willingness pay for expansion), then it is economically inefficient for the investment to proceed. Put another way, Queensland Rail has a disincentive to invest in network expansion if the cost to invest in expansion, including costs associated with failure to recover sunk costs, exceeds the expected revenue from expansion, including benefits.

This leads us to the next relevant consideration for the West Moreton system.

2.2.5 The potential of insufficient capacity gives rise to the need to allocate capacity

If demand volumes from West Moreton coal mines exceed existing capacity on the system and Queensland Rail does not make the required investment to service this demand, Queensland Rail will be required to allocate existing capacity between different, competing coal mines if there is insufficient capacity.

Economic principles suggest that capacity should be allocated to users with the highest willingness to pay, since this allocates capacity to those that value it the most and promotes Queensland Rail's incentive to provide the service by improving its ability to recover costs.

2.2.6 Queensland Rail and non-coal carrying train services would not receive much benefit from a reference tariff

As the QCA points out, Queensland Rail's approach to pricing for the West Moreton system using a reference tariff is different from that for the rest of its network. By contrast, access prices for non-coal carrying train services on the rest of Queensland Rail's network are subject to four pricing rules under AU2 which, in order of precedence, comprise:²⁷

- limits on price differentiation;
- pricing limits;
- network utilisation; and
- revenue adequacy.

There are several reasons as to why other systems in Queensland Rail's network do not have and would not receive much benefit from a reference tariff.

²⁵ Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, p 35.

²⁶ Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, p 26.

²⁷ Queensland Rail, *Queensland Rail's Access Undertaking 2*, 1 July 2020, pp 38-39.

First, there is a greater diversity of products and end markets for access holders on Queensland Rail's other systems relative to those on the West Moreton system. Consequently, negotiations between Queensland Rail and access seekers are less dependent on existing arrangements and access prices for access holders. As such, the limits on pricing differentiation are less restrictive on bilateral negotiations between Queensland Rail and access seekers as compared to a system that only serves access seekers and/or holders which have similar train services and/or operating in the same end market. This aids the economic efficiency of negotiation elsewhere on Queensland Rail's network.

Additionally, a reference tariff facilitates negotiation where it applies to the circumstances of several access holders and seekers. A reference tariff is therefore well suited in the context where all coal users face similar economic conditions for their end market product, which contrasts with the diversity of products and end markets of non-coal carrying services.

Second, unlike the West Moreton system, non-coal carrying freight on Queensland Rail's network is subject to competition from substitute service providers, ie, road freight. In particular, Queensland Rail faces competition from road transport for containerised freight and trips covering short to medium distances. Queensland Rail's access charges for the rest of its network are therefore constrained by the cost to transport freight by road. This contrasts with the coal carrying service, for which we understand that Port of Brisbane prohibits the transport of coal via road.

Third, access prices for current contracts for non-coal carrying train services are set above Queensland Rail's incremental costs to remain competitive with road freight service providers, allowing Queensland Rail to earn above its floor revenue limit. As such, in the context of negotiations between Queensland Rail and new or renewing access seekers:

- access seekers are incentivised to accept the access prices offered by Queensland Rail, if current access prices fall below their maximum willingness to pay for access; and
- Queensland Rail is incentivised to accept the same price for new and renewing access seekers in the same end market given this provides revenue that exceeds its incremental cost of providing the service.

Relatedly, there is sufficient spare capacity on other systems in Queensland Rail's network. Consequently, Queensland Rail neither needs to expand its network to accommodate new access seekers, nor needs to incur significant capital expenditure to provide sufficient access. Relative to a counterfactual whereby Queensland Rail is required to expand its network and incur capital expenditure, the already sufficient capacity on Queensland Rail's network beyond West Moreton ensures that incremental costs are lower while existing agreements provide a more helpful reference point for facilitating an efficient outcome to negotiations.

3. Assessment framework

In this section we describe the assessment framework that the QCA uses when deciding whether to approve access undertakings. We have adopted this same framework when making our assessments and recommendations in this report. We have also considered regulatory decisions made by the QCA and other regulators where relevant.

3.1 QCA's assessment framework

The QCA Act is the foundational reference point for decisions made by the QCA. The QCA must make decisions in a manner that is consistent with the QCA Act. In relation to the approval of access undertakings, the QCA's assessment criteria are:²⁸

- (a) 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;
- (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 services are adversely affected;
- (f) the effect of excluding existing assets for pricing purposes;
- (g) the pricing principles ... that the price should:
 - a. generate expected revenue for the service 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;
 - b. allow for multi-part pricing and price discrimination where it aids efficiency;
 - 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 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; and
- (h) any other issues the authority considers relevant.

'Efficiency' is a key concept underpinning the QCA's assessment criteria. It is a term of art in economics and is widely accepted by economists as having three distinct dimensions, being:²⁹

- **productive efficiency**, ie, production using a least-cost combination of inputs;

²⁸ QCA, *Queensland Rail 2020 Draft Access Undertaking*, Decision, February 2020, p 2.

²⁹ For further discussion of the dimensions of efficiency and their relation to public policy see: Productivity Commission, *On efficiency and effectiveness – some definitions*, May 2013.

- **allocative efficiency**, ie, production of an optimal set of goods and services, which is allocated so as to provide the maximum benefit to society; and
- **dynamic efficiency**, ie, achieving productive and allocative efficiency over time, in the face of changes in technology and consumer preferences.

Each of these dimensions of efficiency are reflected in the architecture of the QCA's assessment criteria, particularly criteria (a) and (g). By way of explanation:

- the reference to efficient 'operation of' and 'investment in' significant infrastructure refers to the productive dimension of efficiency, ie, this is promoted if decisions made by the QCA promote the supply of infrastructure services using the least cost combination of both capital and operating inputs;
- the reference to efficient 'use of' significant infrastructure refers to the allocative dimension of efficiency, ie, this is promoted if decisions are made that give rise to a level and structure of prices that both recover the cost of making infrastructure services available and maximise the extent to which infrastructure services are allocated to those consumers that derive the greatest benefit from them without discrimination, so as to maximise the benefit to society; and
- dynamic efficiency is the promotion of productive and allocative efficiency over time, ie, this is promoted if decisions are made that balance the pursuit of productive and allocative efficiencies for current consumers with the requirement to invest for productive and allocative efficiency gains in the long term.

Criterion (a) also makes explicit reference to promoting efficient competition in upstream and downstream markets. QCA decisions should therefore avoid outcomes that may have a detrimental effect on competitive conditions in related upstream and downstream markets.

The final relevant part of the QCA's assessment criteria is to protect the interests of the owners and operators, and the interests of potential access seekers. We note that these criteria make no distinction between existing access holders or new access seekers.

3.2 Our assessment framework

We have adopted the QCA's assessment framework when making our assessments and recommendations in this report. The following criteria are of particular relevance to our assessment:

- the three dimensions of efficiency;
- the pricing principle that prices should generate revenue for the service that is at least enough to meet efficient costs of providing access to the service; and
- the requirement that the interests of Queensland Rail, existing access holders, and potential access seekers should be protected.

We have also considered regulatory decisions made by the QCA and other regulators where relevant.

4. Assessment of the proposed reference tariff removal

In this section, we provide our assessment of the QCA's position that the West Moreton reference tariff be removed from DAU3. Specifically, we explain:

- that removing the West Moreton reference tariff will likely give rise to negotiations between Queensland Rail and access seekers that are less efficient, and to outcomes that are inconsistent with the QCA Act; and
- that the full consequences of removing the West Moreton reference tariff are not canvassed in the QCA's discussion paper.

Our findings suggest that removing the West Moreton reference tariff will not enhance the ability of Queensland Rail and access seekers to negotiate outcomes. Rather, the existence of a default reference tariff would assist negotiations.

4.1 Absence of reference tariff will hamper negotiations

Removing the West Moreton reference tariff will likely give rise to negotiations between Queensland Rail and access seekers that are less efficient, due to both restrictions imposed by existing contracts and the extent of interdependencies between the different West Moreton coal mines. We explain below:

- that existing contracts create practical barriers to achieving efficient negotiation between Queensland Rail and access seekers in the absence of a reference tariff; and
- that interdependencies between West Moreton mines could inhibit efficient bilateral negotiations between Queensland Rail and access seekers in the absence of a reference tariff.

