

Charles Millstead  
Chief Executive Officer  
Queensland Competition Authority  
Level 27, 145 Ann Street  
Brisbane, Q 4000

**Re: Application for Declaration of North Queensland Export Terminal**

28 August 2025

Dear Charles,

Aurizon Network welcomes the opportunity to make this submission to the Queensland Competition Authority (**QCA**) in respect of the application made under section 77 of the *Queensland Competition Authority Act 1997 (Act)* by QCoal Pty Ltd and Byerwen Coal Pty Ltd for declaration of the coal handling services provided by the North Queensland Coal Export Terminal (**Application**).

As a preliminary observation, Aurizon Network acknowledges that the efficiencies from vertical integration of the mining operations, railway infrastructure, railway operations and coal terminal operations is likely to have underpinned the investment decisions by the related parties of the terminal owner. Nevertheless, as those integrated services utilise declared services provided by Aurizon Network on the Newlands coal system, it is essential that Access Seekers for the Newlands System are able to obtain open access to the North Queensland Coal Export Terminal (**NQXT**) on reasonable terms and conditions.

It is not a contentious proposition that, as an unregulated vertically integrated entity, the operator of NQXT (Abbot Point Operations Pty Ltd) would have the ability and incentive to:

- exercise market power in providing access to its service for users with no competitive alternative; and
- operate the terminal in a manner which optimises the performance of its vertically integrated supply chain to the potential detriment in the quality and quantity of the service provided to third party users.

The QCA made similar conclusions in respect of its assessment of declaration of the use of the Newlands coal system for the transportation of freight<sup>1</sup>. Therefore, there is a prima facie argument that regulation of the coal handling services provided by NQXT would provide an effective control on those incentives, in the absence of other enforceable constraints.

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<sup>1</sup> Queensland Competition Authority (2020) Aurizon Network Declaration Review: Final Recommendation, March, p.32

On balance, Aurizon Network considers there are some benefits provided by declaration of the coal handling services at NQXT that are likely to be in the public interest for the reasons explained below.

### **Criterion in section 76(2)(a)**

Based on the information available to Aurizon Network, Aurizon Network submits that the following factors could support a conclusion that the declaration criterion in section 76(2)(a) is satisfied:

- (a) that in the absence of a declaration of the services at NQXT, there is no ongoing contractual or other legal framework in place to ensure that competition in relevant markets is promoted;
- (b) existing users of the NQXT have already had to resort to contractual arbitration rights to secure reasonable pricing outcomes. Having to resort to arbitration on a user-by-user basis is not economically efficient and does not, of itself, promote competition in the way that declaration would;
- (c) in any case, following expiration of the existing access agreements, there is no evidence to support a conclusion that future access agreements at NQXT will include a right to arbitration over the terms of access;
- (d) if the terms of the Terminal Lease include some form of pricing or other protections for users which could operate to promote competition, (which is not evident to Aurizon Network as the lease terms are not public), any such protections are not enforceable by users of NQXT and would rely on enforcement by the State, something that cannot be assumed; and
- (e) in the absence of a declaration, the operator of NQXT is commercially incentivised and in a position to actively discriminate in favour of its related rail haulage operator, thereby potentially diminishing rather than promoting competition in the rail haulage market.

These points are further discussed below.

### **No existing framework exists to promote competition and arbitration rights may not be available into the future**

The changes made to criteria a) in section 76 of the Act in 2018, which replicated criterion in Part IIIA of the *Competition and Consumer Act 2010* (National Access Regime), were intended to ensure that the declaration of a service, and not access to the service, will promote a material increase in competition. This necessitates a consideration of whether there are existing or alternate frameworks in place that can address the market power concerns described above so as to create the environment that would promote the material increase in competition contemplated by section 76(a).

In this regard, Houston Kemp observes that<sup>2</sup>:

*there is no indication as to the existence of a framework that will apply to new users or existing users at the end of their current contracts.*

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<sup>2</sup> HoustonKemp (2025) Expert report of Greg Houston – does NQXT’s coal handling service satisfy criterion (a)?, 13 June, p. 22

Arbitration appears available under existing access agreements, and those arbitration provisions have been utilised as cited in the application<sup>3</sup>:

- *Following arbitration, in August 2019, the TIC was determined to be [c-i-c], representing a saving over five years of circa \$38.7 million for the QCoal Group (in FY18 money); and*
- *Following arbitration, in December 2024, the TIC was determined to be [c-i-c], representing a saving over five years of circa \$35.1 million for the QCoal Group (in FY22 money).*

