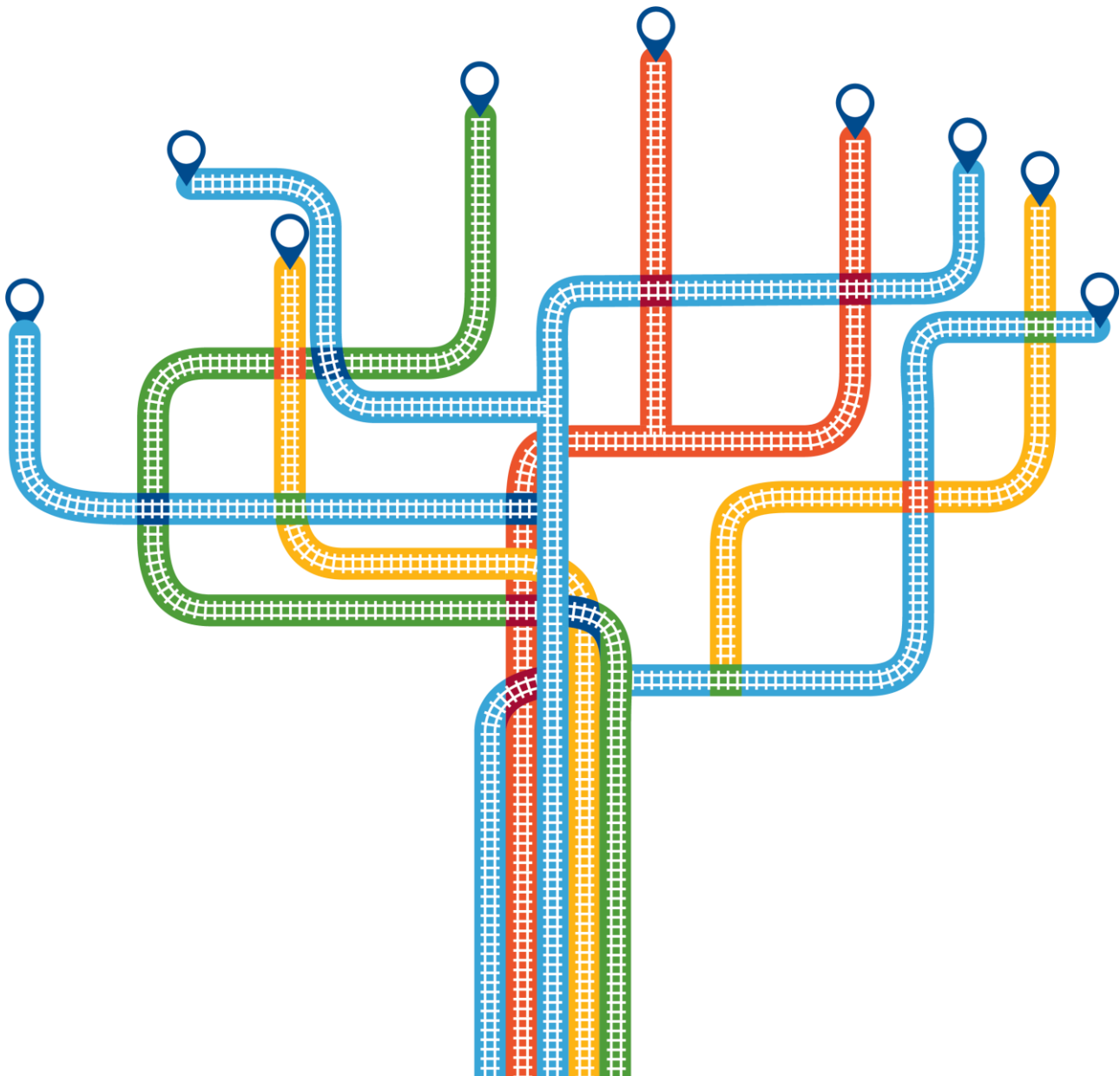


14 March 2024

Pacific National Responsive Submission to the QCA on Queensland Rail's 2025 Draft Access Undertaking

This is a public submission



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1 Executive Summary

Pacific National welcomes the opportunity to provide further comment and a responsive submission to the Queensland Competition Authority (QCA) on Queensland Rail's (QR) 2025 draft access undertaking (2025 DAU). Comments contained in this submission relate to Pacific National's operations on the North Coast Line.

This submission provides supplementary information to our 2 February 2024 submission and new issues for QCA's consideration, along with support for several matters raised in other stakeholder submissions.