4.1.1 Existing contracts may create practical barriers

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

Existing contractual terms have the potential to stifle negotiations between Queensland Rail and access holders or seekers for coal carrying train services. In particular, we understand that:

- in the absence of a reference tariff, existing access charges are set to be escalated by changes in the consumer price index (CPI), with those existing charges presently set to recover only incremental costs in AU2; and
- Queensland Rail is prohibited from price discriminating between mines, except to account for differences in costs or risks of providing the service.

This combination of arrangements implies that existing access seekers will have a disincentive to renegotiate their contract if the revised access charge exceeds their current charge escalated by CPI. Similarly, Queensland Rail will have a disincentive:

³⁰ Queensland Rail, *Draft Access Undertaking 3 (DAU3)*, Explanatory document, November 2023, p 13.

- to renew an existing contract, as it would escalate existing incremental tariffs by CPI; and
- to enter a new contract with an access seeker, as restrictions on price differentiation would require Queensland Rail to offer a contract charge based on existing incremental tariffs adjusted by CPI.

The likely consequence is that access seekers may only be provided with access to the network on an ad hoc basis, or not at all.

Rather, Queensland Rail would have an incentive to wait until the expiry of all existing contracts, as it would then be able to set a price that is above existing, incremental charge tariffs. Queensland Rail would also have an incentive to enter into short term contracts, all with the same expiration date, because doing so would increase Queensland Rail's flexibility of changing its prices in the future, to align with changes in the costs of providing services.

These incentives are likely to lead to outcomes that are inconsistent with the QCA Act. Specifically, these incentives are:

- contrary to the interests of access seekers as access seekers could be provided with no or ad hoc access to the West Moreton system until the expiration of existing contracts, which could in turn lead to financial losses for access seekers;
- contrary to the interests of Queensland Rail and inconsistent with QCA Act pricing principles, since Queensland Rail will be unable to recover its total efficient costs while current contracts are in effect;
- contrary to the interests of both access holders and Queensland Rail because:
 - > uncertainty regarding access prices and available capacity will persist until a negotiated outcome occurs, which increases the financial risks associated with investing in coal mines on the West Moreton system and could delay any investment by Queensland Rail in its network to expand capacity; and
 - > increases the likelihood of an arbitration occurring:
 - due to uncertainty regarding price; and/or
 - if access is denied, signing of contracts is delayed or its duration is insufficient to meet the needs of access seekers.

4.1.2 Interdependencies between West Moreton mines inhibit bilateral negotiations

The removal of a reference tariff for the West Moreton system will also inhibit efficient bilateral negotiations due to the interdependencies between negotiated outcomes between Queensland Rail and each access seeker or holder.

Generally, negotiations for access to Queensland Rail's network take place between two parties: Queensland Rail and an access seeker. Where there is disagreement, one party can raise a dispute with the QCA, which acts as either:³¹

- a mediator between the two parties until an agreement is reached; or
- an arbitrator between the two parties and thereby reaching a determination.

However, the removal of the West Moreton reference tariff will affect the efficiency of bilateral negotiations because the outcomes of one bilateral negotiation and/or agreement will affect another. We explain these interdependencies below.

First, limits on price differentiation require that access charges be the same for all coal carrying trains using the West Moreton system, except to account for differences in costs and risk of providing the service.

³¹ Queensland Rail, *Queensland Rail's Access Undertaking 2*, 1 July 2020, pp 55-56; and Queensland Competition Act 1997, s 10(fa)-(ga) and s 117.

Therefore, negotiations on access charges between Queensland Rail and an access seeker in relation to the West Moreton system will be done with reference to the access charges Queensland Rail has agreed to with other access holders with current contracts.

Second, costs incurred by Queensland Rail in providing access to one access seeker on the West Moreton system will depend on total demand for access to this system. Put another way, aggregate demand will inform Queensland Rail's forecast costs in relation to the West Moreton system, which forms the basis of its access charges negotiated with each access seeker. As such, access charge negotiations between Queensland Rail and one access seeker are inextricably connected to forecast aggregate demand for access to the West Moreton system.

Finally, Queensland Rail has finite capacity on the West Moreton system to supply to access seekers. In the event of scarce or insufficient capacity, providing access to one user may mean not providing access to another. Consequently, bilateral negotiations regarding access to the network are dependent on existing capacity contracted to access holders. This is particularly relevant in the circumstance where users' willingness to pay is insufficient to cover the capital expenditure required expand the network.

These considerations highlight the difficulties that would arise under bilateral negotiations without a reference tariff, given interdependencies between negotiated outcomes.

A reference tariff captures the interdependencies above and sets a reference price based on expected total demand and total efficient costs to serve all customers. In the event where actual circumstances differ from those envisaged, the reference tariff can be adjusted to correspond these changes in circumstance.

It follows that, relative to the current arrangements, removing the reference tariff inhibits effective negotiation because it:

- is likely to result in bilateral negotiations that occur over a longer period due to the need for Queensland Rail to have interdependent bilateral negotiations; and
- is likely to increase the risk of dispute, given the increased uncertainty in price related issues.

The outcomes above are inconsistent with the objectives of the QCA Act. Such outcomes would be contrary to the interests of both access seekers and Queensland Rail, since it will likely give rise to uncertainty for both parties, and increase the risk and associated cost of prolonged negotiations and arbitration.

4.2 QCA overlooks important consequences of removing reference tariffs

In the sections below, we explain:

- why, in the absence of a reference tariff, the QCA will still need to make a decision regarding forecast demand and efficient costs; and
- why the current arrangements for the West Moreton system also enable access charges to fall below that which allows Queensland Rail to recover its total efficient costs.

4.2.1 QCA will still need to make a decision regarding forecast demand and efficient costs

One reason the QCA cites to support its proposal to remove the reference tariff is uncertainty regarding future circumstances, ie, future demand for access to the West Moreton system and the total efficient costs of providing access:³²

In our draft decision, we found that Queensland Rail's proposed reference tariff was not appropriate to approve for a number of reasons, including uncertainty about both capacity and

³² QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, pp 6-7.

demand, and the lack of an agreed reasoned and prudent strategy for managing and investing in the West Moreton rail infrastructure.

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

However, as we explain in section 4.1.2, disputes that arise between Queensland Rail and stakeholders are referred to the QCA. This eventuality is likely:

- under the circumstances in which the discussion paper was published, ie, uncertainty regarding future demand and the required total efficient costs to service demand, and lack of agreement between parties; and
- in the absence of a reference tariff.

In particular, given the lack of agreement between Queensland Rail and stakeholders at the time the discussion paper was published, the likely dispute resolution approach is arbitration.

In these circumstances, we expect that the QCA will still need to make a determination in relation to forecast demand and efficient costs in its role as arbiter to any unresolved dispute between Queensland Rail and stakeholders. That is, the QCA will still need to determine:

- whether investments made by Queensland Rail are prudent and efficient, which in turn involves an assessment of the reasonableness of Queensland Rail's total demand forecast; and
- whether revenue collected by Queensland Rail is no more than the prudent and efficient costs of providing the service, as not doing so would be contrary to the interest of users of the West Moreton system.

Making the decisions above would implicitly require the QCA to make a determination on a reference tariff.

4.2.2 Current arrangements also enable prices below total efficient costs

Finally, the QCA suggests that removing the West Moreton reference tariff will better enable bilateral negotiations between Queensland Rail and access seekers:³³

West Moreton coal services are an exception on Queensland Rail's network. **For all other lines where prices are subsidised so that the access price is below the full economic cost of providing access, terms of access are negotiated without a reference tariff. This promotes the primacy of negotiated outcomes.** Should the parties not be able to agree terms, they have the option of raising a dispute....Accordingly, our current view is that it is not likely to be appropriate to approve the 2025 DAU with a West Moreton reference tariff and it is therefore appropriate to amend the 2025 DAU to remove Schedule D. (emphasis added)

The QCA appears to imply that, in contrast to the current arrangements, removing the reference tariff will facilitate negotiations between Queensland Rail and access seekers.

We explain in section 2.2.1 that a reference tariff forms the *basis* for negotiations between Queensland Rail and access seekers and that, in practice, it represents the maximum charge that Queensland Rail can impose. It follows that the QCA's proposal to remove the West Moreton reference tariff does not promote negotiated agreement between Queensland Rail and access seekers, since this is already possible under the existing arrangements. In contrast, setting of reference tariff provides information on the maximum charge that Queensland Rail can impose on coal carrying services on the West Moreton system, which is more likely to promote a negotiated outcome.

³³ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 7.

