

File Ref: 1476173

25 August 2022

Ms Pam Bains
Group Executive Network
Aurizon Network Pty Ltd
GPO Box 456
Brisbane Qld 4001

Dear Ms Bains

The QCA's preliminary view on the Concept Study DAAU

On 8 June 2022, Aurizon Network proposed to amend the existing arrangements set out in the 2017 access undertaking for resolving identified capacity deficits in the central Queensland coal network (the Concept Study DAAU).

The QCA is considering Aurizon Network's proposal, having regard to the information Aurizon Network provided in support of its position and stakeholder comments the QCA received in response.

In principle, the QCA sees some benefit from introducing additional flexibility to the existing arrangements. In particular, the QCA considers it appropriate, in principle, to provide for further expansion studies to be undertaken, and taken into consideration, when determining the transitional arrangements to be progressed. This includes providing for Aurizon Network to recover the reasonably incurred associated costs, should a study be required. It is also appropriate for arrangements to provide for the staged implementation of the transitional arrangements.

However, it appears that Aurizon Network's current proposal will, in practice, inappropriately and unreasonably restrict the independent expert's and/or the QCA's consideration of potential transitional arrangements to apply. Beyond this, there appears to be some further benefit from additional amendments to Aurizon Network's proposal to provide greater clarity as to how the arrangements will apply in practice, or to provide further flexibility in the process.

The attached response to the Concept Study DAAU provides a summary of the QCA's preliminary views to encourage stakeholders to contribute further through submissions. The QCA's views may change when it makes its final decision, pending submissions received.

I understand there may be an opportunity for Aurizon Network to meet with stakeholders to discuss the concerns raised. I encourage further collaboration between stakeholders on further drafting amendments where there are opportunities to reach consensus.

Should your staff have any specific queries on the attached paper, direct these in the first instance to Richard Creagh on (07) 3222 0555 or via email at richard.creagh@qca.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Millstead'.

Charles Millstead
Chief Executive Officer

cc: *Dan Kearney, Head of Finance and Regulation*
Jon Windle, Manager Regulation—Network Finance and Regulation

Queensland Competition Authority

Preliminary position

Aurizon Network's Concept Study DAAU

August 2022

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SUBMISSIONS

Closing date for submissions: 7 October 2022

This document represents the Queensland Competition Authority's (QCA) preliminary view and is subject to revision. Public involvement is an important element of the decision-making processes of the QCA. Therefore, submissions are invited from interested parties concerning its assessment of Aurizon Network's Concept Study DAAU. The QCA will take account of all submissions received within the stated timeframes.

Submissions, comments or inquiries regarding this paper should be directed to:

Queensland Competition Authority
GPO Box 2257
Brisbane Q 4001
Tel (07) 3222 0555
Fax (07) 3222 0599
www.qca.org.au/submissions

Confidentiality

In the interests of transparency and to promote informed discussion and consultation, the QCA intends to make all submissions publicly available. However, if a person making a submission believes that information in the submission is confidential, that person should claim confidentiality in respect of the document (or the relevant part of the document) at the time the submission is given to the QCA and state the basis for the confidentiality claim.

The assessment of confidentiality claims will be made by the QCA in accordance with the Queensland Competition Authority Act 1997, including an assessment of whether disclosure of the information would damage the person's commercial activities and considerations of the public interest.

Claims for confidentiality should be clearly noted on the front page of the submission. The relevant sections of the submission should also be marked as confidential, so that the remainder of the document can be made publicly available. It would also be appreciated if two versions of the submission (i.e. a complete version and another excising confidential information) could be provided.

A confidentiality claim template is available on request. We encourage stakeholders to use this template when making confidentiality claims. The confidentiality claim template provides guidance on the type of information that would assist our assessment of claims for confidentiality.

Public access to submissions

Subject to any confidentiality constraints, submissions will be available for public inspection at our Brisbane office, or on our website at www.qca.org.au. If you experience any difficulty gaining access to documents please contact us on (07) 3222 0555.

