



Gladstone Ports Corporation

Growth, Prosperity, Community.

#1520854 GM:vo
Our Ref: Mr C Walker, ACEO

3 July 2019

Mr Charles Millsteed
Chief Executive Officer
Queensland Competition Authority
Level 27, 145 Ann Street
BRISBANE QLD 4001

Dear Mr Millsteed

AURIZON NETWORK – UT5 DRAFT AMENDING ACCESS UNDERTAKING

I refer to the draft amending access undertaking submitted by Aurizon Network Pty Ltd ("**Aurizon Network**") to the Queensland Competition Authority ("**QCA**") for approval on 3 May 2019.

Gladstone Ports Corporation (GPC) has not been directly involved in the consultative process by which the draft amending access undertaking was developed or been part of any negotiation relating to the "UT5 DAAU Implementation Deed". GPC has, however, discussed with Aurizon Network and its coal industry customers the draft amended access undertaking and is largely supportive of the increased and material benefits indicated including the additional certainty regarding the tenure of the draft undertaking.

While there are some matters contained in the draft amending access undertaking on which GPC does not express a view, GPC respectfully requests that the QCA carefully consider the items set out in Schedule 1 to this letter in its determination.

If you have any further concerns, please do not hesitate to contact me.

Yours sincerely

Craig Walker
ACTING CHIEF EXECUTIVE OFFICER

Schedule 1

Item	UT5 DAAU Implementation Deed Position	GPC position
<p>1 - System Capacity Assessment – Information rights (Clause 7A.4.1 and clause 7A.4.3)</p>	<p>Clause 7A.4.1(c) provides that an Independent Expert must consult with Supply Chain Participants (ie. including GPC) in relation to proposed System Operating Parameters.</p> <p>GPC notes, however, that under clause 7A.4.3(b), a System Capacity Assessment produced by the Independent Export is only produced for the benefit of Aurizon Network, Access Holder and Access Seekers (and their respective Customers and Train Operators) for a Coal System, and a copy of any such System Capacity Assessment is to be provided by the Independent Expert to Aurizon Network, the Chair of the Rail Industry Group and members of the Rail Industry Group (ie. excluding GPC) on a redacted basis.</p>	<p>The System Capacity Assessment is a document produced by the Independent Expert which will identify constraints within the supply chain, which may include constraints both at the port and its coal terminals.</p> <p>As a key supply chain provider of both port and terminal capacity, GPC considers this information to be of a material nature and requires a clear right to obtain any such information due to the potential material impact on port operations at the Port of Gladstone and impacts to GPC.</p> <p>In particular, under section 275 of the <i>Transport Infrastructure Act 1994</i> (Qld) (“TIA”), the functions of GPC include establishing, managing, and operating effective port facilities and services in in the port.</p> <p>In implementing these statutory functions and in consultation with all coal customers who hold a coal handling agreement and/or port services agreement having regard to effective historical operating procedures at the relevant mines of the customers and the Capricornia Coal Chain, GPC has developed sets of protocols and procedures that govern the operation of the port and the terminal owned by GPC and which are intended to maximise the operational efficiency at the terminal and the port for the export of coal.</p> <p>While GPC acknowledges that there is a consultation process under clause 7A.4.1(c) GPC considers that conclusions reached in the System Capacity Assessment may have a material bearing on aspects of the separate port and terminal protocols and the ability of GPC to effectively exercise its functions as a port and terminal operator under section 275 of the TIA.</p>
<p>2 - Supply Chain Coordination Entity</p>	<p>GPC notes that:</p> <ul style="list-style-type: none"> under clause 7A.8.1(a), Aurizon Network will develop a proposal (to be communicated to GPC) for consideration by all Supply Chain Participants for an independent body to undertake functions relevant to Supply Chain coordination across the Central Queensland Coal Network (Supply Chain Coordination Entity); and 	<p>Accordingly, GPC consider that any such System Capacity Assessment must be provided to GPC.</p> <p>GPC strongly supports its direct involvement in the Supply Chain Coordination Entity and working groups tasked to deliver the Supply Chain Proposal (noting the powers of the working group set out in clause 7A.8.1(e)).</p>

- under clause 7A.8.1(b), each other Supply Chain Participant (ie. including GPC) will have the right to nominate a representative to a working group tasked to deliver the Supply Chain Proposal.

3 - Participation in Rail Industry Group

Under clause 7A.11.2(a), Aurizon Network will engage with members of the Rail Industry Group for the purpose of clause 7A.11 (principally dealing with arrangements relating to maintenance of the Rail Infrastructure).
 GPC notes that, under clause 7A.11.1(a)(iii)(C), Aurizon Network must ensure that all Maintenance Work is undertaken in a manner that, when viewed holistically and subject to the Approved Maintenance Strategy... exercises due care and skill that would be expected of an experienced manager and operator of rail infrastructure of the nature of the Rail Infrastructure who has regard to coordinating outages with other Supply Chain Participants wherever reasonably possible with a view to maximising throughput.

GPC strongly supports that Aurizon Network is required to coordinate outages with other Supply Chain Participants (including GPC) under clause 7A.11.1(a)(iii)(C).

GPC would, however, like to seek stronger requirements for Aurizon Network to engage with GPC under clause 7A.11.2(a). In particular, GPC notes that the Rail Industry Group is involved in respect of the draft Maintenance Strategy.

Given the nature of matters which will be addressed in a draft Maintenance Strategy, GPC considers that there may be matters which have a material impact on port and terminal operations at the Port of Gladstone and with consequential impacts to GPC. While GPC notes that outages are required to be coordinated with Supply Chain Participants under clause 7A.11.1(a)(iii)(C), GPC should have the ability to engage in good faith discussions in relation to the draft Maintenance Strategy.

As noted above, GPC's functions under the TIA include establishing, managing, and operating effective port facilities and services in in the port. As a key Supply Chain Participant, GPC's involvement in the development of the draft Maintenance Strategy is reasonable requirement in ensuring that GPC can fulfill its statutory functions, including for the benefit of its customers.