In this submission Pacific National has considered the proposed 2025 DAU in terms of: the criteria outlined in s.138(2) of the Queensland Competition Authority Act (QCA Act); and from a deeper customer lens. Customer confidence is key to the success of the North Coast Line and the 2025 DAU should be framed with the end customer in mind. Findings from Pacific National surveys highlight the customer need for:

- Competitive pricing/cost
- Predictability (DIFOT¹ improved, network disruption reduced)
- Capacity and availability, at the time they want it.

In assessing the QCA Act we conclude that QR has not sufficiently justified that its 2025 DAU has had appropriate regard to the QCA approval criteria in s.138(2), primarily because it provides no incentives to encourage modal shift from road to rail nor support to grow competition with road transport. In line with this finding and our review of customer needs and other stakeholder submissions, our recommendations for the 2025 DAU (additional to our 2 February 2024 submission) include:

- Incentives for road to rail modal shift to satisfy s.138(2) of the QCA Act.
 - The 2025 DAU should provide incentives for a road to rail modal shift and deliver rail freight access price reductions on the North Coast Line that reflect the realities of the poor condition of the track. This would support competition with road transport in line with s.138(2) of the QCA Act.
- Obligations for improved QR response times to rail operators, that in turn would allow rail operators to improve service and responsiveness for their end customers.

¹ DIFOT means Delivery in Full On Time and is a measurement of delivery performance in a supply chain.

- In line with the object of Part 5 of the QCA Act to promote economically efficient operation of infrastructure and services, the 2025 DAU should have a greater focus on the efficient performance of the QR network.
- Continuation of the path relinquishment/resumption framework from QR's 2020 Access Undertaking (AU2).
 - Continuity of the relinquishment/resumption principles provides regulatory consistency and certainty for access holders in cases where investments have been predicated on the existing provisions.
- Support for Aurizon's amendment to cl.2.9 of the 2025 DAU so that if an existing access holder notifies QR it is seeking renewal of its access rights prior to expiry of its agreement, it will be placed first in any queue.
- Support for Aurizon Network's observation that more value should be placed on effective consultation and transparency of information during the 2025 DAU process.

If you would like to discuss any of the content in this submission, please contact Pacific National's Regulation Access and Policy Manager, Susan Furze at susan_furze@pacificnational.com.au.

2 Background and Context

Pacific National welcomes the opportunity to provide further comment and a responsive submission to the Queensland Competition Authority (QCA) on Queensland Rail's (QR) 2025 draft access undertaking (2025 DAU).

As with our submission of 2 February 2024, Pacific National's focus remains on the 2025 DAU as it applies to the North Coast Line. Pacific National does not operate on the West Moreton System and is not intending to comment on issues or pricing that solely apply to that system.

This submission does not contain confidential information and is a public submission.

3 Alignment of the 2025 DAU to Section 138(2) of the QCA Act

The QCA Act describes the matters which the QCA must have regard to when deciding whether to approve the 2025 DAU under s.138(2) of the QCA Act. The criteria compel the QCA to have regard to the public interest, the interests of persons who may seek access, the object of Part 5 of the QCA Act, and other matters that it deems relevant.

The proposed 2025 DAU fails these statutory obligations, primarily through its omission of incentives to encourage modal shift from road to rail or to grow upstream and downstream competition. Rail operators are forced pay for a poorly maintained network yet road freight competitors operate on well-maintained government-funded roads.

We outline below the failure of the 2025 DAU against several of the s.138(2) criteria to promote competition or make adequate provision for the public interest and the interests of rail operators who require access to the North Coast Line.

Section 138(2)(a) the object of Part 5 of the QCA Act

- The object of Part 5 is: to promote the economically efficient operation of, use of and investment in, significant infrastructure by which services are provided, with the effect of promoting effective competition in upstream and downstream markets (s.69E).
 - Promoting economically efficient operations warrants a greater focus on monitoring of the QR network.
 - Continuous improvement, improved operator responsiveness and provision of real-time data should be incorporated into the 2025 DAU. QR's conservative approach to innovative data technology and its current systems on the North Coast Line do not provide for efficient analysis, nor do they effectively highlight improvement opportunities. Similarly, there are instances where QR will not respond to rail operator requests in timely manner, as outlined in section 4.
 - The 2025 DAU provides no incentives to encourage modal shift from road to rail nor support for competition with road freight.
 - Pricing of the North Coast Line should prioritise growth of rail freight to improve the modal share, and QR access charges should reflect the positive economic externalities rail provides compared to road freight and the reduced costs to government and communities in terms of accidents, congestion, and emissions.
 - Pacific National would be open to discussing any proposed price incentives, but one suggestion is the free haulage of empty containers, with access charges waived on these movements.
 - Access charges also need to reflect the condition of the QR network and performance levels required to operate an effective rail freight market and compete with road. Road freight competitors operate on government-funded roads, while making little contribution to road upkeep other than registration and modest heavy vehicle road user charges. This reduces competition in rail freight upstream and downstream markets.