Furthermore, in the event that there is only one access holder on the West Moreton system, Queensland Rail has stated in its collaborative submission that it will negotiate an access charge with the single coal mine operator with consideration for the willingness to pay of the operator, ie, a price that may be below that which would allow it to recover its total efficient costs:³⁴

While not likely, it is possible that circumstances could change, resulting in there being only one mine utilising the West Moreton System... Queensland Rail undertook a cost buildup and shared indicative West Moreton reference tariffs with New Hope Group and Yancoal under the scenarios of their respective mine being the sole operating mine in the West Moreton system. The consensus view was that the derived tariffs would likely be unaffordable at current coal prices and that it would be appropriate for Queensland Rail to negotiate access charges directly with the remaining mine operator, taking into account coal chain affordability and potential recovery options, if coal prices spiked. Should those discussions not be successful, the access seeker would have the right to refer an Access Dispute to the QCA.

4.3 Maintaining the West Moreton reference tariff is appropriate

We find that maintaining the West Moreton reference tariff is appropriate for AU3.

First, maintaining the reference tariff addresses the negotiation inefficiencies explained in section 4.1. In particular, maintaining the reference tariff circumvents the incentives and disincentives that give rise to outcomes that are inconsistent with the QCA Act.

If the reference tariff is maintained, Queensland Rail will be incentivised to renew an existing contract since access charges will be negotiated on the basis of a reference tariff that enables Queensland to recover its total efficient costs of providing access to the service including a return commensurate with the regulatory and commercial risks involved, rather than the current incremental tariff escalated by CPI. Such an outcome would be in the interests of access seekers and Queensland Rail, and consistent with the pricing principles in the QCA Act.

Furthermore, a reference tariff reflects the interdependencies explained in section 4.1.2. Specifically, a reference tariff serves as a reference point for both Queensland Rail and access seekers during negotiations and thereby assists in resolving uncertainty across the parties as to:

- aggregate demand for access;
- efficient costs Queensland Rail is required to incur to provide access; and
- an economically efficient access charge for a reference service.

Relative to a scenario where the reference tariff is removed, maintaining the reference tariff will likely give rise to more timely bilateral negotiations, and see fewer disputes and arbitrations arising where one access agreement is thought to be inconsistent with another. Such an outcome would be in the interests of both access seekers and Queensland Rail outlined in the QCA Act.

In addition, our findings in section 4.2 suggest that maintaining the reference tariff is reasonable given:

- the prospect of the QCA needing to resolve disputes by arbitration imply it will need to make decisions regarding the two key inputs to the reference tariff – forecast aggregate demand and total efficient cost – regardless of whether the reference tariff is maintained or removed; and
- Queensland Rail can still negotiate access charges with access seekers that fall below its total efficient cost under the current arrangements, given the reference tariff reflects information on the maximum price that Queensland Rail can charge.

³⁴ Queensland Rail, *Queensland Rail's Collaborative Submission on Queensland Rail's Draft Access Undertaking 3 (DAU3)*, November 2024, pp 56-57.

In light of these considerations, it is appropriate to maintain the West Moreton reference tariff as it will largely assist negotiations between Queensland Rail and access seekers. These negotiations will be shaped by the competing interests of Queensland Rail and access seekers, which the QCA points out in its discussion paper (see table 4.1 below).

Table 4.1: Interests of Queensland Rail and access seekers identified by the QCA

Queensland Rail's interests	Access seekers' interests
Confidence it will recover the cost of its investments, even where their economic life is shorter than their technical life	Infrastructure investment required to enable a reliable service that will deliver their coal to the port
A return on investment commensurate with the regulatory and commercial risks	More information and greater participation in decision-making about investment and other supply chain issues
Rail operations that comply with its safety obligations	A price that enables them to compete with miners on other rail systems

Source: QCA, *Queensland Rail 2025 Draft Access Undertaking, Discussion paper, December 2024, p 8.*

In our view, given the non-aligned interests of the relevant parties, QCA is best placed to evaluate the various considerations which inform the West Moreton reference tariff.

5. Reference tariffs should reflect total efficient costs

In this section, we provide the economic rationale for setting reference tariffs with reference to total efficient costs. Specifically, we explain:

- why setting reference tariffs with reference to 'affordability' is inconsistent with the QCA Act; and
- why cost-reflective prices, such as those Queensland Rail proposes, promotes economic efficiency.

5.1 Setting an 'affordable' reference tariff is inconsistent with the QCA Act

Queensland's third party access regime provides for implementing a QCA-approved access undertaking, ie, the terms on which an owner or operator of the service undertakes to provide the service. Section 138(2) of the *Queensland Competition Authority Act 1997* (QCA Act) outlines the matters that the QCA **must** consider in approving a draft access undertaking. These matters are discussed in section 3 above.

Importantly, affordability is not an explicit consideration for the QCA when deciding whether to approve a draft access undertaking. Rather, the QCA Act objectives are focused on, among other things, the need to promote efficient investment in the service, generate expected revenue that is at least enough to meet efficient costs, and consider the legitimate business interests of Queensland Rail and the interest of coal mine owners.

Submissions from West Moreton coal mines in favour of setting an 'affordable' reference tariff imply that Queensland Rail's West Moreton reference tariff should be set below the price required to meet its efficient costs of providing access to the service including a return commensurate with the regulatory and commercial risks involved. However, the setting of such an 'affordable' reference tariff would be inconsistent with the QCA Act.

First, setting an 'affordable' reference tariff would go against the pricing principles in the QCA Act, and the legitimate business interests of Queensland Rail, as it would fail to recover Queensland Rail's efficient costs. The QCA recognises this in its discussion paper, ie:³⁵

And we consider it unlikely we would be able to form the view that a [reference tariff] price that fails to recover a significant majority of Queensland Rail's efficient costs meets the criterion of being in the legitimate business interests of Queensland Rail unless it has been proposed by Queensland Rail (s. 138(2)(b)).

Relatedly, in its final decision for AU1, the QCA stated that concerns regarding affordability do not outweigh the consideration that access charges should provide Queensland Rail with revenues that recover its efficient costs and a return on its investment:³⁶

On balance, we consider that, while affordability and relative prices are relevant to assessing the West Moreton and Metropolitan tariffs, they do not on their own outweigh the other considerations, including the consideration of whether the price of access generates 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.

Second, setting an 'affordable' reference tariff below total efficient costs may discourage Queensland Rail from providing access to the West Moreton system, which may not be in the interests of access seekers.

³⁵ QCA, *Queensland Rail 2025 Draft Access Undertaking*, Discussion paper, December 2024, p 7.

³⁶ QCA, *Queensland Rail's Draft Access Undertaking*, Decision, June 2016, p 116.

This is a particular consideration given the need for Queensland Rail to incur significant capital expenditure to accommodate the expected increase in demand.

Finally, setting a reference tariff based on short-term affordability concerns may promote inefficient development of high-cost mines, which would neither promote efficient use of rail infrastructure nor be in the public's interest. This is echoed by the QCA in its final decision for AU1:³⁷

Further, setting a price based on short-term affordability considerations would have the potential to promote inefficient development of high-cost mines, which would not be in the public interest, and would not promote efficient use of the rail infrastructure.

As such, setting an 'affordable' reference tariff would be broadly inconsistent with the QCA Act. The QCA reached a similar conclusion in its final decision for AU1:³⁸

Therefore, it would not be an appropriate balance of, among other things, the interests of Queensland Rail, the public interest, the pricing principles and the interests of access seekers and access holders, for prices to be set in a manner that gives greater weight to supporting the profitability of access holders or seekers and their customers over the regulatory predictability and certainty that will come from establishing a transparent tariff methodology to apply over the long term.

5.2 Cost reflective prices promote economic efficiency

Two important roles of a reference tariff include:

- sending a price signal to users regarding the costs of providing the service; and
- allowing the service provider to recover the costs of incurred to provide the service.

We explain in section 3.1 that one of the QCA's assessment criteria is the promotion of economic efficiency, including allocative efficiency. The two roles of a reference tariff mentioned above play a vital role in promoting allocative efficiency, ie:

- setting prices to align with the cost of providing the service promotes allocative efficiency as a user will only purchase the service if their willingness to pay exceeds the cost of providing the service; and
- a service provider will have a financial incentive to provide the service only if is able to recover the costs of providing the service.

