Queensland Rail’s 2023 Draft Access Undertaking:

New Hope submission

23 July 2024

1 Introduction and process

Thank you for the opportunity to provide this submission on behalf of New Hope Group (***NHG***) in response to the Queensland Competition Authority's (***QCA***) Draft Decision on Queensland Rail's proposed draft access undertaking (the ***2023 DAU***).

We acknowledge a strong theme of the Draft Decision is the QCA’s preference for QR and its customers to resolve matters and find agreed positions for the QCA to consider. This is particularly the case in respect of West Moreton System tariffs. Due to this preference, combined with uncertainties which make the setting of West Moreton tariffs difficult at this time, the Draft Decision contains limited guidance on the appropriate basis for establishing a tariff.

NHG has been seeking to engage with QR on these matters for some time. In our responsive submission of 14 March 2024, we provided details of the very limited engagement which had occurred to that point. Four months have passed since the date of that submission. Consultation during that period was limited to 1 meeting which was initiated by NHG and held on 12th July, during which QR and NHG sought to agree a process for resolving matters and developing the new undertaking. Despite the limited record of consultation to date, NHG will continue to engage constructively with QR to seek agreement on as many matters as possible, as has been suggested by the QCA.

We have 3 suggestions which may assist QR and stakeholders to resolve matters by agreement, being:

- Consider a DAAU to amend the existing undertaking (AU2), including extending the terminating date by 12-24 months;
- Defer the target date for Collaborative Submissions to November or December 2024 (or later if AU2 is extended); and/or
- QCA to provide targeted position papers or discussion papers which provide indicative positions if the QCA was to determine certain issues to provide guidance to facilitate more informed consultation.

These suggestions are discussed further below.

1.1 Extension DAAU

The Draft Decision notes a range of uncertainties which make development of the West Moreton tariffs particularly difficult at this time. At the recent meeting between QR and NHG, we discussed the possibility of developing a DAAU which would:

- Extend the terminating date of AU2 by 12-24 months; and
- Amend the undertaking to reflect any agreed matters, including matters on which the QCA has provided clear guidance in the Draft Decision.

The benefits of extending the existing undertaking would include:

- Allowing more time for the consultation and agreement which the QCA has strongly emphasised in the Draft Decision. NHG does not consider that there is a realistic prospect of reaching agreement based on the current timetable (Collaborative Submissions in September).
- The additional time would see a number of the uncertainties resolved, allowing stakeholders (and the QCA) to make more informed decisions regarding West Moreton tariffs. A key uncertainty is the volume forecast for the West Moreton System. The range of possible volume outcomes in this system is extremely wide at this time, due to uncertainty regarding the future of Wilkie Creek mine (currently in receivership) and the legal challenge relating to

the New Acland associated water licence. This uncertainty impacts decisions regarding capital expenditure, maintenance and operations and makes the setting of financial allowances for these activities extremely problematic. We expect that the volume outlook for West Moreton will be clearer within 6 to 12 months, allowing an informed re-examination of these activities.

- Avoids the risk of a replacement undertaking not being approved before expiry.
- May result in the Loss Capitalisation Account reaching zero during the extended term, such that the new undertaking will not need to deal with a balance.

At this stage, the suggestion of extending AU2 has been discussed by QR and NHG only at a conceptual level. We would welcome any feedback which the QCA can provide on this suggestion but understand that this approach requires development of a DAAU which has wide customer support, which must then be considered by the QCA based on the statutory criteria.

Until such time as an extension DAAU is approved, we understand that the AU3 process must continue in the context of the existing AU2 expiry date.

1.2 Collaborative submissions

The QCA's indicative timeline envisages collaborative submissions being provided by stakeholders in September 2024 (i.e. in approximately two months from today's date). Given that QR and stakeholders will require internal approval for agreed outcomes, the period for collaboration is likely to be limited to 3 to 4 weeks.

The Draft Decision indicates that stakeholder agreement is the preferred method for settling a wide range of complex matters, including West Moreton tariffs. For example, the undertaking must deal with a wide range of volume outcomes in this system, and consequential changes to capital and operating expenditure and maintenance programs. We do not consider that meaningful progress can be made on these complex matters during a short period, particularly considering the interrelationships between them. Collaborative submissions provided in September are therefore likely to contain agreed positions on an extremely limited range of matters, leaving the QCA to determine the more complex issues.