What is clear from the Houston Kemp report and the fact that existing users have had to have recourse to arbitrated outcomes on pricing is that once the existing access agreements expire, new access agreements that do not include arbitration rights will mean that there will be no framework which would ensure access on reasonable and consistent terms across all users of the terminal so as to promote competition in the market for export coal. In the absence of a regulatory requirement, there is of course no guarantee that new access agreements will include a similar recourse to arbitration in the event of a dispute over the terms and conditions of access. This leads Houston Kemp to conclude that<sup>4</sup>:

*there is no evidence that an alternative access arrangement without declaration would constrain NQXT from exercising market power.*

In any case, Aurizon Network submits that arbitration on a user-by-user basis for pricing outcomes is economically inefficient and does not ensure the promotion of competition in relevant markets. The efficiency benefits of collective negotiation and collective arbitration were expressly recognised by the QCA in its Final Decision on the DBCT 2019 Draft Access Undertaking<sup>5</sup>.

### **Can the operator of NQXT be constrained by the terms of the Terminal lease?**

Aurizon Network notes that the development of coal export infrastructure within Queensland has been accompanied by obligations to develop open access policies that require approval by the State. For example:

- Carmichael Rail Network Pty Ltd was required to develop the Carmichael Rail Network Access Policy as a condition of development of the Carmichael Rail Network<sup>6</sup>; and
- Wiggins Island Coal Export Terminal Pty Ltd was required to develop the WICET Access Policy as a condition for the development of the Wiggins Island Coal Export Terminal<sup>7</sup>.

While Aurizon Network is not privy to the terms of the lease for the port at Abbot Point, based on the precedents discussed above, it would not be unexpected for the lease agreement between the State (as the lessor) and the lessee of the Abbot Point Coal Terminal to include

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<sup>3</sup> QCoal (2025) Request for Declaration of a service sought for the coal handling services at the North Queensland Export Terminal facility at Abbot Point, 13 June, p. 8

<sup>4</sup> HoustonKemp (2025) Expert report of Greg Houston – does NQXT's coal handling service satisfy criterion (a)?, 13 June, p. 22

<sup>5</sup> Queensland Competition Authority (2021) Final Decision: DBCT 2019 draft access undertaking, March, pp. 88-112.

<sup>6</sup> Available at: [https://s3-ap-southeast-2.amazonaws.com/awsfiles-232340950/bravus/documents/carmichael\\_rail\\_network\\_access\\_policy\\_-\\_approved.pdf](https://s3-ap-southeast-2.amazonaws.com/awsfiles-232340950/bravus/documents/carmichael_rail_network_access_policy_-_approved.pdf)

<sup>7</sup> Available at: <https://core.opentext.com/pdfjs/web/viewer.html?shortLink=0ec49faeada366a660e528666f304f93f382471b1db4ba20>

provisions or arrangements to address concerns regarding the exercise of market power where the terminal owner and operator are vertically integrated in upstream markets.

To the extent that such provisions, restraints or protections are present in the lease agreement, then based on the material in the application for declaration, they do not appear to be transparent to users or prospective users of the terminal. This calls into question the efficacy of any arrangements which are dependent on the lessor for both monitoring and enforcing compliance with the relevant terms of the lease.

This point was also considered by the National Competition Council's assessment of the navigational services provided by Port of Newcastle<sup>8</sup>:

*Further, while the lease arrangements between the State of NSW and PNO include provisions designed to 'constrain' the behaviour of PNO, these arrangements are effectively private contractual arrangements between the two parties. Any third party with concerns about PNO's behaviour would have to rely on the State of NSW taking action in order to obtain redress. The Council expects that taking such steps would entail a significant time and cost commitment by the State of NSW.*

Aurizon Network recommends the QCA evaluate what, if any, relevant restraints or protections are contained in the terminal lease agreement and the likely effectiveness of any such restraints and protections to promote competition if they rely on enforcement by the State.

### **Competition in the Rail Haulage Market**

Aurizon Network recognises the vertically integrated relationship between the operator of NQXT and the Bowen Rail Company (**BRC**). Presently, BRC operates services solely for the benefit of the Carmichael coal mine and Aurizon Network is not aware if BRC has, or intends to, compete for services in the rail haulage market that would unload at NQXT.