Setting reference tariff to a level below total efficient costs has the potential to lead to allocative inefficiency as:

- users could end up purchasing the service in circumstances when costs of provision exceeds the user's willingness to pay – that is, the costs of providing the service exceeds the benefits obtained by the user; and
- the service provider could decide not to provide the service, even when users willingness to pay is higher than the cost of providing the service.

Submissions from the West Moreton coal mines imply that their willingness to pay a reference tariff that is above existing levels is limited. This implies that the willingness to pay for expanded capacity is also limited and that an economically efficient outcome could be for Queensland Rail not to expand its network to accommodate the increase in demand.

³⁷ QCA, *Queensland Rail's Draft Access Undertaking*, Decision, June 2016, p 116.

³⁸ QCA, *Queensland Rail's Draft Access Undertaking*, Decision, June 2016, p 116.

A1. Methodology to estimate historical and current thermal coal prices per tonne

We estimate the historical and current price of thermal coal using the following methodology:

- taking the nominal historical thermal coal price for 2019 of USD\$74.00/tonne;³⁹
- taking the current Newcastle 6000 coal spot price on the Intercontinental Exchange of USD\$114.50/tonne;⁴⁰
- assuming an indicative coal discount of 12 per cent compared to the Newcastle 6000 coal price, consistent with New Acland's discount.⁴¹ We note that this is likely to be conservative for Cameby Downs, as a smaller discount would increase the difference in coal thermal price between 2019 and 2025;
- adopting contemporaneous exchange rates sourced from the Reserve Bank of Australia (RBA);⁴² and
- adopting inflation data from the ABS, and escalating from \$FY25 to \$FY26 using data from the RBA.⁴³

Under this methodology, our estimated:

- thermal coal price for December 2019, ie, the last quarter of data the QCA would have considered in making its February 2020 AU2 determination, is \$115.19/tonne (\$AUD, \$FY26); and
- current thermal coal price is \$166.88/tonne (\$AUD, \$FY26).

³⁹ Office of the Chief Economist, *Resources and Energy Quarterly*, December 2019, p 44.

⁴⁰ HoustonKemp analysis of Intercontinental Exchange XW1 Comdty spot price on 14 January 2025.

⁴¹ New Hope Group, *New Hope Group 2024 full year results – ASX:NHC*, ASX release, 17 September 2024, p 14.

⁴² HoustonKemp analysis of: RBA, *Exchange rates*, available at <https://www.rba.gov.au/statistics/frequency/exchange-rates.html>, accessed 14 January 2025. For instance, 14 January 2025 exchange rate is calculated as 1 divided by 0.6189.

⁴³ This is the RBA forecast year-on-year inflation rate for June 2025. See: RBA, *Statement on monetary policy*, November 2024, p 55.



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Attachment 2 AECOM Response to Discussion Paper on West Moreton Operational Capacity

Response to the QCA Discussion Paper and Arcadis' Assessment of Operational Capacity

06-Feb-2025
West Moreton Line
Doc No. 1
Commercial-in-Confidence

Response to the QCA Discussion Paper and Arcadis' Assessment of Operational Capacity

Client: Queensland Rail

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Document Response to the QCA Discussion Paper and Arcadis' Assessment of Operational Capacity

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Executive Summary

The Queensland Competition Authority (QCA) released its 'Discussion Paper'¹ on the DAU3 Collaborative Submission made by Queensland Rail (QR), on the 20th December 2024. QR have considered the conclusions of the QCA and findings of Arcadis around operational capacity. This response provides clarification and supporting evidence for the reasonableness of tonnage forecasts on the West Moreton System (WMS) prepared by QR, and operational capacity of the line to support at least 7.5 mtpa.

Arcadis has determined in its assessment² of the DAU3 Collaborative Submission, that QR's ability to haul 9.6 mtpa is 'doubtful' and hauling 7.5 mtpa is a 'more reasonable target.' This conclusion is based on two key assumptions for the 'Capacity Utilisation' and 'Daily Operating Hours.' Capacity utilisation, which reflects the percentage of time used for track works and train movements, is assumed by Arcadis to be 75% for the WMS based on a reference to industry standards. Daily operating hours, which is defined as the time available for train movements per day, is calculated by Arcadis to be 12.6 hrs in the 7.5 mtpa scenario. Arcadis has derived this figure not accounting for reduced possession time required for maintenance as a result of completing capital works. Both assumptions are not reflective of the actual operating requirements on the WMS.

AECOM has reviewed the approach taken by Arcadis and determined a Capacity Utilisation percentage of 83%, and the daily operating hours to haul 7.5 mtpa at 13.9 hours, and to haul 9.6 mtpa at 16.2 hours. It has derived capacity utilisation based on the theoretical maximum annual hours available, accounting for several assumptions that have been approved by the QCA in its decision on AU1. It has determined daily operating hours based on the actual possession required for maintenance, which accounts for the reduction in variable maintenance possession due to completed capital works.

Using the revised variables which better reflect actual operations of the WMS, QR can sufficiently support haulages of both 7.5 mtpa and 9.6 mtpa.

¹ Queensland Competition Authority, *Queensland Rail 22025 Draft Access Undertaking, Discussion Paper*. December 2024

² Arcadis, *Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 (Page 5)*. December 2024

1.0 Detailed Review

1.0 Evaluation of the Approach Taken by Arcadis

AECOM has reviewed the approach that Arcadis has defined in Appendix A 'Operational Capacity Memo' of its DAU3 Review³. AECOM has reviewed the Arcadis Capacity Model⁴ to inform its assessment.

1.0.1 Capacity utilisation percentage calculation

- a) Arcadis references the UIC⁵ capacity utilisation standard (referred to in the reference as capacity consumption) as 67%, and has applied it with the exclusion of Metropolitan System restrictions and quote, 'these calculations (75%) account for capital expenditure improvements and fixed and variable maintenance activities.'
- b) It is not clear where the original 67% figure has been sourced, however the calculation methodology put forth by the UIC is as follows (p3), where QoS is defined as 'Quality of Service':

$$\text{Capacity Consumption [\%]} = \frac{\text{Occupancy Time + Additional Times}^*}{\text{Defined Time Period}} \times 100$$

*) any time value added to secure QoS (buffer time, quality time etc.).

- c) Given the definition, it can be seen in Figure 1 that 'additional time' is inclusive of 'available capacity' shown by the red circle.
- d) 'Additional time' by this definition includes maintenance possession, as it both impacts on the QoS and makes up the 'available capacity' segment in the figure below.

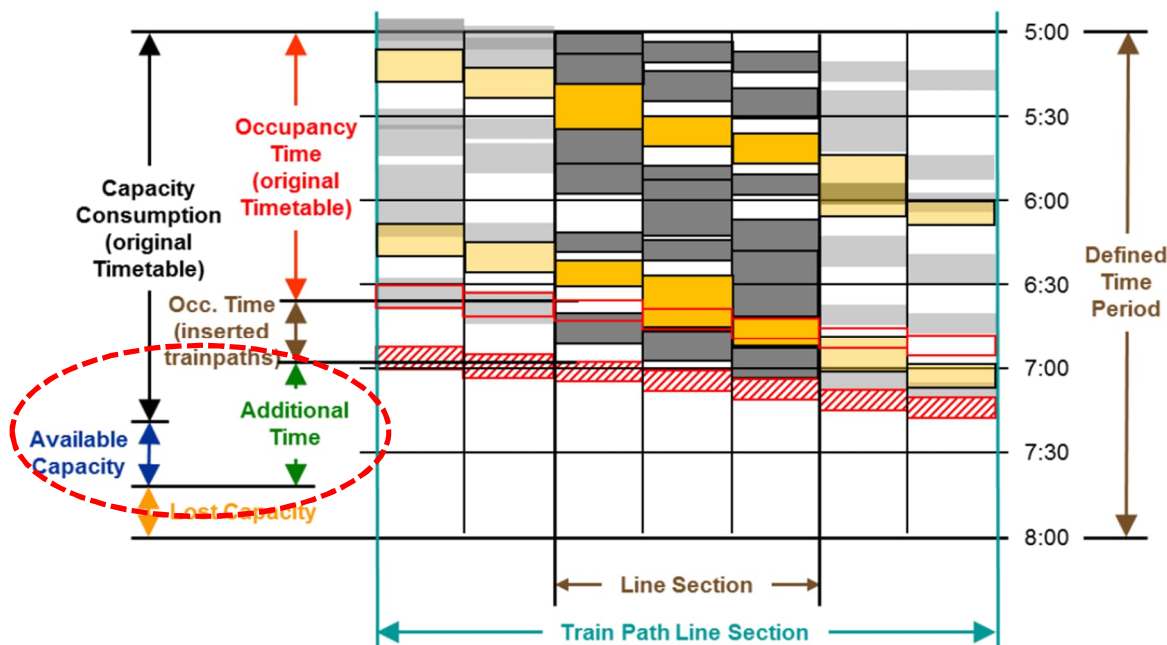


Figure 1 UIC Leaflet 406, Calculation for Capacity Consumption (%)

³ Arcadis, Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 – Addendum, 11. December 2024

⁴ arcadis-wms-capacity-model-1.xlsx

⁵ International Union of Railways, UIC Leaflet 406 – Capacity, New Release 2012, Hans-Peter Huber, Robert Herbacek. 2012

e) Based on this understanding, the capacity consumption can be calculated using the actual possession figures provided in DAU3 Collaborative Submission Figure 10. All possession assumptions shown in the yellow fields are consistent with QR's AU1 Submission⁶ approved by the QCA.