We suggest that collaborative submissions due in November or December are more likely to show progress on resolving issues, which could be incorporated into the extension DAAU as noted above, leaving the QCA with a smaller number of residual issues to consider or to determine detail where there is at least some common ground reached between the parties on principles. We look forward to QR engaging in a meaningful and collaborative process with transparent sharing of information to achieve a mutually acceptable outcome for all stakeholders.

1.3 Targeted position papers or discussion papers

We note that the QCA indicated that it may release targeted position papers or discussion papers. NHG strongly supports this approach.

Negotiations between stakeholders are greatly enhanced when the likely views of the QCA are understood by all parties. For example, the negotiations which led to the Aurizon Network UT5 DAAU, which proposed a range of customer-supported reforms to the approved undertaking, were conducted after the QCA had released a draft decision on the undertaking. That draft decision contained clear positions on all important issues. This provided a baseline outcome from which customers and Aurizon Network could consider agreed variations. For example, the negotiation of WACC was based on the QCA draft decision number, with an uplift based on additional negotiated reforms, while the operating cost allowance was based on the QCA's draft decision number, with negotiation of an escalation mechanism. In the absence of a clear draft decision, it is unlikely that an effective negotiation could have proceeded.

In the case of QR's AU3, the Draft Decision provides useful guidance on certain matters, such as changes to the Standard Access Agreement. We are confident that, informed by the Draft Decision, we will be able to settle agreed positions with QR on most of those matters. In other areas, particularly surrounding West Moreton tariffs, the draft decision provides much more limited guidance. Negotiation of those matters will be more difficult due to this lack of guidance. To the extent that the QCA is able to provide further indications of likely positions through the use of position papers or discussion papers, NHG expects that this will improve the likelihood of reaching agreed positions, and of doing so within reasonable timeframes.

2 Structure of NHG Submission

Given the QCA's emphasis on reaching agreed outcomes, the balance of this submission addresses only a selection of items from the Draft Decision (noting the limited consultation that has been able to occur to date). We have not commented on all matters and have generally commented only at a high level (but in the absence of new submission to the contrary, NHG maintains the positions provided in its initial submission).

Further comments are provided as follows:

- Section 3: West Moreton Reference Tariffs;
- Section 4: West Moreton WACC; and
- Section 5: Drafting issues in Access Agreement and Undertaking.

3 West Moreton reference tariffs

3.1 Overview

NHG remains concerned that QR's proposed West Moreton system reference tariffs are:

- unsustainable and economically unviable for QR's coal customers; and
- based on building block components which include:
  - An excessive risk adjustment within WACC.
  - An acceleration of depreciation to reduce QR's risk without consideration of the impact of that change when assessing WACC and without adequate explanation of the impacts of the change.
  - Capital, operating and maintenance costs which are well in excess of previous allowances, with insufficient justification having been provided for the increases.

The draft position of the QCA is that the proposed tariff increase is not appropriate to approve.[1] While the QCA provided detailed comments and information on all matters relevant to the development of reference tariffs, the Draft Decision does not provide a draft decision regarding each of the building block elements. Rather, the Draft Decision notes that, in the absence of any firm foundation on which to calculate a building-blocks based reference tariff, an alternative approach may be to escalate the existing West Moreton reference tariff at CPI.

NHG's preference is to initially develop a potential tariff outcome which is based on a building-blocks methodology but with that 'bottom-up' estimate then subjected to a consideration of appropriateness, with particular consideration given to affordability – given the context of mines and the below rail infrastructure being economically stranded if the tariff is not affordable in the longer term.

Each of these considerations were relevant to the development of the AU2 tariffs, with:

[1] Draft Decision, page 72.

- a ceiling price, used to calculate loss capitalisation amounts, being based on building block elements; and
- reference tariffs, which are the basis of charging for services, being set based on considerations of affordability.

NHG will seek to engage with QR to agree an approach to pricing which recognises QR's right to earn an appropriate return on investments and recover efficient costs, but does not create a situation in which the tariff causes a loss of utilisation of the system.

