QUEENSLAND resources COUNCIL

Resourcing Queensland's future

23rd June 2023

Mr George Passmore
Queensland Competition Authority
145 Ann Street
Brisbane QLD 4000
(Submitted via QCA Online Submission Form)

RE: QCA Draft Position Paper:
Approach to climate change related expenditure

The Queensland Resources Council ("**QRC"**), on behalf of the QRC's Rail Working Group, welcomes the opportunity to comment on the QCA's Draft Position Paper on climate change expenditure (**"Draft Position Pape**r").

QRC's comments will be limited to the issues as they apply to Aurizon Network.

1. Response to key QCA draft positions:

The Draft Position Paper appears closely aligned with the views of the QRC's Rail Working Group as set out in our submission of 16th December 2022, including:

- Existing regulatory frameworks are appropriate for considering climate change related proposals for both adaptation and mitigation expenditure;
- The QCA should be open to considering proposals for climate change related expenditure on their merits, while not actively promoting such proposals.
- Regulated businesses should be encouraged to consult with, and reach agreement with customers on climate change related expenditure proposals where possible, but may obtain QCA approval for expenditure which is not supported by customers if sufficient justification is provided.
- The current scope, standard and cost approach to assessing prudency and efficiency of expenditure is suitable for the assessment of climate change related expenditure.
- Regulated businesses should put forward coherent and credible business cases to support climate change related expenditure, with such business cases addressing the demonstrated need for the expenditure, consultation with customers,

ABN 59 050 486 952
Level 13 133 Mary St Brisbane Queensland 4000
T 07 3295 9560 F 07 3295 9570 **E** info@qrc.org.au
www.qrc.org.au

consideration of options, and efficient cost analysis.

- Climate change related expenditure is more likely to be considered prudent and efficient where it can be demonstrated that the expenditure would be undertaken by an efficient firm operating in a competitive environment.

- A range of alternatives should be considered for managing climate-related risks, including commercial insurance, and pass-through mechanisms. The QRC is concerned about the inclusion of self-insurance as part of this range for reasons explained below.

While we generally support the QCA's Draft Position Paper, we would like to highlight the following issues:

2. Rates of return and depreciation profiles

The QCA's discussion paper said that the QCA was not seeking submissions on the appropriate quantum or design of rates of return or depreciation profiles, as the QCA considered these matters could be accommodated within existing regulatory frameworks. Based on these comments, the QRC refrained from making submissions on these issues. We note that Aurizon Network and Dalrymple Bay Infrastructure made extensive submissions on these matters, supported by reports from Frontier Economics. We support the QCA's comments (Section 11.3 of the Draft Position Paper) that "*the points raised by Aurizon Network and DBI (and Frontier) do not include novel issues that would suggest changing the basic position expressed in the discussion paper – that is, the 'other matters' can be accommodated within our existing regulatory frameworks*". On that basis, we will refrain from responding to the points made in the Aurizon and Frontier documents.

3. Guideline on assessment of climate change related proposals

QRC attended the Stakeholder Forum on 15th of May and found the discussion useful. Comments from attendees were generally consistent with the Draft Position Paper. One point of contention between attendees was the merits and risks of the QCA providing a guideline on assessment of climate change related proposals. QRC shares the concerns expressed by the representative of the DBCT User Group. We consider that the existing regulatory arrangements provide QCA with wide powers and discretion in making decisions regarding climate change related expenditure, and that it is important that these powers not be fettered in any way. Each decision in this area is likely to feature a unique combination of issues which will require consideration as those issues arise. If the QCA does prefer to prepare a guideline, we suggest that it should:

- not bind the QCA or fetter its discretion in any way, and not provide a checklist of requirements which, if satisfied, suggest approval of expenditure.

- emphasise the QCA's strong expectation that regulated entities should make genuine efforts to reach agreement with customers on climate change related expenditure.

- emphasise the need for robust business cases to be prepared in support of expenditure, which demonstrate the requirement for and benefits of the expenditure, that all relevant alternatives have been considered, and that the chosen option is the most effective and efficient available (requirements which we consider apply to business cases for any type of expenditure). Given that the costs and benefits to individual stakeholders may differ (including between Aurizon Network and customers and between individual customers) the analysis of costs and benefits should address these differing perspectives and the business case should demonstrate why the recommended approach is the most suitable, taking into account these differing interests.