Should BRC seek to enter the rail haulage market for services which would unload at NQXT then Aurizon Network would agree with the conclusion by Houston Kemp that the operator of NQXT:

- *would have an incentive to implement terminal regulations in a way that would – unlike DBT – '...unfairly favour a particular party; and*
- *could adjust the operation of the terminal, and particularly its interface with rail operations, in such a manner as to affect other parts of the rail supply chain, with alternative coal haulage providers consequently less able to compete to provide those services.*

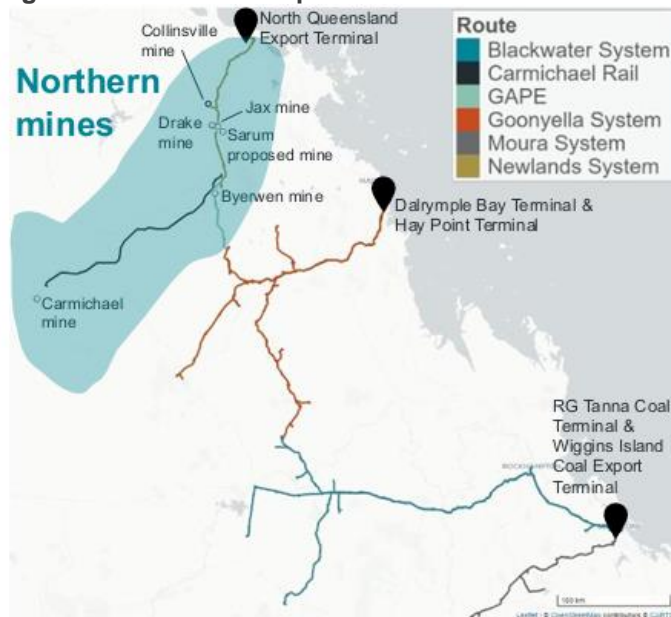
### **Geographical Scope for Coal Handling Services at NQXT**

Houston Kemp defines the market as those mines for which there is no close substitute for NQXT for coal handling services (the Northern Mines) as shown in Figure 1.

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<sup>8</sup> NCC (2020) Recommendation: Application for declaration of certain services at the Port of Newcastle, 18 December, pp. 47-48 [https://ncc.gov.au/images/uploads/NCC - NSWMC application for declaration - Final Recommendation.pdf](https://ncc.gov.au/images/uploads/NCC_-_NSWMC_application_for_declaration_-_Final_Recommendation.pdf)

**Figure 1. Houston Kemp Northern Mine Market Definition**



Aurizon Network considers that in the absence of the QCA Price Ruling under section 150F of the Act to socialise the cost of the DBCT 8X expansion with all users of coal handling services at DBCT (**Ruling**), then the geographical scope of the market may be broader than “Northern Mines”.

Based on revenue data in recent annual financial reports, Aurizon Network notes the unit cost of utilising the coal handling services are comparable between DBCT and NQXT as shown in Table 1. If the QCA assumes the Ruling will be applied to the DBCT 8X expansion, or that there would be spare capacity available at DBCT, then it is arguable that given the relativity of below rail costs for the operation of train services from Goonyella mines to NQXT and DBCT, the “Northern Mines” appears an appropriate market definition.

The application indicates that the foreseeable demand of approximately 40 mtpa is supplied by the Northern Mines. However, Aurizon Network considers that the current level of excess demand for DBCT, and the material incremental costs of expanding capacity to meet that demand through the 8X expansion phases, indicates that the total foreseeable demand for NQXT may include demand from mines other than the Northern Mines. Based on the current port and below rail price relativities in Table 1, the demand at DBCT up to 84.2 million tonnes is not contestable with NQXT.

**Table 1. Estimated Port and Below Rail Costs for Goonyella Mines to DBCT and NQXT**

	DBCT <sup>9</sup>	NQXT <sup>10</sup>
Measurement Year Ending	FY24 (June)	FY24 (March)
Revenue (millions)	\$679	\$308
Contract Tonnes Assumption (millions)	84.2	40.7 <sup>11</sup>
Terminal Unit Cost \$/nt	\$8.06	\$7.51
Below Rail Cost \$/nt (AT <sub>1-4</sub> )	\$3.75 (~200km)	\$9.50 (~300 km)
Net Port and Below Rail Cost	\$11.81	\$17.01

However, given the prospective timing of the DBCT 8X project and its alignment with the contract renewal profile for GAPE foundation Access Agreements then NQXT capacity is substitutable for DBCT expansion capacity. The competition for this demand is distorted by the Ruling which does not promote the efficient utilisation of supply chain infrastructure.

Aurizon Network has estimated the prospective impact of Phase 1 of the expansion on both a socialised and incremental costs basis. As shown in Table 2, the socialisation of the revised DBCT 8X project (without replacement capex benefits) with existing users raises the unit costs to additional users by approximately \$0.30 and the cost to the expansion volumes is \$8.37. Therefore, the implicit subsidy between existing DBCT users and access seekers provided by the Ruling supports the narrow foreseeable demand in the application due to the relative disparity in exporting through NQXT and DBCT.

