QUEENSLAND resources COUNCIL

Working together for a **shared future**

18 May 2016

John Hindmarsh
Chief Executive Officer
Queensland Competition Authority
Level 27,145 Ann Street
Brisbane QLD 4000

Email: rail@qca.org.au

Dear Mr Hindmarsh,

SUFA Rental Streams if CQCN no longer declared – QRC Submission

The Queensland Resources Council (**QRC**) appreciates the opportunity to provide feedback on the QCA's Position Paper of April 2016.

QRC supports the QCA's views, as set out in the Position Paper, including the QCA's comments on the importance to SUFA investors of clarity regarding post-regulatory revenue streams and on the deficiencies of the Aurizon Network's Proposal.

Aurizon Network's proposal goes further than creating uncertainty; the proposal involves Aurizon Network retaining any revenue from SUFA assets which is in excess of that which would have applied under the Final Regulatory Regime, but passes the risk to the SUFA funders where the SUFA assets are deemed to earn less than under the Final Regulatory Regime. We see no justification for Aurizon Network's proposal to capture upside from SUFA assets, while not being exposed to risk.

QRC supports the three guiding principles which the QCA has included in section 1.5 of the Position Paper:

- Investors in heavy infrastructure industries generally only consider investing if they are sufficiently confident of the return of the value of their investment within an appropriate timeframe. This is the case regardless of whether the industry is regulated or not.

- SUFA funders have a legitimate expectation that if the CQCN declaration expires or is revoked they will receive a suitable return attributable to their investment, subject to prevailing market conditions.

- The regulatory process prior to the CQCN declaration expiring or being revoked would, based on the regulatory principles and assumptions in place at that time, be capable of identifying a notional benchmark SUFA rental stream that would ensure SUFA funders recoup the value of their investment.

Our comments on each of the QCA's alternative options are set out below:

Negotiate an outcome
Our understanding of this option is that it involves the parties seeking to negotiate at/around the time at which the CQCN ceases to be declared, rather than at the time of entering into the SUFA documents. The workability of this option is dependent on effective and balanced dispute resolution processes. In order to create some certainty for all parties, the dispute resolution provision should provide guidelines for the expert regarding the basis on which the rental stream of the SUFA assets should be determined. These guidelines could include:

- A statement of principles, based on the guiding principles suggested by the QCA (and set out above); and
- Reference to one or more alternative options for determining the revenue stream, such as the options discussed below.

Pay out SUFA funders based on NPV of notional revenue stream
QRC considers that this would be a reasonable approach only if Aurizon Network accepted (in the SUFA agreements) an obligation to pay out the SUFA funders based on a formula specified within the agreements. In this case, Aurizon Network would be accepting the risks and potential benefits of actual returns on the relevant assets varying from those implied in the notional revenue stream. In contrast, providing Aurizon Network with an option to pay out the SUFA funders would provide Aurizon Network with upside benefits but no risk.

Pay SUFA funders a defined rental stream based on the notional revenue stream
This option provides certainty for SUFA funders. Risk of the returns (positive and negative) on the relevant assets beyond the regulatory period is transferred to Aurizon Network.

Pay SUFA funders a variable rental stream related to the CQCN return on assets
This option seeks to measure the returns on CQCN assets and to distribute these returns between various assets, including SUFA funded assets, on an equitable basis as determined by an expert. This option exposes SUFA funders to both the risks and rewards of changes in the returns being earned on CQCN assets, and therefore does not provide SUFA funders with certainty of returns. However, the option may be workable if the SUFA documents set out, in reasonable detail, an equitable approach to determining the returns.

Yours sincerely

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