Time Available: Represents the theoretical maximum possession time. Calculated by 365 (days) * 24 (hours), which matches the theoretical maximum derived by Arcadis.

Maintenance Windows: Represents the possession time allocated towards maintenance. Assumption consistent with the QCA decision on AU1.

Metro Restrictions: Represents the possession time delay impacts on the WMS as a result of the Metropolitan System operations. Assumption consistent with the QCA decision on AU1. This time is actively utilised by QR to complete maintenance and capital works, and included in 'Additional Times'.

Unplanned contingency: allowance of 12 return paths per week for unplanned infrastructure. Assumption consistent with the QCA decision on AU1.

Non-Coal Train Paths: allowance of 16 return paths per week for non-coal services (freight and passenger). Assumption consistent with the QCA decision on AU1.

Coal Paths: Represents the possession time of the track available for coal train movements. Derived from the theoretical maximum 168 return paths and excludes all other possession requirements. Assumption consistent with the QCA decision on AU1.

f) These assumptions and the breakdown of total time available is shown in Figure 2 and Figure 3.

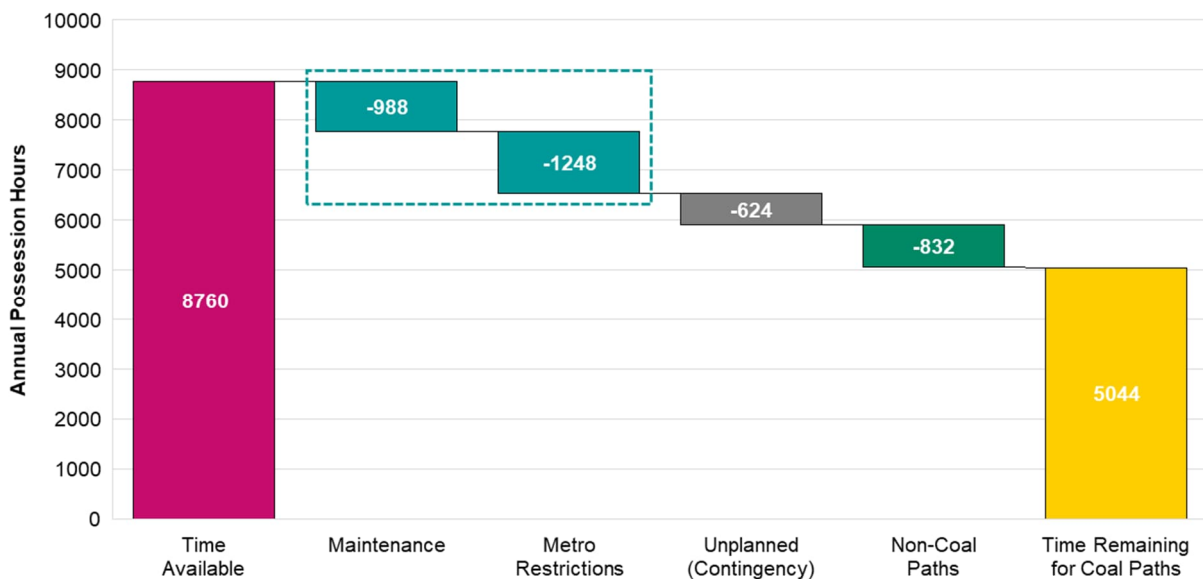


Figure 2 Annual Hours of Possession for the West Moreton System

Possession Assumptions	Per Annum (Hour Note)		
Time available	8760	theoretical maximum hours	Occupancy Time 5,044
Less maintenance windows (Return)	988	annual hours reserved for maintenance	Additional Times 2236
Return Paths	7748	available for use by trains	Defined Time Period 8,760
Less contingency for unplanned infrastructure	624	annual hours for contingency	
Sub-total	7124	annual hours available for use by trains	
Less metro restrictions	1248	annual hours not usable	
Available Toowoomba Range Paths	5876	annual hours available for use by trains	
Less Non coal freight and Passenger paths	832	annual hours	
Coal Paths	5,044	annual hours available for coal trains	

Figure 3 Queensland Rail Possession Assumption Inputs

⁶ Queensland Competition Authority, *Queensland Rail's Draft Access Undertaking, Decision*. June 2016

g) Based on these inputs, Capacity Consumption % can be calculated by the following:

$$Capacity\ Consumption = \frac{5,044 + 2,236}{8,760} * 100\%$$

h) Capacity Consumption = **83%** for Coal Train Services. Applying this Capacity Utilisation percentage, using Arcadis' calculations, produces the following outputs:

Table 2: Coal net tonnage per annum against daily hours of operation (Note: input capacity % in cell E11)										
Possession Days	Possession on hours per year	Daily Hours of Operation	Weekly Coal Paths		Coal Service Gross Tonnage			Coal Net Tonnage		
			Up	Down	Up	Down	Total	Up	Down	Total
0.00	0	24	139	139	20,491,380	5,977,556	26,468,936	14,513,824	0	14,513,824
15.21	365	23	133	133	19,606,860	5,719,532	25,326,392	13,897,328	0	13,897,328
30.42	730	22	127	127	18,722,340	5,461,508	24,183,848	13,260,832	0	13,260,832
45.63	1095	21	122	122	17,985,240	5,246,488	23,231,728	12,738,752	0	12,738,752
60.83	1460	20	116	116	17,100,720	4,988,464	22,089,184	12,112,256	0	12,112,256
76.04	1825	19	110	110	16,216,200	4,730,440	20,946,640	11,485,760	0	11,485,760
91.25	2190	18	104	104	15,331,680	4,472,416	19,804,096	10,859,264	0	10,859,264
106.46	2555	17	98	98	14,447,160	4,214,392	18,661,552	10,232,768	0	10,232,768
121.67	2920	16	92	92	13,562,640	3,956,368	17,519,008	9,606,272	0	9,606,272
136.88	3285	15	87	87	12,678,120	3,711,344	16,389,464	9,084,192	0	9,084,192
152.08	3650	14	81	81	11,793,600	3,466,320	15,259,920	8,457,696	0	8,457,696
167.29	4015	13	75	75	10,909,080	3,221,296	14,130,376	7,831,200	0	7,831,200
182.50	4380	12	69	69	10,024,560	2,976,272	13,000,832	7,204,704	0	7,204,704
197.71	4745	11	63	63	9,140,040	2,731,248	11,871,288	6,578,208	0	6,578,208
212.92	5110	10	58	58	8,255,520	2,486,224	10,741,744	6,056,128	0	6,056,128
228.13	5475	9	52	52	7,371,000	2,241,200	9,612,200	5,429,632	0	5,429,632
243.33	5840	8	46	46	6,486,480	1,996,176	8,482,656	4,803,136	0	4,803,136
258.54	6205	7	40	40	5,601,960	1,751,152	7,353,112	4,176,640	0	4,176,640
273.75	6570	6	34	34	4,717,440	1,506,128	6,223,568	3,550,144	0	3,550,144
288.96	6935	5	29	29	3,832,920	1,261,104	5,094,024	3,028,064	0	3,028,064
304.17	7300	4	23	23	2,948,400	1,016,080	3,964,480	2,401,568	0	2,401,568
319.38	7665	3	17	17	2,063,880	771,056	2,834,936	1,775,072	0	1,775,072
334.58	8030	2	11	11	1,179,360	526,032	1,705,392	1,148,576	0	1,148,576
349.79	8395	1	5	5	294,840	126,512	421,352	272,800	0	272,800
365.00	8760	0	0	0	0	0	0	0	0	0