Establishing a tariff which aims to provide full 'cost' recovery for QR, but results in declining volumes, will ultimately result in worse outcomes for QR and customers than if an affordable tariff was established. It is not our expectation that QR should invest in capex or incur opex without recovery. However, elements of the existing RAB were established through a methodology which does not reflect the costs incurred by QR (DORC, with adjustments). NHG considers that the capex and maintenance costs which QR claims are required to sustain this network, if confirmed, demonstrate that the initial assets were valued on a basis which did not adequately reflect their poor condition, which is a likely cause of the resulting unaffordable tariffs.

3.2 Comments on specific building blocks

(a) RAB roll-forward: NHG accepts the application of the usual processes for rolling forward the RAB, subject to our previous comments regarding the need for an affordable tariff.

(b) Capital expenditure: The Draft Decision raises concerns about whether the proposed capital expenditure program is prudent and efficient for delivery of the 9.6mt tonnage forecast. The information made available to NHG to date is not sufficient to demonstrate that each of the projects are required and represent the best available options.

NHG supports Arcadis' in principle key adjustments and considerations listed in its report as follows,[2] and notes these are key aspects which will need to be addressed in any collaborative engagement with QR:

(i) Alignment with Standards and Good Practice – review and update of the CETS and CESS standards to address specific constraints, opportunities and contemporary asset management practices to optimise efficiencies

(ii) User Requirements Consensus – alignment of the planned program with reliability and level of service requirements of the users;

(iii) Comprehensive Asset Management Strategy – NHG supports the criticality of such a strategy being in place to further understand network capability and capital and maintenance requirements;

(iv) Asset Value Framework – stakeholder collaboration to revise the value framework to meet the evolving needs of the West Moreton system to balance risk, service level and investment; and

(v) Assessment of the operational capacity and system performance for the proposed tonnages.

NHG also notes Arcadis' logic regarding reduction or removal of capital expenditure for certain scope items west of Macalister on the basis of the proposed volumes (which are not increasing), existing track condition and track availability to undertake ongoing

[2] Arcadis, Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU, 19 April 2024, page 6.

maintenance. Determination of the capital scope also needs to consider the above key principles.

We look forward to reviewing more detailed information from QR on proposed works and estimated costs with a view to understanding the associated risk and opportunity trade-offs and thereby being able to engage in informed consultation.

We also note the reservations in the Arcadis report,[3] including lack of information to justify the proposed capital program. We look forward to working with QR and to reviewing more detailed information.

(c) Operating and maintenance costs: The Draft Decision raises concerns about the prudency of the proposed maintenance and operating costs. Again, we note the reservations in the Arcadis report, and will work with QR to seek to understand the requirements.

(d) Depreciation: The Draft Decision is that it may be appropriate to approve QR's proposed accelerated depreciation as part of a balanced risk-sharing approach. We intend to consult with QR in relation to other adjustments which would be needed to 'balance' this approach, noting that the proposed WACC includes no adjustment for this reduction in risk.

(e) WACC: We do not consider that QR's proposed WACC is reasonable, nor that the Draft Decision presents a reasonable basis for coming to that conclusion. This is discussed in Section 4.

(f) Volumes: Volume forecasts are a critical element in setting pricing, in part due to the impact which volumes have on the required capex and maintenance programs, and operating costs. NHG proposes two mechanisms, which can be used together to address the current uncertainty regarding volumes. These are:

   (i) First, resolve the uncertainty to the extent possible before finalising undertaking proposals. This will mostly be achieved through the passage of time. The suggestion of extending the existing undertaking (see Section 1) is designed for this purpose.

   (ii) Second, build mechanisms into the undertaking which allow the undertaking to respond to changes in volume forecasts. These mechanisms were proposed in our previous submission and are discussed again in Section 5, and include:

      (A) Consultation and pre-approval of capital expenditure and maintenance strategy and costs

      (B) Tariff adjustment within the undertaking period for variances between actual expenditure and allowances.

      (C) Tariff adjustments for changes in volumes.

(g) Discount for private infrastructure: The Draft Decision[4] notes that "*the treatment of single-user infrastructure should be equitable between different users, so that the impact on other users of the system is similar, regardless of whether the asset is owned by Queensland Rail or an access holder*". NHG will work with QR to agree drafting to achieve this objective.