1 BACKGROUND

The 2017 access undertaking (UT5) sets out a process to identify and resolve capacity deficits across the central Queensland coal network (CQCN). See Box 1 for further explanation of the current UT5 process for addressing capacity deficits.

Aurizon Network has submitted a draft amending access undertaking (the Concept Study DAAU) that seeks to amend this process. Specifically, Aurizon Network's Concept Study DAAU seeks to provide for:

- Aurizon Network to recommend that a concept study be undertaken on a proposed expansion before the independent expert makes its recommendation to the QCA¹
- the independent expert to make a recommendation, and the QCA to make a determination, that Aurizon Network undertake various expansion studies (i.e. a concept study, a pre-feasibility study or a feasibility study) and for the implementation of other transitional arrangements to not be delayed as a result²
- Aurizon Network to recover the reasonable costs of any expansion study it is required to undertake as part of this process³
- the independent expert to make a recommendation, and the QCA to make a determination, to stage the implementation of transitional arrangements, including whether they are to be implemented in the future, at different times, or when certain conditions arise⁴
- the independent expert to have regard to other factors in making its recommendation, including forecast demand for capacity and an annual capacity assessment⁵
- the independent expert to recommend, and the QCA to make a determination, to not address all of the existing capacity deficit (ECD).⁶

1.1 Statutory obligations

Under the *Queensland Competition Authority Act 1997* (QCA Act), Aurizon Network can submit a voluntary DAAU to amend the approved access undertaking (s. 142(1)).

As required under s. 143 of the QCA Act, we have published the Concept Study DAAU, sought submissions, and considered the DAAU having regard to the matters mentioned in s. 138(2) of the QCA Act. In forming this preliminary view, we have considered all submissions received from stakeholders.

This paper provides our preliminary view and is intended to give stakeholders an insight into that view before we finalise our position.⁷ The way we apply statutory assessment criteria, and our thinking, may change in response to any submissions we receive on this paper.

¹ Concept Study DAAU, cl. 7A.5(a)(iii)(E).

² Concept Study DAAU, cls. 7A.5(ba),(bb),(ea),(n)).

³ Concept Study DAAU, cl. 7A.5(ba),(bd).

⁴ Concept Study DAAU, cl. 7A.5(m).

⁵ Concept Study DAAU, cl. 7A.5(d).

⁶ Concept Study DAAU, cl. 7A.5(m).

⁷ This paper is not a draft version of a final decision, and it has no force of itself. There should be no expectation that these views and recommendations will prevail to the end of the decision-making process.

Box 1 UT5 process for addressing capacity deficits

UT5 includes a process to identify and resolve capacity deficits across the CQCN.

As part of this process, the independent expert is to undertake an initial capacity assessment report (ICAR) and identify whether an existing capacity deficit (ECD)⁸ exists for each coal system.

Where the independent expert's initial capacity assessment reveals an ECD in a coal system, UT5 requires:

- Aurizon Network to consult with relevant stakeholders to identify and consider which transitional arrangements could effectively and efficiently address an identified ECD, or whether affected parties would prefer not to do anything to address an ECD⁹
- Aurizon Network to submit a detailed report showing the outcome of its analysis and consultation on the ECD and outlining the transitional arrangements it considers would most effectively and efficiently address an ECD¹⁰
- the independent expert to review Aurizon Network's report and make a recommendation to the QCA with respect to which of the transitional arrangements it considers will most effectively and efficiently resolve an ECD, where end users and Aurizon Network do not reach an agreement¹¹
- the QCA to make a determination as to which of the transitional arrangements will most efficiently and effectively resolve an ECD.¹²

Aurizon Network must do everything reasonably necessary to implement the transitional arrangements determined by the QCA in a prudent and diligent manner to resolve an ECD.¹³

1.2 Stakeholders' response

We provided stakeholders with an opportunity to comment on the Concept Study DAAU and received three submissions, from Bravus Mining and Resources (Bravus), Glencore and the Queensland Resources Council (QRC). They did not object to the Concept Study DAAU providing for:

- expansion studies to be undertaken, and taken into consideration, when determining the transitional arrangements that will most efficiently and effectively resolve an ECD
- the staged implementation of the transitional arrangements that will most efficiently and effectively resolve an ECD.

