30 January 2015

Mr Malcolm Roberts
Chairman
Queensland Competition Authority
Level 27, 145 Ann Street
Brisbane Qld 4000

By email: rail@qca.org.au

Dear Malcolm,

QCA Draft Decision - Aurizon Network's 2013 Standard User Funding Agreement DAAU

Vale Australia Pty Ltd (**Vale**) welcomes the opportunity to provide a submission to the Queensland Competition Authority (**QCA**) in respect of the Draft Decision on the proposed Standard User Funding Agreement (**SUFA**) draft amending access undertaking (**DAAU**) submitted by Aurizon Network Pty Ltd (**Aurizon**). Vale believes this issue is vital to provide an opportunity to efficiently expand the rail network, and provide a credible funding alternative, given Aurizon is unlikely to invest in any significant investments unless they gain additional access conditions. Vale supports the QCA's draft decision to not approve the 2013 SUFA DAAU in its current form, and the proposed view of the QCA, that SUFA needs to be a workable, bankable, and credible solution.

Vale Australia Pty Ltd has been an active participant in the Queensland Resources Council's (**QRC**) efforts to develop an agreed industry position regarding this matter. We note that the QRC will be submitting an industry submission, from these discussions, to the QCA. Vale takes this opportunity to endorse the QRC's submission to the QCA. Vale would also like to provide further comments to support its position on SUFA.

Vale considers the development of a credible and efficient investment framework to be one of the most critical objectives for the future competitiveness of the Queensland Coal Industry. SUFA must provide a solution that cannot easily be discriminated against, must be aligned with an expansion process, and provide a real funding alternative to Access Seekers to provide a competitive market for funding of Extensions of the rail network.

Vale believes this is important as

- Aurizon's approach to network expansions has dramatically changed under private ownership.

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- Capital allocation within the Aurizon Group appears to focus on highest returns and does not consider the lower risk position under the regulated environment which theoretically should always produce a lower return.
- Aurizon's approach to returns appears to be viewed in comparison to Class 1 US railways which Vale believes has a significantly different risk position.
- Aurizon has a natural monopoly position in the expansion and funding of the Central Queensland Coal Network.

Vale believes these factors will continue to push Aurizon to seek greater returns within the regulated environment which will require the SUFA to be a very robust system that provides competition and transparency in the funding environment and to ensure that any alternative funding approach does not create an opportunity for discrimination. Therefore, Vale generally supports the required changes proposed by the QCA in its draft decision.

Vale notes that the QCA has proposed that the SUFA be assessed in relation to the expansion process that is being developed as part of the 2014 DAU arrangements. Vale supports this approach due to the likely efficiencies to be gained, although, believes it is important to recognise that acceptance of changes to the 2014 DAU should not be negotiated against the SUFA arrangements as it relates to the 2010 AU.

The QCA's draft decision notes that the 2014 DAU expansion process still needs to reach an agreement on planning, capacity assessments, and pre-approval of expansions. . Vale believes it will be critical that the planning, capacity assessments and pre-approval of expansion elements include timely and efficient decision making processes to ensure that they do not diminish the competitiveness of a SUFA funder. As the proposal is for Aurizon to perform the construction work it will be important that these elements are not used by Aurizon to their commercial advantage. For example the Coal Rail Infrastructure Master Plan (CRIMP) was established to reduce the optimisation risk of Aurizon, however, there was no obligation on Aurizon for a timely completion of any projects approved under this process. The most recent example of this was the Blackwater duplications that were considered under the 2008 CRIMP but appeared to only be progressed by Aurizon once they were able to gain a commercial advantage by including them in the Wiggins Island Rail Project (WIRP). Vale believes It will be important that SUFA projects cannot be delayed through the planning, capacity assessment, and pre-approval phases to provide an advantage to Aurizon funded expansions.

Vale believes it would be appropriate for the QCA to also consider future review events in any final decision on SUFA. The review events should include

- Assessment of the interaction of the SUFA approach to the expansion process agreed under UT4. This will be important to ensure that any decision or positions that are agreed now are not changed by future changes in the access undertaking.
- Assessment after the first SUFA arrangement is complete. Vale believes the SUFA documentation and process is complex and therefore would propose that a review be conducted after the first SUFA arrangement has been completed to understand if it meets the key objectives of being a workable, bankable, and credible..
- Assessment once tax rulings have been obtained. The QCA has highlighted within its draft decision that there are some matters that it cannot make a decision on, as they fall well outside the scope of the QCA Act, so have assumed the issues surrounding tax have been resolved. Aurizon has developed the current SUFA arrangement in an effort to resolve the tax implications encountered in the previous SUFA models. The workability of the SUFA model is highly dependent on achieving favourable taxation rulings from the Australian Taxation Office and Vale believes that any unfavourable ruling is likely to have a serious impact on the viability of the SUFA model as a competitive funding options. Vale

believes that a review of the model should be initiated if any of the taxation rulings do not receive a favourable response from the tax office.

Vale appreciates the opportunity to provide these comments and would also like to acknowledge the efforts of all stakeholders that have assisted in achieving the current position. Vale would support all parties continuing active and effective negotiation to establish a final SUFA arrangement that achieves the QCA's requirement of being workable, bankable, and credible

For further information regarding this advice please contact myself on (07) 3136 0923.

Yours sincerely,

Anneliese Mattos
Manager Logistics Development
Vale Australia Pty Ltd