[3] Arcadis, Review of West Moreton System Costs and Other Technical Matters in Queensland Rail's 2025 DAU, 19 April 2024

[4] Draft Decision, page 88

(h) Two-part tariff structure: The Draft Decision supports the continuation of the two-part tariff structure. NHG can accept this, however, as the QCA has noted in the Draft Decision[5], NHG has asked that the QCA confirm that Cameby Downs and Wilkie Creek mines would be paying sufficient revenue to cover at least the incremental costs of their services. The QCA notes, but does not respond to, this request. NHG considers that this is a reasonable request and that a response should be provided, however we acknowledge that this calculation can only be performed when the approach to tariffs has been settled.

4 West Moreton WACC

4.1 Overview

The Draft Decision expresses the view that Queensland Rail's proposed indicative rate of return of 7.39% is reasonable. The QCA considers that a rate of return at this level would be sufficient to promote efficient investment in the infrastructure required to provide the West Moreton route service.[6]

The QCA has clearly taken into account the interests of QR in providing a return that is *high enough* to support investment in the network. However NHG is concerned that the Draft Decision does not pay sufficient attention to ensuring that the rate of return is *not too high.*

In particular NHG notes that:

- The QCA's bottom-up assessment produces a WACC of 6.70%. This is based on conventional methods as per the Rate of Return Review, with an equity beta that NHG considers to be generous. By incorporating a relatively high equity beta, this bottom-up estimate already errs on the side of overcompensating for risk.
- In concluding that a return of 7.39% is reasonable, the QCA has effectively allowed for an uplift on this WACC estimate. However, the Draft Decision does not address whether such an uplift is justified for AU3, nor does it address the appropriate quantum of any adjustment. The QCA says it has not formed a view on the merits of applying a specific adjustment or 'top-up' to the bottom-up WACC estimate.[7]
- The QCA's view on the reasonableness of QR's proposed rate of return appears to be largely based on a comparison with rates of return agreed, as part of a broader package, for two other coal-carrying systems (Aurizon Network and ARTC). NHG considers that this is not a sufficient basis for assessing the reasonableness of QR's proposal.

Each of these issues is addressed below.

4.2 Bottom-up estimate overcompensates for risk

The QCA's bottom-up WACC estimate of 6.70% assumes a risk profile that is between regulated energy and water businesses and unregulated toll roads. It is a rate of return that is commensurate with this assumed level of risk.

[5] Draft Decision, page 88

[6] Draft Decision, p 108.

[7] Draft Decision, p 122.

NHG has previously noted that QR's risk profile is broadly aligned with regulated energy and water businesses.[8] On most factors relevant to systematic risk, QR is much more similar to regulated energy / water businesses than toll roads. In particular, due to the availability of revenue protection mechanisms and the nature of customer demand, QR (like most regulated utility businesses) has relatively limited exposure to fluctuations in domestic economic conditions.

NHG therefore considers that a WACC of 6.70% would *overcompensate* for the regulatory and commercial risks involved in QR's provision of West Moreton services.

4.3 Uplift to bottom-up estimate not justified

Neither the Draft Decision nor QR's submissions provide any justification for an uplift for AU3. It is not explained why QR should be allowed a rate of return for AU3 that is materially higher than the WACC calculated in accordance with conventional methods (as per the Rate of Return Review).

As previously noted by NHG, an uplift was allowed for AU2 to address a specific short-term issue – i.e. the short-term uncertainty around New Hope's New Acland Stage 3 mine approval.[9] This uncertainty is now largely resolved, and will be fully resolved well before the term of AU3 commences. Therefore, the temporary uplift that was allowed in AU2 to account for this is no longer justified.[10]

Neither QR nor the QCA provides any alternative justification for an uplift for AU3. The Draft Decision states that "*we have not formed a view on the merits of applying a specific adjustment or 'top-up' to the bottom-up WACC estimate consistent with the approach used to estimate Queensland Rail's WACC for AU2*".[11]

The Draft Decision notes that some volume uncertainty may remain for the AU3 regulatory period.[12] To the extent any volume uncertainty does remain, NHG considers that this is appropriately accounted for in the equity beta and credit rating assumptions. The sample used by the QCA for estimation of the equity beta includes businesses that face considerable volume risk, particularly toll roads.