**Table 2. Socialised DBCT 8X Expansion Phase 1**

	DBCT	NQXT
Revenue (millions)	\$741	\$308
Contract Tonnes Assumption (millions)	88.6	40.7 <sup>12</sup>
Unit Cost \$/nt	\$8.37	\$7.51
Below Rail Cost \$/nt (AT <sub>1-4</sub> )	\$3.75 (~200km)	\$9.50 (~300 km)
Net Port and Below Rail Cost	\$12.12	\$17.01

This can be contrasted with the incremental unit costs of the expansion in Table 3 which shows an incremental coal handling charge of \$15.95 per net tonne for DBCT. Based on benchmark below rail costs and the coal handling services at NQXT (based on current port and below rail pricing), it would be approximately \$2.70 per net tonne less to export via NQXT for DBCT Expansion customers if they were required to fund the economic costs of servicing

<sup>9</sup> DBI (2025) FY24 Annual Report, March.

<sup>10</sup> NQXT (2024) Consolidated Financial Report for Year Ended March 2024.

<sup>11</sup> 50 million tonne nameplate less 9.3 mtpa of relinquished access rights

<sup>12</sup> 50 million tonne nameplate less 9.3 mtpa of relinquished access rights

them. Under this assumption, the foreseeable demand for NQXT would be broader than defined in the application.

**Table 3. Incremental DBCT 8X Expansion Phase 1**

	DBCT	NQXT
Revenue (millions)	\$49.8	\$308
Contract Tonnes Assumption (millions)	4.4	40.7
Unit Cost \$/nt	\$15.95	\$7.51
Below Rail Cost \$/nt (AT <sub>1-4</sub> )	\$3.75 (~200km)	\$9.50 (~300 km)
Net Port and Below Rail Cost	\$19.70	\$17.01

Aurizon Network acknowledges that these comparisons do not include the above rail productivity and price differentials between railings to both terminals due to the different nominal train payloads. However, the values in Table 3 are conservative estimates as:

- a pre-tax benchmark WACC of 8.5% has been applied;
- actual cost of phase 1 may substantially exceed the current estimates;
- modelling assumes straight line depreciation with inflation indexation to 2054; and
- estimate excludes any additional project premiums DBI will require to undertake the project as noted in DBI's 30 June 2025 investor presentation:
  - access seekers that obtain the benefit of 8X project capacity will likely be subject to a higher charge than the TIC paid by existing customers.

These conservative assumptions potentially understate the likely incremental costs of the DBCT 8X project. However, this is also offset by the unknown replacement capex profile of NQXT associated with the original pre X50 assets.

Taking these factors into account, the incremental differential between exporting from NQXT or DBCT for some access seekers in Goonyella may be considerably higher than the estimate of \$2.70 per net tonne. However, the practical effect of the Ruling is that these Access Seekers would not be subject to the true costs of the decision to obtain access through the DBCT 8X expansion or the consequential impacts from the underutilisation of the existing Newlands supply chain infrastructure (which may increase prices to users of that supply chain or require transfers to the Goonyella supply chain to offset the competitive distortions from the Ruling).

#### **Competitive Constraints on Incentives to Exercise Market Power.**

As discussed above, as the current costs of services operating from Goonyella to NQXT are higher than the costs of operating services to DBCT, the continued demand for Goonyella to NQXT services is highly dependent on not being able to obtain Access Rights at DBCT and those Access Seekers obtaining access to NQXT on reasonable and non-discriminatory terms.

In this context, declaration of the coal handling services provided by NQXT could promote allocative efficiency by increasing utilisation of the Newland's supply chain and reduce the stranding risk of parts of the Central Queensland Coal Network.



The NCC, in its consideration on whether to revoke the declaration of the shipping channel services at the Port of Newcastle, has also considered whether reputational impact on future demand could constrain the incentives to exercise market power<sup>13</sup>. For example, imposing unfair access terms on the ‘captive’ Northern mines could reduce the future demand from mines in the Goonyella system.

The strength of this constraint will be highly dependent on the proportion of demand from the inelastic Northern Mines and the highly elastic Goonyella mines. Assuming NQXT is not subject to a binding revenue constraint, if the additional revenue from the extraction of locational rents from the Northern Mines exceeds lost revenue from Goonyella demand, then the competitive demand is unlikely to impose constraints on the exercise of market power of the captive demand. Even where there is some form of revenue constraint, due to the vertical integration of NQXT with the Carmichael mine, a reduction in demand for the services provided by NQXT would raise the average coal handling costs for its own demand.