4. Insurance/self-insurance

The Draft Position Paper suggests that self-insurance should be considered as one of a range of options for climate change risk mitigation. We reiterate our concerns with this form of risk management, which creates regulatory debates about the valuation of risks, the appropriate premiums, and whether there is sufficient transparency regarding the types of losses that are being insured. For these reasons, QRC prefers the use of commercial insurance with third parties, where this can be achieved at reasonable rates, or otherwise cost pass-through mechanisms.

Attachment A responds to each of the QCA's consultation questions.

Thank you for the opportunity to provide this submission.

Yours sincerely

Andrew Barger
Queensland Resources Council

ABN 59 050 486 952
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www.qrc.org.au

Attachment A: Responses to QCA further consultation questions:

(1) To what extent is climate-related expenditure consistent with the access undertaking approval criteria in s. 138(2) of the QCA Act? Do the matters discussed in Chapter 3 appropriately capture the relevant considerations we ought to have regard to?

Section 138(2) of the QCA Act provides the QCA with an appropriate level of discretion for assessing expenditures, including climate change related expenditure. We consider s138(2)(e) (*the interests of persons who may seek access to the service*) to be a key consideration, given that customers will generally bear all of the costs of adaptation and mitigation expenditure and most of the risks which such expenditure seeks to address. For this reason, consultation and agreement with customers should be strongly emphasised in proposals from regulated entities and in the QCA's assessment of such proposals. However, we accept that the weight to be given to each of the s138(2) factors is a matter for the QCA to consider when considering each unique proposal.

(2) At a high level, do stakeholders accept that our processes for assessing prudency and efficiency of expenditure proposals can be effectively applied to proposals for climate change related expenditure (adaptation and mitigation)?

Yes. Climate change related expenditure may present a range of new issues, as may other types of expenditure, but the QCA's existing processes can be applied to consideration of these issues.

(3) How can our assessment approach for climate-related spending, including the expected standard of strategic planning and business cases, most effectively align with regulated businesses' existing internal processes?

We do not consider that alignment with existing internal processes should be a key concern of the QCA. The onus should be on the regulated entity to prepare robust business cases to a standard which is appropriate for assessment by the QCA, regardless of whether internal processes are currently aligned with this requirement. Regulated entities which are able to pass through costs to customers do not have a commercial need to prove the financial benefits of expenditure when seeking internal approvals, provided that the expenditure will be accepted for pass-through under the regulatory arrangements. While we hope and trust that regulated entities do prepare robust business cases despite the pass-through of costs, it is critical that the regulatory arrangements reinforce this requirement.

(4) How can the assessment approach for adaptation spending best be applied to encourage parties to solve problems through long-term planning and consultation with customers?

As previously discussed, customers will generally bear all of the costs of adaptation and mitigation expenditure and most of the risks which such expenditure seeks to address. The best way to encourage regulated entities to consult meaningfully with customers is to be clear regarding the QCA's expectations in this regard, and to apply rigorous scrutiny and a high approval threshold to proposals for expenditure which have not received the support of customers.

(5) How can the assessment approach facilitate prudent and efficient mitigation expenditure that provides value for money and meets the community's supported environmental goals?

The QCA's existing processes and powers are adequate for this assessment. We are unclear on the meaning of "*the community's supported environmental goals*' in this question. If this is a reference to legislated requirements, then of course we understand the need for regulated entities to comply. If it is a reference to more abstract expectations of particular sections of the community, then the business case must demonstrate the commercial imperative to meet these expectations.

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(6) Should we produce a guideline that indicates how we will consider climate change related expenditures? If yes, what matters should it contain, other than the matters outlined in Chapter 9?

See response in Section 3.

(7) How can the regulatory regime promote efficient climate risk approaches, including insurance and pass-through mechanisms, that balance the interests of regulated businesses and their customers?

See response in Section 4.

(8) Are our existing processes for considering financing costs and asset stranding risk sufficiently developed and flexible to deal effectively with any such matters related to climate change?

See response in Section 2.

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