Figure 4 Coal net tonnage per annum against daily hours of operation (based on 83% capacity utilisation)

- i) The capacity consumption of 83% in reality is representative of the worst case (conservative) estimate. While 16 return paths are planned for non-coal freight and passenger trains, QR experience significantly less than this allowance actually be utilised. Freeing up further possession to complete works and/or move coal tonnages.
- j) Additionally, this calculation excludes 12 return paths for contingency, which could be used for maintenance and/or to move coal tonnages. Should the same calculation be made inclusive of the unplanned infrastructure possession, QR can support both 7.5 mtpa and 9.6 mtpa within the daily operating hours determined in Section 1.0.2.
- k) Based on the same inputs, Capacity Consumption %, inclusive of contingency for unplanned infrastructure, can be calculated by the following:

$$Capacity\ Consumption = \frac{5,044 + 2,860}{8,760} * 100\%$$

l) Capacity Consumption = **90%** for Coal Train Services. Applying this Capacity Utilisation percentage, using Arcadis' calculations, produces the following outputs:

Table 2: Coal net tonnage per annum against daily hours of operation (Note: input capacity % in cell E11)										
Possession Days	Possession on hours per year	Daily Hours of Operation	Weekly Coal Paths		Coal Service Gross Tonnage			Coal Net Tonnage		
			Up	Down	Up	Down	Total	Up	Down	Total
0.00	0	24	151	151	22,260,420	6,493,604	28,754,024	15,766,816	0	15,766,816
15.21	365	23	144	144	21,228,480	6,192,576	27,421,056	15,035,904	0	15,035,904
30.42	730	22	138	138	20,343,960	5,934,552	26,278,512	14,409,408	0	14,409,408
45.63	1095	21	132	132	19,459,440	5,676,528	25,135,968	13,782,912	0	13,782,912
60.83	1460	20	126	126	18,574,920	5,418,504	23,993,424	13,156,416	0	13,156,416
76.04	1825	19	119	119	17,542,980	5,117,476	22,660,456	12,425,504	0	12,425,504
91.25	2190	18	113	113	16,658,460	4,859,452	21,517,912	11,799,008	0	11,799,008
106.46	2555	17	107	107	15,773,940	4,601,428	20,375,368	11,172,512	0	11,172,512
121.67	2920	16	100	100	14,742,000	4,300,400	19,042,400	10,441,600	0	10,441,600
136.88	3285	15	94	94	13,857,480	4,042,376	17,899,856	9,815,104	0	9,815,104
152.08	3650	14	88	88	12,972,960	3,784,352	16,757,312	9,188,608	0	9,188,608
167.29	4015	13	81	81	11,941,020	3,483,324	15,424,344	8,457,696	0	8,457,696
182.50	4380	12	75	75	10,956,500	3,225,300	14,281,800	7,831,200	0	7,831,200
197.71	4745	11	69	69	10,071,980	2,967,276	13,039,256	7,204,704	0	7,204,704
212.92	5110	10	63	63	9,287,460	2,709,252	11,996,712	6,578,208	0	6,578,208
228.13	5475	9	56	56	8,255,520	2,408,224	10,663,744	5,847,296	0	5,847,296
243.33	5840	8	50	50	7,371,000	2,150,200	9,521,200	5,220,800	0	5,220,800
258.54	6205	7	44	44	6,486,480	1,892,176	8,378,656	4,594,304	0	4,594,304
273.75	6570	6	37	37	5,454,540	1,591,148	7,045,688	3,863,392	0	3,863,392
288.96	6935	5	31	31	4,570,020	1,333,124	5,903,144	3,236,896	0	3,236,896
304.17	7300	4	25	25	3,685,500	1,075,100	4,760,600	2,610,400	0	2,610,400
319.38	7665	3	18	18	2,653,560	774,072	3,427,632	1,879,488	0	1,879,488
334.58	8030	2	12	12	1,769,040	516,048	2,285,088	1,252,992	0	1,252,992
349.79	8395	1	6	6	884,520	258,024	1,142,544	626,496	0	626,496
365.00	8760	0	0	0	0	0	0	0	0	0

Figure 5 Coal net tonnage per annum against daily hours of operation (based on 90% capacity utilisation)

1.0.2 Daily operating hours calculation

- a) Arcadis has calculated daily operating hours based on the total available possession in the final year (FY30) of DAU3 where tonnage has reached the forecast 7.5 mtpa. This does not reflect the actual possession that is projected to be required for capital and maintenance activities and assumes less possession availability for train services than actually is available.
- b) Actual possession accounts for the reduced variable maintenance due to past and planned capital works. It is necessary to account for these impacts to reflect the realistic state of the infrastructure in future DAU3 years.
- c) Furthermore, the calculations are based on a period within DAU3 where tonnages have reached maximum throughput. In reality, the tonnage forecast considers a ramp up towards the maximum 7.5 mtpa over the first 3 years of DAU3 (FY26-FY28) (*Collaborative Submission, Figure 4*). During these years where there is greater possession availability, QR has prioritised capital works, further increasing the need to reflect actual possession having completed said capital works. This is shown in Figure 6.
- d) To demonstrate the year where possession is most restricted whilst moving tonnages of 7.5 mtpa, QR calculate the daily operational hours using required possession figures from FY29, shown below.

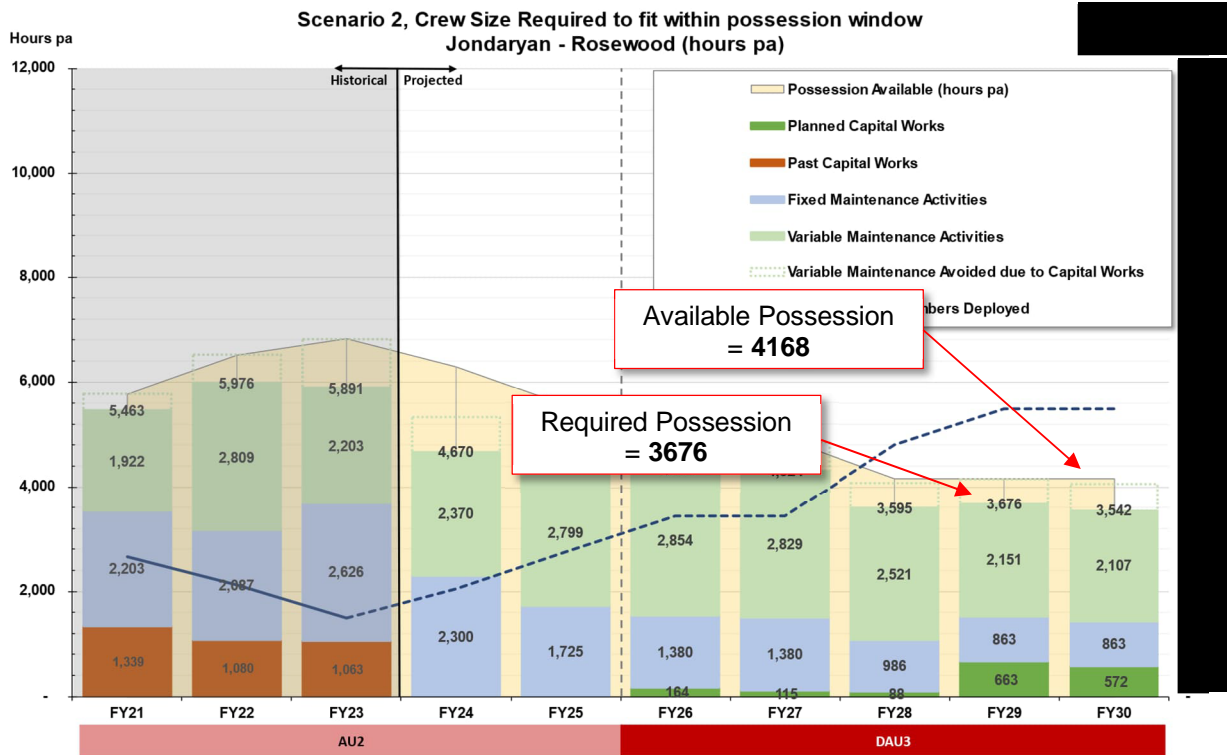


Figure 6 Available Possession Compared to Actual Required Possession

- e) The calculation of this approach looks as follows:

Arcadis (Available Possession):

DAU3 FY30 Available Possession - 4168 (*Collaborative Submission, Figure 10*)

$$\text{Daily Operating Time (hours)} = 24 - \frac{4168}{365}$$

Daily operating time = **12.58 hours**

QR (Required Possession)

DAU3 FY29 Required Possession - 3676 (*Collaborative Submission, Figure 10*).