The mere existence of some volume risk does not justify a separate uplift above the calculated WACC.

4.4 Continuing AU2 uplifts requires justification

In accepting QR's approach as 'reasonable', the QCA notes that it is in line with the approach adopted for AU2. The Draft Decision notes:[13]

- Queensland Rail's overall approach for calculating its proposed rate of return is consistent with that applied to calculate the approved rate of return for the 2020 access undertaking.
- We consider that taking this approach to calculate the rate of return for the 2025 DAU is reasonable, given there have been no material changes in Queensland Rail's overall risk profile.

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[8] NHG submission dated 2 February 2024, section 6.3.

[9] AU2 Decision, p 49.

[10] NHG submission dated 2 February 2024, section 6.2.

[11] Draft Decision, p 122.

[12] Draft Decision, p 121.

[13] Draft Decision, p 119.

NHG does not agree that simply following the AU2 method makes QR's proposal 'reasonable'. A key element of the AU2 method was the specific uplift to address short-term uncertainty. For reasons set out above and in NHG's February submission, this uplift is no longer justified.

Further, the Draft Decision notes that "*Queensland Rail has proposed various measures to reduce its risks in investing in and maintaining the infrastructure that provides the West Moreton route service*"[14]. This includes accelerated depreciation, which the QCA says "*may be appropriate to approve….as part of a balanced risk-sharing approach*". Given that the details of any "balanced risk sharing approach" have not been agreed, and that the Draft Decision does not suggest any particular scheme in this regard, it is not clear to us how any particular WACC can be considered reasonable at this time. For example, we do not know whether the QCA considers the proposed WACC to be reasonable without accelerated depreciation (and potentially requires a downward adjustment with accelerated depreciation). This is just one example of an unresolved matter which impacts QR's risk profile, and there are many.

The QCA cannot reasonably conclude that continuing with the AU2 approach is reasonable without considering the merits of maintaining the AU2 uplift in the context of final outcomes in respect of all matters which have a material impact on QR's risk profile.

4.5 Relevant comparators do not support QR claim

The Draft Decision states that in assessing the reasonableness of QR's proposal, it also compared QR's proposal to the WACC values adopted for other Australian regulated entities.[15]

The Draft Decision includes a comparison with five benchmarks:[16]

- an estimate based on the AER's Rate of Return Instrument but with a different averaging period and different approach to the cost of debt;
- two estimates for WA railways, which NHG has previously noted have different risk profiles to QR; and
- WACC outcomes negotiated as part of a broader commercial package for two coal-carrying rail networks – Aurizon Network and the ARTC Hunter Valley Network.

In relation to the AER comparison, NHG notes that the WACC referred to by the QCA (the AER's 'annual update' figure) is based on a different averaging period to QR's 'placeholder' period – and therefore reflects a materially higher risk-free rate. For the purposes of the AER's annual update it also applies an 'on-the-day' return on debt figure, which is materially higher than the 10-year trailing average actually applied in AER determinations.[17] On a comparable basis, the AER-allowed WACC is less than 6%. For example, the WACC allowed for Ausgrid in a recent AER determination was 5.95% (notwithstanding a risk-free rate in the relevant averaging period that was materially higher than QR's placeholder value).[18]

As previously noted[19], there are real limitations to the rail network comparators. The Arc Infrastructure and Pilbara benchmark values reflect materially higher risk exposure – as indicated by the ERA's use of North American railroads as comparators. The ARTC and Aurizon Network values do not reflect a regulatory determination of an appropriate WACC, but rather form part of a

[14] Draft Decision, p82.

[15] Draft Decision, p 119.

[16] Draft Decision, p 120 (Figure 10).

[17] AER, Rate of Return Annual Update 2023 December 2023, p 4.

[18] AER, Final Decision Ausgrid Electricity Distribution Determination 2024 to 2029 (Overview), April 2024, p 14.

[19] NHG submission dated 2 February 2024, section 6.5.

broader negotiated package. In both cases, the acceptance of these WACC values by users was conditional on the service providers making additional commitments and taking on greater risk.[20] The ARTC value is particularly difficult to compare with the QR proposal as neither the ARTC proposal nor the ACCC decision specify underlying parameter values.[21] Therefore it is not clear how the ARTC value can be normalised for changes in market parameters.