However, all three submissions identified concerns with elements of Aurizon Network's proposed drafting amendments. We have taken these concerns into consideration in forming our preliminary view.

⁸ An ECD occurs where the deliverable network capacity of a coal system is less than the number of train paths required to meet train service entitlements.

⁹ UT5, cl. 7A.5(a)(ii).

¹⁰ UT5, cl. 7A.5(a)(iii).

¹¹ UT5, cl. 7A.5(d).

¹² UT5, cl. 7A.5(e).

¹³ UT5, cl. 7A.5(f).

2 OUR PRELIMINARY VIEW

We are minded to refuse to approve the Concept Study DAAU, having regard to the relevant statutory criteria, and after considering the stakeholder submissions we received.

We consider it appropriate for UT5 to provide for further expansion studies to be undertaken, and taken into consideration, when determining the transitional arrangements that will most efficiently and effectively resolve an ECD. We also consider it appropriate for UT5 to provide for the staged implementation of the transitional arrangements.

However, we do not consider it appropriate for UT5 to be amended in a way that restricts the independent expert's and/or our consideration of potential transitional arrangements to only those arrangements proposed by Aurizon Network. We consider that does not promote the efficient investment in the CQCN and is not in the interests of access holders.

In particular, introducing 'AN Proposed Transitional Arrangements' into the process and as a defined term would result in a process where the independent expert is only able to make a recommendation in relation to those transitional arrangements that Aurizon Network proposed. Furthermore, we would only be able to make a determination in relation to those transitional arrangements that the independent expert recommended (and we would also thereby be restricted to making an assessment based on the transitional arrangements that Aurizon Network proposed).¹⁴

We therefore consider drafting amendments are required to broaden the consideration of transitional arrangements beyond those Aurizon Network proposed. This requires amended drafting across large parts of Aurizon Network's Concept Study DAAU.

We also consider it appropriate to amend the Concept Study DAAU to clarify that:

- a concept study Aurizon Network is required to undertake under clause 7A.5 does not need to include a pre-feasibility study execution plan
- the process for us to make a determination for Aurizon Network to undertake a concept study will be triggered by any such recommendation by the independent expert.

We outline our consideration of key matters identified in the Concept Study DAAU below.

2.1 Facilitating further expansion studies

We consider it appropriate for UT5 to provide for further expansion studies to be undertaken, and taken into consideration, when determining the transitional arrangements that will most efficiently and effectively resolve an ECD.

We note that in developing recommended transitional arrangements, Aurizon Network identified alternatives that it considered could assist in resolving the ECD, but it considered further information would be required to properly assess the potential costs, benefits and risks.¹⁵

¹⁴ See Concept Study DAAU, cl. 7A.5(e).

¹⁵ Aurizon Network, sub. 1, p. 2; Aurizon Network, *Detailed Response to the Initial Capacity Assessment Report*, March 2022.

The information that will be obtained from these studies would provide for a more informed decision about the most effective and efficient option(s) for addressing an ECD.¹⁶ This promotes the economically efficient investment in the CQCN and is in the legitimate business interests of Aurizon Network, access holders and access seekers. Making a determination before considering such information may in some cases result in Aurizon Network investing in an expansion that is neither prudent nor efficient.

To the extent that the current arrangements may not fully contemplate this¹⁷, we see a benefit from building this step into UT5 as a specific process. We did not receive any submissions that objected, in principle, to incorporating a process that provides for expansion studies to be undertaken and taken into consideration.

Recovering costs associated with undertaking an expansion study

We consider it appropriate for Aurizon Network to recover the prudent and efficient costs of undertaking an expansion study, should the study be required under a UT5 process.