138(2)(b) the legitimate business interests of the owner or operator of the service

- QR will arguably serve its business interests through a road to rail modal shift and by increasing volumes on the North Coast Line that would reduce the average cost of providing services.
 - Although the North Coast Line is subsidised by the Queensland Government, it nonetheless must compete with road. The North Coast Line is so unreliable that there must be a strong price incentive to offset the unreliability and constant prolonged track closures, for customers to use it and not switch their freight to trucks.
 - For QR the reduction in revenue from reduced access charges would be offset by higher overall volume revenue and a fall in the average cost of providing services associated with higher train volumes.

138(2)(d) the public interest, including the public interest in having competition in markets (whether or not in Australia)

- The 2025 DAU does not meet the public interest objective of increasing traffic from road to rail.

- Moving more freight by rail delivers significantly better outcomes for the public and the community. Rail freight transport is three to four times more carbon efficient than road freight, accident costs associated with road freight are 20 times higher than rail, and rail freight generates 92 percent less PM10 emissions than road freight. For every one percent of the national freight task that moves to rail, society gains \$72 million a year in benefits.²

138(2)(e) the interests of persons who may seek access to the service, including whether adequate provision has been made for compensation if the rights of users of the service are adversely affected

- Access charges on the North Coast Line are not commensurate with the condition of the lines nor the performance levels required to operate an effective rail freight market.

4 Operational Support and Incentivising Efficient Performance

Pacific National explained in the 2 February 2024 submission that the 2025 DAU should focus on the efficient performance of the QR network and that this should include obligations for improved QR response times to rail operators. Rail operator customers are seeking speedy solutions, so if QR won't respond to rail operator requests in a timely manner, then rail operators can't provide customers with the flexibility or responsiveness they need.

There are no mandated Undertaking timeframes for QR to respond to rail operator requests designed to improve efficiency,³ and in this regard the 2025 DAU does not support the efficient operation of the QR network nor the object of Part 5 of the QCA Act.

In this follow-up submission we present additional evidence of QR's unresponsiveness to requests:

As of March 2024, Pacific National has more than six open high impact operational requests outstanding with QR, most of which require QR engineering review. The oldest request dates back to July 2023. Two specific examples of requests that QR has not addressed in a timely manner are provided below.

1. In July 2023 Pacific National requested and offered to pay for usage of QR owned equipment. The ability to use QR equipment would significantly increase the efficiency of Pacific National's operations by reducing the travel time to go and use an equivalent piece of equipment.

Despite QR indicating their willingness to enter into an agreement to facilitate use of the equipment, as of March 2024 this has still not been actioned.

2. In September 2023 Pacific National approached QR's engineering team to approve the use of wagons (currently in storage) for a specific shuttle service between Pacific National's Townsville

² ARA and FORG, Submission to the Review of the National Freight and Supply Chain Strategy, September 2023; Pacific National estimates; Association of American Railroads, Freight Rail Facts and Figures. Retrieved September 2022, from <https://www.aar.org>; <https://www.aar.org/facts-figures>

³ This is in contrast to Access renewal requests and requests to amend specific access arrangements, which have regulated timeframes for responses in the Undertaking.

terminal and the Townsville jetty. These wagons previously travelled this route while in use on the Mt Isa rail corridor.

Obtaining QR approval to use these wagons would benefit both Pacific National (by creating additional capacity) and QR (by generating increased revenue). These wagons are not suitable for the North Coast Line corridor but if they can be utilised for the Townsville shuttle service it would free up North Coast Line suitable wagons – that in turn could be used for additional services on the North Coast Line. The result would be an increase in freight being moved on rail and greater potential revenue that QR could earn from access fees.

Due to QR resourcing constraints, QR has been unable to engage on this issue in a meaningful way until very recently, and only then after Pacific National escalated the issue. This is not an appropriate level of response from a below rail operator that should be seeking to support competition in upstream and downstream markets and grow rail mode share.

QR currently does not have any requirement or commitment to address operational requests from rail operators. They don't appear to have a prioritisation system for addressing operational requests and rail operators aren't able to hold QR to account for issues and requests that have been outstanding for extended periods of time.

As a minimum, QR should be required to have a process in place to prioritise rail operator requests and to address these requests in a timely manner. In line with the object of Part 5 of the QCA Act to promote economically efficient operation of infrastructure and services, the 2025 DAU should have a greater focus on the efficient performance of the QR network. This should include obligations for improved QR response times to rail operators, that in turn would allow rail operators to improve service and responsiveness for their end customers. QR could also consider developing a priority matrix that includes response times for different levels of operational requests from rail operators.