NHG considers that a proper comparison must include WACCs determined by regulators for businesses with a comparable risk profile – including regulated energy and water businesses. NHG presented this type of comparison in its February submission.[22] When compared to an appropriate benchmark set, QR's proposed WACC does not appear reasonable.

5 Concerns in relation to 2023 DAU and SAA wording

NHG acknowledges that QR has sought only incremental changes to the drafting of AU2, and NHG supports this approach. However, we continue to have concerns with some of the proposed changes.

We have provided a short summary table below in relation to selected QCA decisions regarding these matters:

QCA Decision	NHG High Level Position
QCA Draft Decision (Summary 4.1) – Ad Hoc Train Services	NHG supports a short specified timeframe for responding to ad hoc service requests with a view of maximising utilisation of the rail.
QCA Draft Decision (Summary 4.2) – Various SAA claims and insurance issues	NHG supports: • the requirement of claim notices being limited to full details 'to the extent known' by the Party making the claim • Operator's associates, agents and other parties being able to either be covered by the Operator's insurance or have their own separate insurance (to allow them to pursue the most efficient rates for obtaining the required insurances at the time) • Aurizon's proposals regarding coverage and deductible levels, minimum financial strength requirements for insurers and notification of claims being limited to claims on insurance relating to the relevant agreement
QCA Draft Decision (Summary 4.3) – Aligning dispute resolution processes	NHG would support the timeframes for disputes being aligned between the Standard Access Agreement and Undertaking (so suggest 20 Business Days in 19.2(d) of the Undertaking is reduced to 10 Business Days to achieve that).

[20] In the case of ARTC, this included a step increase in the track utilisation through the term of the undertaking, which ARTC noted increased its service risk profile (ARTC Explanatory Guide, December 2020, p 19).

[21] It is not clear to NHG how the ARTC WACC has been normalised in the Draft Decision. The note Figure 10 indicates that information from a 2017 draft decision was used. However the relevant WACC value was agreed and specified in a December 2020 undertaking variation. In its explanatory guide ARTC emphasised that "parties have agreed that the rates of return reflect an appropriate balance of risks, without focusing on a parameter based build up. No rate of return parameters will therefore be defined…" (ARTC Explanatory Guide, December 2020, p 19).

[22] NHG submission dated 2 February 2024, section 6.5.

QCA Draft Decision (Summary 4.4) – Assignment by QR of access agreements	NHG accepts QR having a right to assign access agreements where it assigns the network, but continues to support confining the right to assign to circumstances where the assignee is responsible for the network, NHG would support this being implemented through inclusion of previously proposed NHG drafting with an additional qualification - in the event of a change in operator that only concerns part of the network relevant to access rights being assigned, that the assignee agrees to coordinate scheduling with QR to continue to provide through running train paths across the networks.
QCA Draft Decision (Summary 4.5) – Performance indicator reporting	NHG continues to support greater transparency and performance reports. We note the suggestions in the Aurizon proposal and consider them generally an improvement on what is currently contained in the standard access agreement. However, NHG is also discussing specific reporting for the South West User Group with QR and would like a further opportunity to seek to resolve an agreed set of parameters (and will provide suggested drafting amendments incorporating most of the Aurizon proposed amendments in the event we ultimately can't resolve that with QR).
QCA Draft Decision (Summary 6.1) – Network Management Principles	NHG supports a shorter time frame of 1 month for modifying the MTP where a request to modify the MTP does not impact other access holders (as where other access holders are not impacted, quicker modifications will facilitate increases in volume on the line). NHG supports a process in the NMP to incorporate changes to contracted paths in between public revisions of the MTP (so the MTP remains more up to date).
QCA Draft Decision (Summary 7.1) – Planned Possessions	NHG continues to consider it is inappropriate for QR to be able to implement planned possessions which are disputed (particularly where QR indicates it cannot report Ad Hoc Planed Possessions), so that QR is accountable for these possessions (which have real consequences for producers in terms of haulage take or pay, demurrage and in some cases lost coal sales),. NHG is willing to support a contracted time frame for the resolution of such disputes to seek to address QR's concerns.
QCA Draft Decision (Summary 8.1) – Greater customer involvement in approval process	NHG continues to support meaningful customer involvement in the capex assessment and approval process. It considers this would be best achieved by: • Requiring QR to seek approval of West Moreton Users for projects of material value (with provision of meaningful information on costs, timing and rationale for capex as part of a robust business case for that capex project) • If unanimously accepted by users, then projects are deemed prudent if the project does not vary materially in scope, standard or costs from that accepted

