

File Ref: 1303120

19 July 2018

Mr Nick Easy
Chief Executive Officer
Queensland Rail
GPO Box 1429
Brisbane Qld 4001

Dear Mr Easy

Final decision to approve New Hope Review Event

On 19 July 2018, the Queensland Competition Authority made a final decision to approve varying the West Moreton reference tariff to reflect the New Hope review event of 1 July 2018, as per Queensland Rail's application on the 9 April 2018.

The attached decision notice provides a summary of the QCA's assessment of the review event.

If you have any questions about this decision notice, please contact Clotilde Bélanger at (07) 3222 0587 or clotilde.belanger@qca.org.au.

Yours sincerely



Charles Millsted
Chief Executive Officer

FINAL DECISION NOTICE

QUEENSLAND RAIL'S APPLICATION: NEW HOPE REVIEW EVENT 1 JULY 2018

19 July 2018

The Queensland Competition Authority made a final decision to approve a variation of the West Moreton reference tariff resulting from the New Hope Review Event of 1 July 2018.

Queensland Rail's application

On 9 April 2018 Queensland Rail applied to increase the West Moreton reference tariffs to reflect a pending reduction in the number of contracted train paths from New Hope's New Acland mine.

The QCA has assessed the review event application in accordance with Schedule D, clause 5 of the 2016 Access Undertaking (2016 AU).

The reduction in train paths is expected to increase the West Moreton two part tariff (in 2016–17 dollars) as at 1 July 2018 as follows:

- AT1: from \$7.95/'000 gross tonne kilometres (gtk) to \$8.31/'000 gtk (\$0.37/'000 gtk) (4.64%)
- AT2: from \$2,791.20/train path to \$2,965.51/train path (\$174.31/train path) (6.25%)¹

Background

A review event is defined as:

- (a) a material change in circumstances, other than a change to a Network Capacity Constraint, that Queensland Rail can reasonably demonstrate may give rise to a need to vary the relevant Reference Tariff; and
 - (i) in respect of which Queensland Rail has given written notice to the QCA of Queensland Rail's intention to propose a variation to that Reference Tariff under clause 5 of schedule D;

In assessing whether a review event has occurred and can be approved, the QCA must consider whether it is appropriate with regard to the criteria in section 138(2) of the QCA Act. These criteria include promoting economically efficient operation of, use of and investment in regulated infrastructure, with the effect of promoting competition in related markets. They also encompass the legitimate business interests of Queensland Rail, the interests of access seekers and access holders, and more broadly, the public interest.

¹ Tariffs are escalated annually using actual CPI (see Schedule D, cl. 3.3(a)).

The QCA's June 2016 decision on Queensland Rail's 2015 draft access undertaking (the June 2016 decision) contemplated that a review event might occur during the term of the undertaking, saying:

The QCA requires Queensland Rail to amend the process for varying reference tariffs in relation to review events to explicitly state that, in considering such proposed variations, the QCA will have regard to the approval criteria in section 138(2) of the QCA Act.²

The final decision said not doing so:

would have the potential to prejudice the efficient use of and investment in rail infrastructure; the interests of Queensland Rail, its access seekers and holders, and their customer; and the public interest.³

QCA draft decision

On 21 June 2018 the QCA made a draft decision to approve Queensland Rail's review event application. QCA assessed the review event against Schedule D, clause 5 of the 2016 AU as well as the 138(2) criteria in the QCA Act.

A detailed analysis of the review event, approval criteria and QCA's reasoning can be found in its draft decision.⁴

QCA considers a symmetric approach between review events (which raise the tariff), and endorsed variation events (which lower it) is most appropriate in this particular circumstance. A symmetric approach would encourage consistent access holder behaviour in that there is always an incentive to contract for paths they reasonably expect to use, as they will benefit from lower prices.

The QCA considers the tariff variation arising from the review event is likely to:

- give Queensland Rail greater certainty it will recover more of its efficient costs, which promotes its legitimate business interest and has regard to the pricing principles (s. 138(2)(b) and (g))
- encourage access holders and seekers to increase contracted paths to reduce the tariff, in line with expected demand, providing certainty and promoting efficient pricing which is in the public interest (s.138(2)(d))
- promote the efficient use of, operation of and investment in rail infrastructure (s.138(2)(a)) by:
 - encouraging access holders who efficiently use rail infrastructure to reflect this behaviour in their contracting rather than risk under-contracting and being exposed to ad hoc path availability
 - encouraging Queensland Rail to efficiently invest in and operate rail infrastructure as it receives sufficient revenue for the investment risk.

Consultation

The QCA published its draft decision on Queensland Rail's review event and sought stakeholder comments. The QCA received no submission by the deadline.

Consistency with draft decision

The QCA's draft decision on QR's review event set out the QCA's view of QR's proposal. The draft decision also responded to the various concerns raised by New Hope in its submission.

Given the matters raised by New Hope have been addressed in the draft decision, the QCA has decided to move to a final decision. In doing so, and unless inconsistent with any position taken in this decision document, the QCA has adopted the reasoning and position set out in its earlier draft decision.

² QCA, Queensland Rail Draft Access Undertaking 2015, final decision, June 2016, p. 177

³ QCA, Queensland Rail Draft Access Undertaking 2015, final decision, June 2016, p. 177

⁴ QCA, New Hope July 2018 Review Event, draft decision, June 2018

Final decision

The QCA has assessed the review event application against the matters set out in Schedule D, clause 5.4(a)(ii) and considers that the application is consistent with the undertaking. In particular:

- the event has occurred
- the reference tariff is calculated as if all reference tariffs have been recalculated; and
- the proposed tariff reflects the cost impact on Queensland Rail
- the proposed variation is appropriate to approve with regard to the criteria set out in section 138(2) of the QCA Act

For the reasons set out above, the QCA has made a final decision to approve this proposed review event tariff variation effective from 1 July 2018, noting it may result in an adjustment charge.