### Section 76(2)(b) criterion

Aurizon Network submits that, based on the information available to it, where the foreseeable demand is limited to the Northern Mines, the criterion in section 76(2)(b) for declaration is satisfied.

The assumed level of expected demand in Table 4 suggests that the demand from Northern Mines is substantially less than the terminal nameplate capacity of 50 mtpa. While the ability for NQXT to achieve this throughput is constrained by the Deliverable Network Capacity of the shared Newlands rail corridor, this constraint can be removed with a relatively low-cost expansion of the Newlands System. This is demonstrated in the table below which estimates demand based on current or recent production or public statement on future production.

An additional 10% is added to the estimated demand in the table to reflect the contracted capacity necessary to achieve that throughput having regard to supply chain losses.

**Table 4 Expected Demand from Operating Northern Mines**

Mine	Demand + 10%
Carmichael Rail Network <sup>14</sup>	17.6 mtpa
McNaughton <sup>15</sup>	3.3 mtpa
Drake/Jax (Northern Hub) <sup>16</sup>	5.5 mtpa
Byerwen <sup>17</sup>	4.4 mtpa
<b>Total</b>	<b>30.8 mtpa</b>

<sup>13</sup> National Competition Council (2019) Recommendation: Revocation of the declaration of the shipping channel service at the Port of Newcastle [https://ncc.gov.au/images/uploads/Port\\_of\\_Newcastle\\_-\\_Recommendation\\_22.7.2019.pdf](https://ncc.gov.au/images/uploads/Port_of_Newcastle_-_Recommendation_22.7.2019.pdf)

<sup>14</sup> <https://www.bravusmining.com.au/news-rss/bravus-mining-and-resources-commits-to-major-investment-to-increase-mine-production-in-central-queensland/>

<sup>15</sup> <https://www.glencore.com/.rest/api/v1/documents/static/ee233a2b-560f-47e3-8ef4-e3bf2bfe63bd/GLENCORE+Resources+and+Reserves+report+2024.pdf>

<sup>16</sup> Queensland Coal Production Statistics. <https://www.data.qld.gov.au/dataset/27fefb68-dc98-4300-85b6-465f0df233a8/resource/bab54159-f38b-4e6f-8652-4b04bca29139/download/coal-production-data-fy2010-fy2025.xlsx>

<sup>17</sup> Ibid.



Despite the existing available capacity at NQXT, Aurizon Network notes that users of the NQXT have had to resort to arbitration to resolve pricing terms, with four out of seven users proceeding to arbitration<sup>18</sup>:

*The terminal has [a] total of 9 users of which two are not subject to current price review. During the current year three of balance seven users agreed to TIC and TPC rates. For the remaining four users arbitration proceedings have been finalised with a partial award issued on 16 May 24.*

This reinforces the view that declaration is to be favoured over the existing contractual framework, even if you could assume that the same contractual framework were to continue beyond the term of existing access agreements.

The use of arbitration in both the 2018 and the 2022 price reviews and the initiation of legal proceedings through the Queensland Supreme Court may also indicate that reputation is not an effective constraint to promote access to the terminal on fair and reasonable terms.

### **Section 76(2)(c) and (d) criteria**

Aurizon Network submits that:

- (a) the criterion in section 76(2)(c) for declaration is satisfied given the significance of the coal handling services provided to the Northern Mines, the lack of any alternative services in the absence of the 8X Expansion at DBCT and the unit cost analysis set out in Tables 1, 2 and 3 above; and
- (b) it is likely to be in the public interest to have the coal handling and export services at NQXT declared in circumstances where the terminal is owned and operated by entities that are related to the owner of a mining company that competes with other mining companies that need to access NQXT, and to a rail haulage company that could compete with other rail haulage providers delivering coal to that terminal. This is particularly so where:
  - there is no incentive on the owner and operator of the NQXT to promote competition in the coal terminal services, coal export and coal haulage markets against the interests of their related companies; and
  - there is no existing economically efficient framework in place to secure access on reasonable terms and no evidence on which to conclude that such a framework will be put in place into the future other than in the form of a declaration of the relevant services.

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<sup>18</sup> NQXT (2024) Consolidated Financial Report for Year Ended March 2024

Should the QCA have any questions in relation to this submission please contact Jon Windle at [jon.windle@aurizon.com.au](mailto:jon.windle@aurizon.com.au).

Kind regards,

A handwritten signature in black ink, appearing to read 'Kearney', with a stylized flourish at the end.

Dan Kearney  
Head of Finance and Regulation  
Aurizon Network