

STAKEHOLDER NOTICE

21 February 2020

Queensland Rail's 2020 Draft Access Undertaking

Six-month statutory timeframe and notice of time periods

On 14 August 2018, we received the 2020 draft access undertaking (2020 DAU) from Queensland Rail. We are well advanced in considering the 2020 DAU and anticipate releasing our final decision in the coming days, consistent with our objective of having an appropriate undertaking ready to approve when the existing 2016 undertaking terminates on 30 June 2020.

In accordance with section 147A of the *Queensland Competition Authority Act 1997* (QCA Act), the QCA must use its best endeavours to decide whether to approve, or refuse to approve, a draft access undertaking within a six-month period. This period does not include:

- time waiting for a response to notices given to a person under section 185 of the QCA Act
- time for consultation
- other time Queensland Rail agrees should be excluded from the statutory timeframe.

The notice of time periods (attached) shows that, after allowing for these excluded periods of time, the six-month period expired on 20 February 2020. The QCA Act requires that, if the QCA fails to decide whether or not to approve a draft access undertaking within the six-month period, it must prepare a written notice stating the reasons for the failure and details about what the QCA will do to make a decision as soon as reasonably practicable (s. 147A(5)(a)).

Pursuant to section 147A(5)(a)(i) of the QCA Act, the reasons for our failure to publish a decision within the statutory time period are:

- we issued Queensland Rail with a mandatory initial undertaking notice in September 2017, requiring it to submit the 2020 DAU by 30 April 2018. The QCA considered this would promote its goal of having a new undertaking ready on time by providing a buffer to cope with unexpected matters, while affording natural justice to Queensland Rail and other stakeholders. The buffer was used for, among other things:
 - giving Queensland Rail two extensions it requested to the original submission date, so it could complete its DAU
 - allowing extra time for Queensland Rail and its stakeholders to discuss agreed positions in the collaborative submissions period after our draft decision
 - providing an opportunity for Queensland Rail and its stakeholders to comment late in the DAU investigation on the appropriate approach to the West Moreton coal reference tariff with a new, lower volume forecast from Queensland Rail
- these extensions and consultation periods did not result in the statutory six-month timeframe extending beyond our February 2020 goal for publishing a decision.
- we required time to address complexities relating to a range of matters, including the uncertainty about the volumes for the West Moreton coal reference tariff, the appropriate return on assets, and various non-reference tariff topics, such as the operating requirements manual approval process, the treatment of renewal pricing, and the standard access agreement.

Pursuant to section 147A(5)(a)(ii) of the QCA Act, the actions we propose to take to make a decision as soon as reasonably practicable are:

- complete consideration of Queensland Rail's 2020 DAU, stakeholders' submissions and other relevant matters, having regard to the approval criteria in the QCA Act (s. 138(2)), with the intent of publishing a decision by the end of February 2020.

Notice of time periods

Six-month statutory timeframe for assessing Queensland Rail's 2020 DAU

In accordance with section 147A of the QCA Act, the six-month period for assessing Queensland Rail's 2020 draft access undertaking (2020 DAU) began on 17 October 2018, and ended on 20 February 2020. The six-month period did not include the following days:

<i>From</i>	<i>To</i>	<i>Total days</i>	<i>Reason</i>
19 October 2018	16 November 2018	28	These days were given to Queensland Rail and interested parties to make collaborative submissions on the 2020 DAU.
17 November 2018	1 February 2019	76	These days were agreed by Queensland Rail as not being included in the six-month period.
29 April 2019	11 July 2019	73	These days were given to Queensland Rail and interested parties to make submissions on the QCA's draft decision on the 2020 DAU.
15 July 2019	27 September 2019	74	These days were given to Queensland Rail and interested parties to make collaborative submissions on the QCA's draft decision on the 2020 DAU.
24 October 2019	19 December 2019	56	These days were given to Queensland Rail and interested parties to make submissions on the West Moreton coal reference tariff in the 2020 DAU.