5 Path resumption

The proposed 2025 DAU allows for relinquishments and maintains an unchanged approach from the 2020 AU2. Pacific National is supportive of the regulatory consistency and continuity this maintained approach provides to stakeholders.

Clause 21.1 of QR's 2025 DAU Standard Access Agreement allows for QR to resume underutilised paths if the access holder:

- doesn't operate on a scheduled path for seven or more (not necessarily consecutive) weeks out of any 12 consecutive weeks; and
- QR can demonstrate that it has a reasonable expectation of a sustained alternative demand for the capacity used by the Access Rights in question or receiving a commercial benefit sufficiently material to justify the resumption of the Access Rights in question.

Pacific National agrees with QR's approach to path resumptions. The carryover of the existing provisions from 2020 AU2 to the 2025 DAU provides regulatory certainty for access holders in cases where investments have been predicated on the existing provisions.

The current resumption provisions strike an appropriate balance between the need for both certainty and flexibility in intermodal supply chain contracting. The existing provisions assist with risk allocation and support the object of Part 5 of the QCA Act to promote competition. Rail operators take risks on going after new business to compete with road transport, this risk can include additional investment that may be incurred in assets and labour.

6 Queuing principles for Access Applications and Renewal

In its 2 February 2024 submission, Aurizon recommended changes to cl.2.9 of the 2025 DAU so that an access holder wanting to renew its access entitlement would be first in the queue for that capacity. This would be on the proviso that the access holder notifies QR within 120 days of the expiry of its access agreement that it wishes to renew its access entitlement.⁴

Pacific National supports this recommendation and agrees with Aurizon's concerns that the 2025 DAU queuing framework may have unintended consequences for existing rail operators or access holders, in terms of the ability to renegotiate for currently contracted paths. Rail operators need a level of certainty so they can invest with confidence and provide some assurance to end customers about continuity of service.

Aurizon's submission explained that an unintended repercussion of the queuing framework may be that it prioritises an access application (ahead of a renewing access application), if that application is lodged before the existing access holder notifies its intent to renew. To address this issue, Pacific National requests the QCA consider Aurizon's amendment to cl.2.9 of the 2025 DAU so that if an existing access holder notifies QR it is seeking renewal of its access rights prior to expiry of its agreement, it will be placed first in any queue.

7 Stakeholder Consultation

Pacific National supports the observation in Aurizon Network's 2 February 2024 submission that QR's 2025 DAU Explanatory Document⁵ would have been more constructive had it described how QR engaged stakeholders when consulting on the 2025 DAU.⁶

As Aurizon Network explains, it would have been in keeping with best practice regulation for QR to provide information in its 2025 DAU Explanatory Document that described:

- the nature and scope of the engagement with various stakeholders;
- the extent to which stakeholders were given the opportunity to inform and influence the various policy and revenue proposals outlined within the 2025 DAU;

⁴ Aurizon submission to QCA on Queensland Rail 2025 Draft Access Undertaking p36, 2 February 2024

⁵ Queensland Rail, Draft Access Undertaking 3 (DAU3) Explanatory Document, 10 November 2023

⁶ Aurizon Network submission on the Queensland Rail 2025 Draft Access Undertaking p3, 2 February 2024.

- whether stakeholders requested policy changes that QR has elected not to include within the 2025 DAU (and the reasons why);
- the extent to which stakeholders support the various policy and revenue proposals outlined within the 2025 DAU; and
- any amendments to the 2025 DAU following stakeholder feedback.

As Aurizon Network points out, the value of effective stakeholder engagement has been recognised in the QCA's Statement of Regulatory Intent as promoting a more informed decision making process and better regulatory outcomes.⁷

A useful benchmark is ARTC's Explanatory Guide for the 2024 Interstate Access Undertaking. In it, the ARTC provide detailed stakeholder engagement information and demonstrate the extent to which stakeholders were consulted and how their input shaped the drafting and final form of the Undertaking.⁸

8 Concluding Comments

We again welcome this further opportunity to engage on the 2025 DAU and thank the QCA for its desire to deliver an informed undertaking process.

The requirement to deliver regulatory outcomes and a rail network in Queensland that is efficient, fit for purpose, and competitive with road transport has never been greater. The growing importance of these issues and the need for a forward-looking rail network that supports end customers must be reflected in the 2025 DAU. This will be critical to encouraging road to rail modal shift to support improved social and environmental outcomes.

We trust you find our feedback useful in informing your consideration of the 2025 DAU and would welcome further discussion and can provide additional context and explanatory material upon request.

⁷ Aurizon Network submission on the Queensland Rail 2025 Draft Access Undertaking p3, 2 February 2024.

⁸ ARTC, Explanatory Guide for the 2024 Interstate Access Undertaking provided in support of ARTC's submission of the 2024 IAU to the ACCC, 12 December 2023