*(Available Possession minus Variable Maintenance avoided due to capital works)

$$\text{Daily Operating Time (hours)} = 24 - \frac{3676}{365}$$

Daily operating time = **13.93 hours**

f) Applying the actual daily hrs of operation into Arcadis' assumption produces the following calculation of annual coal tonnages per annum against utilisation percentages:

% Capacity Utilisation	Weekly Coal Paths		Coal Service Gross Tonnage			Coal Net Tonnage		
	Up	Down	Up	Down	Total	Up	Down	Total
100%	81	81	11,941,020	3,483,324	15,424,344	8,457,696	0	8,457,696
95%	76	76	11,203,920	3,268,304	14,472,224	7,935,616	0	7,935,616
90%	71	71	10,466,820	3,053,284	13,520,104	7,413,536	0	7,413,536
85%	66	66	9,729,720	2,838,264	12,567,984	6,891,456	0	6,891,456
80%	62	62	9,140,040	2,666,248	11,806,288	6,473,792	0	6,473,792
75%	57	57	8,402,940	2,451,228	10,854,168	5,951,712	0	5,951,712
70%	52	52	7,665,840	2,236,208	9,902,048	5,429,632	0	5,429,632
67%	49	49	7,223,580	2,107,196	9,330,776	5,116,384	0	5,116,384
65%	47	47	6,928,740	2,021,188	8,949,928	4,907,552	0	4,907,552
60%	42	42	6,191,640	1,806,168	7,997,808	4,385,472	0	4,385,472
55%	37	37	5,454,540	1,591,148	7,045,688	3,863,392	0	3,863,392
50%	32	32	4,717,440	1,376,128	6,093,568	3,341,312	0	3,341,312
45%	27	27	3,980,340	1,161,108	5,141,448	2,819,232	0	2,819,232
40%	23	23	3,390,660	989,092	4,379,752	2,401,568	0	2,401,568
35%	18	18	2,653,560	774,072	3,427,632	1,879,488	0	1,879,488
30%	13	13	1,916,460	559,052	2,475,512	1,357,408	0	1,357,408
25%	8	8	1,179,360	344,032	1,523,392	835,328	0	835,328
20%	3	3	442,260	129,012	571,272	313,248	0	313,248
15%	-1	-1	-147,420	-43,004	-190,424	-104,416	0	-104,416
10%	-6	-6	-884,520	-258,024	-1,142,544	-626,496	0	-626,496
5%	-11	-11	-1,621,620	-473,044	-2,094,664	-1,148,576	0	-1,148,576
0%	-16	-16	-2,358,720	-688,064	-3,046,784	-1,670,656	0	-1,670,656

Figure 7 Coal net tonnage per annum against utilisation percentages (based on 13.93 daily operating hours)

- g) Comparing the derived daily operating hours for Scenario 2 of **13.93** against that which is theoretically required to move 7.5 mtpa, shown in Figure 4, it is demonstrated that QR can provide the operational capacity at 90%-95% utilisation of available possession.
- h) The same calculation for Scenario 1a (9.6 mtpa), based on the maximum required possession figures from the DAU3 Collaborative Submission, is shown below:

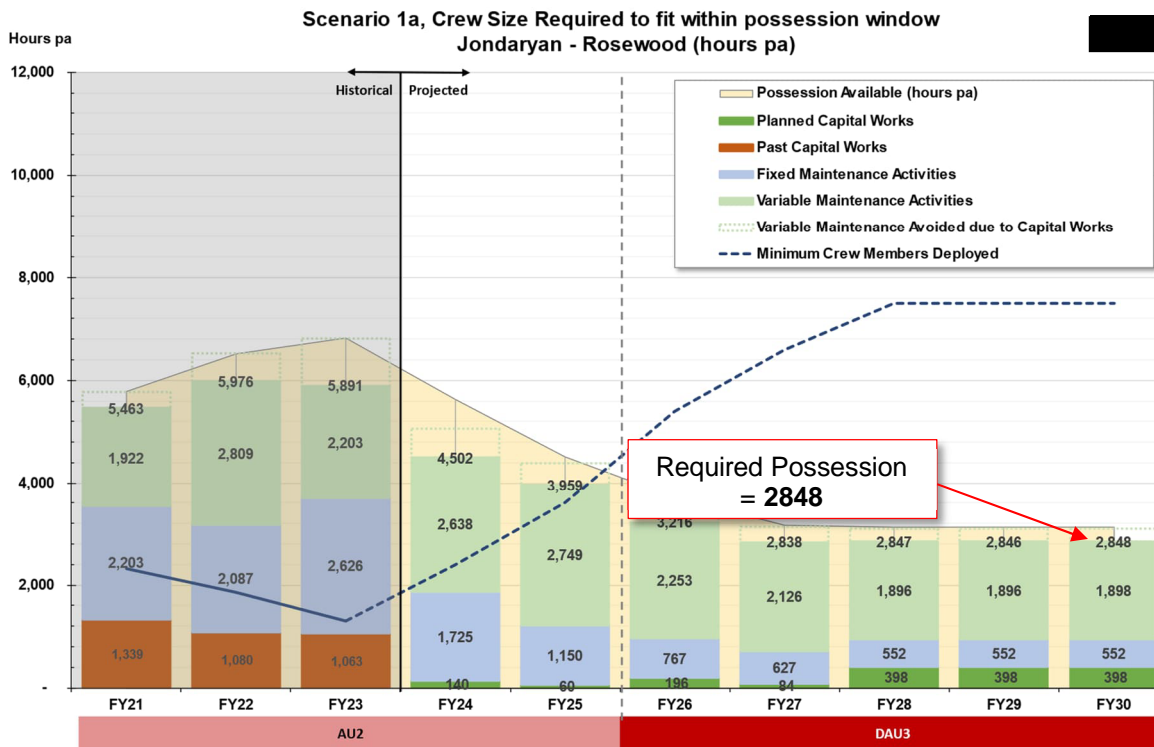


Figure 8 Available Possession Compared to Actual Required Possession

QR (Required Possession)

DAU3 FY30 Required Possession - **2848** (*Collaborative Submission, Figure 8*).

*(Available Possession minus Variable Maintenance avoided due to capital works)

$$\text{Daily Operating Time (hours)} = 24 - \frac{2848}{365}$$

Daily operating time = **16.20 hours**

- i) Applying the actual daily hrs of operation into Arcadis' assumption produces the following comparison of annual coal tonnages per annum against utilisation percentages:

% Capacity Utilisation	Weekly Coal Paths		Coal Service Gross Tonnage			Coal Net Tonnage		
	Up	Down	Up	Down	Total	Up	Down	Total
100%	97	97	14,299,740	4,171,388	18,471,128	10,128,352	0	10,128,352
95%	91	91	13,415,220	3,913,364	17,328,584	9,501,856	0	9,501,856
90%	86	86	12,678,120	3,698,344	16,376,464	8,979,776	0	8,979,776
85%	80	80	11,793,600	3,440,320	15,233,920	8,353,280	0	8,353,280
80%	74	74	10,909,080	3,182,296	14,091,376	7,726,784	0	7,726,784
75%	69	69	10,171,980	2,967,276	13,139,256	7,204,704	0	7,204,704
70%	63	63	9,287,460	2,709,252	11,996,712	6,578,208	0	6,578,208
67%	59	59	8,697,780	2,537,236	11,235,016	6,160,544	0	6,160,544
65%	57	57	8,402,940	2,451,228	10,854,168	5,951,712	0	5,951,712
60%	52	52	7,665,840	2,236,208	9,902,048	5,429,632	0	5,429,632
55%	46	46	6,781,320	1,978,184	8,759,504	4,803,136	0	4,803,136
50%	40	40	5,896,800	1,720,160	7,616,960	4,176,640	0	4,176,640
45%	35	35	5,159,700	1,505,140	6,664,840	3,654,560	0	3,654,560
40%	29	29	4,275,180	1,247,116	5,522,296	3,028,064	0	3,028,064
35%	23	23	3,390,660	989,092	4,379,752	2,401,568	0	2,401,568
30%	18	18	2,653,560	774,072	3,427,632	1,879,488	0	1,879,488
25%	12	12	1,769,040	516,048	2,285,088	1,252,992	0	1,252,992
20%	6	6	884,520	258,024	1,142,544	626,496	0	626,496
15%	1	1	147,420	43,004	190,424	104,416	0	104,416
10%	-4	-4	-589,660	-172,016	-761,676	-417,664	0	-417,664
5%	-10	-10	-1,474,200	-430,040	-1,904,240	-1,044,160	0	-1,044,160
0%	-16	-16	-2,358,720	-688,064	-3,046,784	-1,670,656	0	-1,670,656

Figure 9 Coal net tonnage per annum against utilisation percentages (based on 16.2 daily operating hours)

- j) Comparing the derived daily operating hours for Scenario 1a of **16.2** against that which is theoretically required to move 9.6 mtpa, shown in Figure 4, it is demonstrated that QR can provide the operational capacity at 95%-100% utilisation of available possession.

