



1st June 2012

Chief Executive Officer
Queensland Competition Authority
GPO Box 2257
BRISBANE QLD 4001

Dear Sir

Queensland Rail 2012 Draft Access Undertaking (DAU)

Thank you for the opportunity to provide this submission to the Queensland Competition Authority (QCA) Issues Paper "*Queensland Rail's 2012 Draft Access Undertaking*".

The Association of Mining and Exploration Companies (AMEC) is the peak national industry body for mineral exploration and mining companies within Australia. The membership of AMEC comprises over 360 explorers, emerging miners and the companies servicing them.

AMEC's strategic objective is to secure an environment that provides clarity and certainty for successful and prosperous mineral exploration and mining in Australia in a commercially, politically, socially and environmentally responsible manner.

It is in this context that this submission is made.

AMEC has limited its commentary to the questions contained in the Issues Paper. This submission has been prepared with the assistance of AMEC's expert-based Infrastructure Working Group and Queensland-based AMEC members. AMEC will continue to consult with members as necessary as the Queensland Competition Authority consultation process runs its course.

AMEC strongly supports long term, co-ordinated and effective strategic planning for transport infrastructure as it is critically important for the mining and mineral exploration sector, and should be promoted at every opportunity in order to encourage industry growth.

AMEC appreciates that some stakeholders will have significantly different points of view with regards to access to public infrastructure however the market capitalisation of most mid-tier exploration and mining companies is such that there is a financial barrier to their participation in any infrastructure construction projects. Therefore AMEC encourages the QCA to consider this Draft Access Undertaking from the point of view of small and mid-cap mineral exploration and mining companies, and not just the major users of Queensland Rail's current assets.

AMEC's responses to the various specific questions raised in the Issues Paper are contained in **Appendix 1**.

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In accordance with normal accountability and transparency protocols, AMEC expects that this, and other submissions, will be made publicly available.

Should you require further clarification on the responses or wish to meet on any element of this submission please feel free to contact Bernie Hogan, Queensland Regional Manager for AMEC or myself.

Yours faithfully,

A large black rectangular redaction box covering the signature area.

Simon Bennison
Chief Executive Officer

APPENDIX 1

Is QRail's proposal to extend the existing western system tariff until June 2013 reasonable? Is the proposed mechanism for putting in place a new tariff effective?

No comment.

Is it necessary to have a trigger in the undertaking for QRail to introduce ring-fencing if competitors enter the market for above-rail passenger services?

No comment.

Do the amended network management principles and pricing principles retain the necessary protections for access seekers and access holders?

AMEC supports the proposed network management principles, in that, services are according to schedule and the process is simplified.

With regards to the pricing principles, AMEC considers the concept of pricing based upon a train path charge and gross tonne kilometre charge should be supported for simplicity. Charges in this style promote efficiency of infrastructure use.

The proposed removal of the restrictions on establishing access charges for the purpose of preventing or hindering access by a third party access seeker in any market where it is in competition with a related party operator, is not supported by AMEC as it appears to be focussed particularly on reducing competition in the market. AMEC supports competitive markets that encourage greater service levels and foster innovation in all sectors.

Are access seekers'/holders' rights adversely affected by moving the network diagrams, interface risk management plan, environmental investigation and risk management process, operating plan template and operating requirements manual from the undertaking to QRail's website? If so, why and what should be done to protect access seekers' and access holders' rights?

AMEC supports the concept of moving these documents to QRail's website. It is AMEC's goal to establish clarity and certainty and full transparency for members on every policy requirement. As such, the access to these documents simply and easily online is recommended as a positive course of action for QRail.

AMEC contends that to protect the rights of all stakeholders, both access seekers and access holders, the DAU should require QRail to keep these documents current and up to date with any variations at all times.

Does the investment framework proposed by QRail in section 1.4 of the DAU offer sufficient protection for access seekers and access holders? Does it adequately set out the rights of users who fund or underwrite infrastructure required to provide their access? Is it reasonable and efficient that QRail construct, own, operate and manage all user-funded infrastructure? Why?

The investment framework proposed in section 1.4 is considered to be at very high level and lacking much of the detail required to provide any substantive comments by potential users

interested in funding extensions. It is recognised that any potential funding of an extension will be commercially agreed arrangements. However, basic principles should apply to protect funding access seeker rights.

To encourage participation in the user-funded infrastructure projects, AMEC proposes that the section 1.4.2 ("Construction, ownership, operation and management of Extensions") should require that any commercial arrangements entered into with QRail for the user funding of an extension are tax effective for the funder. Consideration should be made for the funder to realise this investment in future year's tax implications. AMEC members believe it is imperative that a commercially acceptable framework is accessible to potential funders in order for companies to consider funding future projects.

The access holder funding an extension should be entitled to priority for renewal of the respective access entitlements upon Access Agreement expiry, and within an agreed specified timeframe.

Is it reasonable for QRail to remove from its undertaking the provisions governing the use of access conditions? Are the pricing limits sufficient to protect access seekers/holders, or should the undertaking include some restrictions on access conditions? Why?

AMEC would not support the removal of access conditions from the DAU. Pricing limits provide some form of protection regarding access but without regulated conditions there is little protection for investment. This will complicate the investment decision for interested proponents considerably.

Does the mechanism for relinquishing and transferring capacity provide sufficient safeguards of access holders'/seekers' rights?

No comment.

Would it be prudent to provide certainty to access seekers and protection to QRail, for the undertaking to indicate how QRail would select between multiple access seekers offering the same terms for capacity on QRail's network? Should this take the form of principles for selecting between those users, or a formal queuing mechanism? Why?

AMEC supports the suggestion of a Selection Criteria for the satisfaction of like access requests. A simple proposal for this process would be for "first compliant application" that is received is granted access, after any capacity renewal has been relinquished or expanded.

A register of capacity interests should also apply where QRail has received like access requests seeking access to an existing network segment or requiring extensions to the same network segment and QRail is yet to satisfy the requests. The register can be used for the renewal of existing access rights. The register should indicate the expected availability of the existing or extension capacity.

Are the proposed standard access agreements for western system coal services consistent with the proposed undertaking and the QCA Act? Is it reasonable to provide standard access agreements for rolling stock operators, but not for end users?

It is understood that by offering standard access agreement to rolling stock operators, QRail is able to limit the potential service providers and ensure a safe and well-maintained system. This is supported by AMEC.

However withholding access agreements from end users limits the competitiveness within the freight industry and reduces the choice of AMEC producer members when considering their transport options.

Does QRail's proposed treatment of liability for dangerous goods in the access agreement principles place the costs and liability in the hands of the party best able to manage the risks?

AMEC considers the proposed treatment of liability for dangerous goods to be appropriate.

Will access seekers/holders be adequately protected, given QRail is vertically integrated with an above-rail passenger business (but not an above-rail freight business)?

AMEC considers that the lack of an above rail freight business does not abrogate the necessity for reasonable transparency and independent treatment of access arrangements. The passenger business provided by QRail may be legislated to have priority, however it should not be used as an impediment to third party access and to ensure that the network capacity is best utilised.

Is it reasonable that parties seeking access to passenger stations and platforms for freight services apply through the provisions in the QCA Act, and not through a process detailed in an undertaking?

AMEC is committed to the reduction of duplication and red tape with regards to Approvals. With this in mind, AMEC suggests that any effort to streamline the access to passenger stations and platforms should be adopted. Ideally, all access requests should be completed through one mechanism, at one time.