	• If users do not accept a project as prudent, QR has the right to apply to the QCA for acceptance of the project as prudent in accordance with the existing process (so that any non-alignment between users does not prevent QR proceedings with prudent capex)
QCA Draft Decision (Summary 8.2) – Independent Capacity Review Process	NHG continues to support the introduction of an independent capacity review process for West Moreton, particularly given the magnitude of the capex program proposed and comments from Arcadis regarding capacity of the network. NHG considers a slimmed down version of the Aurizon capacity review process could be included with: • A one-off review (rather than an annual review) with triggers for a further review where there are material changes • Capacity only determined for coal traffic from West Moreton coal mines (taking into account the interfaces with the Metropolitan system, related scheduling requirements and the preserved paths for passenger and non-coal freight) NHG is open to QR proposing other simplifications to the review process (and considers it is unlikely detailed deficit provisions are needed given current volumes are below anticipated capacity). NHG would also be supportive of an independent capacity assessment occurring as part of the QCA's process for consideration of DAU3. Where that was to occur, NHG submits that: • consultation should occur as soon as possible on the process for establishing inputs into the capacity modelling; • the proposed independent capacity modeller should provide sufficient details of their proposed approach to capacity assessment to the existing West Moreton coal supply chain participants for them to provide meaningful feedback (either in submissions or a workshop); and • consideration should still be given to triggers for a reassessment of capacity during the term of the undertaking.
QCA Draft Decision (Summary 8.3) – Balance risk sharing approach (accelerated depreciation, volume triggers, capex reconciliations and renewal rights)	As noted above, NHG considers that if the level of capex QR is proposing is genuinely required to replace life expired assets, then that strongly suggests the current material RAB is significantly overvalued and should be optimised significantly downwards. Volume triggers should expressly operate on an increase or decrease in volumes (as against forecast), require a review of the capital indicator and estimated opex and maintenance

	costs, and reconsideration of the appropriateness of the tariff (including having regard to affordability). It is not clear to NHG why: • 'Evergreen' renewal rights for current users should be dependent on accepting other positions when there is no evident third parties which would be precluded from accessing the railway and the existing users are being asked to underwrite the entirety of the costs allocated to coal of the West Moreton and Metropolitan system • Capital reconciliation is not a good idea irrespective of other settings, as if capex is not being spent it should not be charged for. However, in the event of continued volume uncertainty it would be preferable for the capex program to be reduced and deferred as much as possible so that we are not dealing with QR seeking a return on and of capital that is not justified by the volume remaining on the line and which would, if provided, result in an unaffordable tariff that results in volume falling further on the line.
QCA Draft Decision (Summary 8.5) – Private infrastructure	NHG supports the QCA's decisions that private infrastructure is included in the tariff calculation subject to a rebate arrangement and a prudency process (so as to provide equitable treatment as between access holders).
QCA Draft Decision (Summary 8.6) – Mechanism for addressing accumulated capital losses	NHG understands that with New Wilkie ceasing railing while in administration, it is unlikely the accumulated capital losses for the current period will be recovered in the current period. As discussed above, it also considers that an affordability based tariff is critically required for producers and the rail network. NHG considers that the previous decision in respect of the current undertaking was clear that the capitalised losses should be written down over a 5 year period if volumes were not sufficient for an affordable tariff to recover the capitalised losses. That needs to be a feature of the next access undertaking so that an unsustainable bank of capitalised losses is built up in respect of the network.

6 Conclusions

As discussed above, NHG has serious concerns with the tariff proposal, which will provide an unaffordable tariff that is likely to result in volume dropping further on the line.

NHG will continue to seek to engage with QR to seek to resolve this and other issues, but consider that process would be significantly assisted with the QCA implementing one or more of the pathways referred to in section 1 of this submission (i.e. extension, more time for collaboration decisions and QCA guidance papers on potential decisions).

As always, please do not hesitate to contact us if you have any queries on the above submission.