1.1 Review of the Possession Impacts from the Metropolitan System

Arcadis reference⁷ a 'structural reduction of 35 return paths per week due to the Metropolitan System from the WMS'. It does not account for this reduction separately and rather considers it included in the 75% utilisation assumption. In light of a more realistic and clear derivation of a capacity utilisation percentage at 83%, the Metropolitan System restrictions is highly likely a key factor as to why Arcadis has determined a lower capacity utilisation percentage than that which QR considers reasonable.

The QCA's Discussion Paper makes reference⁸ to contracting paths prevented for 'up to 7 hours a day during weekday peak hours.' This is not considered suitable to project across the entire week at a constant 'worse-case scenario' rate. A more realistic approach was completed by both QR and B&H who estimated an operations reduction percentage to the West Moreton System, in the AU1 Submission. The QCA ultimately decided 17% (which calculates to 24 return paths per week)⁹ is most appropriate.

1.1.1 Continued throughput at a reduced frequency

Further to the QCA's AU1 decision, Arcadis has excluded the realistic impacts that Metropolitan delays have on the coal trains. QR has historically and continues to manage throughput East of Rosewood at a reduced speed.

QR also are able to, and have exercised the ability to, use alternative routes based on delays to the track throughout the Metropolitan System. This consideration further contributes to a reduced impact on operational capacity due to the Metropolitan System.

⁷ Arcadis, Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's DAU3 – Addendum, 11 (Page 11). December 2024

⁸ Queensland Competition Authority, Queensland Rail 22025 Draft Access Undertaking, Discussion Paper (Page 61). December 2024

⁹ Queensland Competition Authority, Queensland Rail's Draft Access Undertaking, Decision, Page 152. June 2016

1.2 Queensland Rail's Approach to Calculating Operational Capacity

The methodology that Arcadis has applied to calculating the operational capacity of the WMS is based on two key assumptions, in the capacity utilisation percentage and the daily operating hours.

It is AECOM's findings that these assumptions are unsupported to base an analysis on and not reflective of the actual operations of the WMS. For this reason, it is recommended that deriving calculations using a 'bottom-up' methodology is a more realistic approach (shown in Figure 3).

1.2.1 Previously approved by the QCA

The approach that QR has applied includes the following assumptions:

- Time available
- Maintenance window
- Contingency
- Metro restrictions
- Non-coal paths
- Tonnes per train (net)
- Tonnes per train (gross)

Possession Assumptions	Per Annum (Hour Note)	
Time available	8760	theoretical maximum hours
Less maintenance windows (Return)	988	annual hours reserved for maintenance
Return Paths	7748	available for use by trains
Less contingency for unplanned infrastructure	624	annual hours for contingency
Sub-total	7124	annual hours available for use by trains
Less metro restrictions	1248	annual hours not usable
Available Toowoomba Range Paths	5876	annual hours available for use by trains
Less Non coal freight and Passenger paths	832	annual hours
Coal Paths	5,044	annual hours available for coal trains
Max maintenance time available	2,860	annual hours per week (return paths)

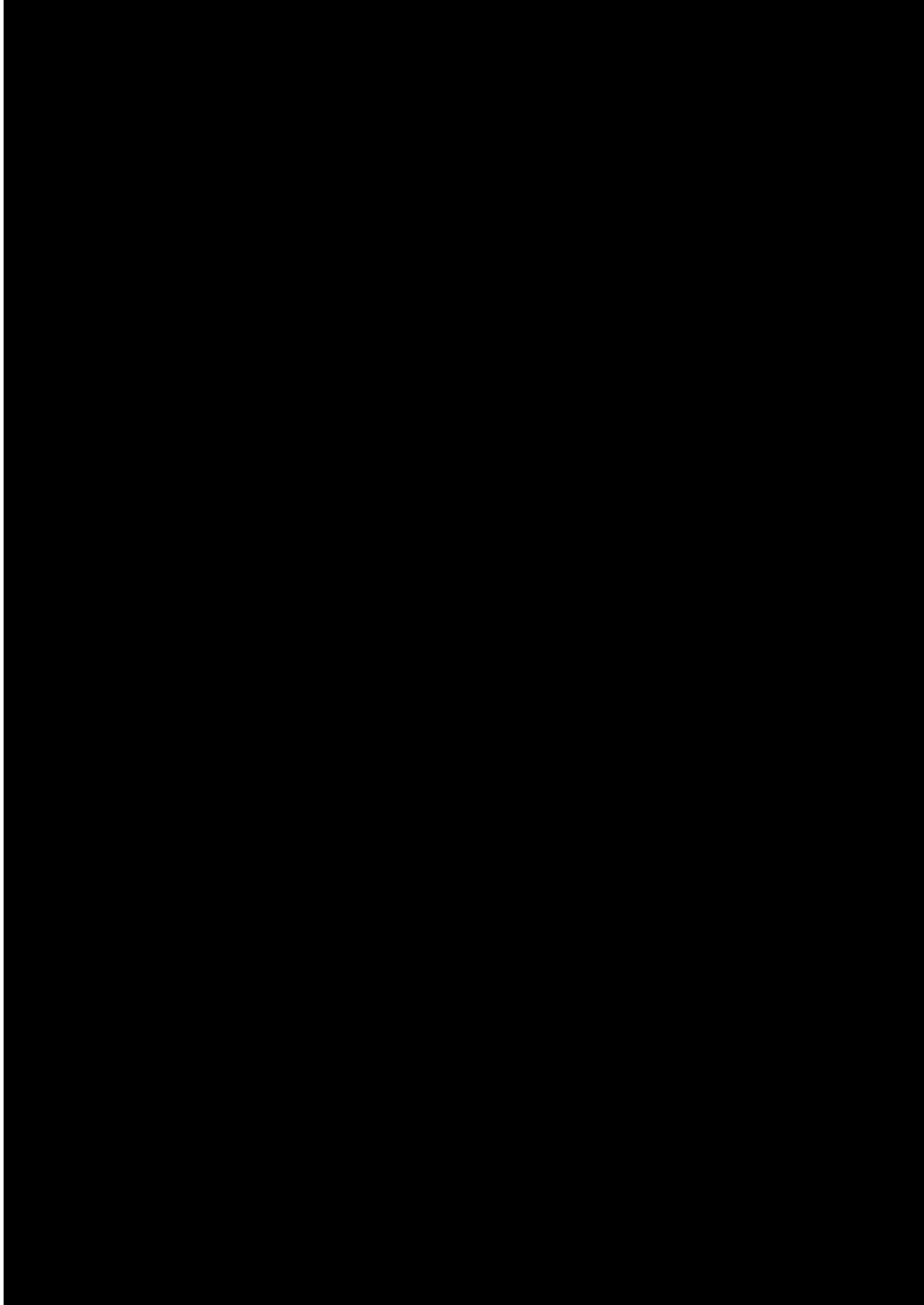
For the purposes of this analysis, AECOM has reviewed the approach applied by Arcadis and confirmed the metrics highlighted above in green are consistent between both organisations.

As discussed in Section 1.1, the QCA has approved in the AU1 submission 24 coal paths as most appropriate for weekly Metropolitan System restrictions on WMS.

The remaining considerations from QR is an allowance for maintenance or 19 return paths a week and a contingency allowance of 12 return paths a week.

All assumptions listed above are consistent with the decision made by the QCA in 2016, where since this time, the track construction and geometry has largely remained unchanged.

Attachment 3 – [REDACTED]



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