Where required, an expansion study will provide for a more informed decision as to the most effective and efficient option(s) for addressing an ECD. Allowing Aurizon Network to recover the prudent and efficient costs associated with undertaking a prescribed expansion study, regardless of whether that expansion proceeds, enables Aurizon Network to recover the efficient costs of providing access to the service and is in the legitimate business interests of Aurizon Network. Furthermore, we consider that arrangements in the Concept Study DAAU provide the right incentives for Aurizon Network to propose that a concept study be undertaken, where it considers a study to be informative.

Where the proposed expansion related to an expansion study does proceed, the Concept Study DAAU provides for the associated expansion study costs to be included in the value of the regulatory asset base (RAB) to which the expansion study relates.¹⁸ We consider it is a reasonable approach for Aurizon Network to recover these costs, as it is consistent with the capital expenditure approval process in UT5 (see sch. E, cl. 2).

Where the proposed expansion related to an expansion study does not ultimately proceed, the Concept Study DAAU provides for the associated expansion study costs to be recovered by Aurizon Network as either a revenue adjustment under UT5, or in certain circumstances be included in the value of the RAB.¹⁹ In both circumstances, we must assess expansion study costs, and approve what we consider prudent and efficient.²⁰

Aurizon Network considered that where there is a requirement to undertake further studies, it is reasonable to recover such costs.²¹

The QRC proposed amendments to Aurizon Network's proposed drafting to provide that Aurizon Network's costs should only be recoverable if they comply with any conditions stipulated in a determination made by us.²² We do not consider the QRC's drafting amendments are necessary in order for the Concept Study DAAU to be appropriate to approve. As outlined above, the

¹⁶ For instance, a concept study will provide further information on, amongst other things, the design, cost estimates and timing for developing a proposed expansion.

¹⁷ Aurizon Network, sub. 1, p. 2.

¹⁸ Concept Study DAAU, cl. 7A.5(bd)(iii).

¹⁹ Concept Study DAAU, cl. 7A.5(bd)(ii) and sch. E, cl. 2.2(aa).

²⁰ Concept Study DAAU, cl. 7A.5(bd)(ii), sch. E, cl. 2.2(aa)(iii) and sch. F, cl. 4.3(xi).

²¹ Aurizon Network, sub. 1, p. 3.

²² QRC, sub. 4, pp. 6, 19, 22, 25.

Concept Study DAAU requires us to approve the expansion study costs before they are to be recovered by Aurizon Network. Assessing whether costs incurred by Aurizon Network are prudent and efficient provides for Aurizon Network to recover the efficient costs of providing access to the CQCN. Furthermore, we may take into consideration Aurizon Network's process for undertaking an expansion study as part of a prudency and efficiency assessment.

Amendments to the process for undertaking and considering expansion studies

We consider it appropriate to make the following amendments to the process outlined for undertaking and considering expansion studies in the Concept Study DAAU.

Our preliminary view is that it is appropriate for the Concept Study DAAU to be amended to clarify that a concept study required under clause 7A.5 should only include a pre-feasibility study execution plan where this is necessary.

There is a potential conflict between the new process outlined in the Concept Study DAAU and how a concept study is defined in UT5.

The proposed drafting amendments in the Concept Study DAAU reflect that a pre-feasibility study execution plan will not always be required as part of a concept study undertaken as part of the ECD process.²³ However, the definition of concept study (see Part 12 of UT5), which was developed for use under Part 8 arrangements (network development and expansions), requires that a concept study include a pre-feasibility study execution plan. The QRC considered that the Concept Study DAAU should clarify that a concept study undertaken under the transitional arrangement process is to only include a pre-feasibility study execution plan where we determine that to be the case.²⁴

We consider it appropriate to resolve this potential conflict by clarifying that a concept study required under clause 7A.5 of UT5 should only include a pre-feasibility study execution plan where this is necessary. We consider this condition has the potential to reduce the expansion study costs for the relevant parties and is therefore in the legitimate business interests of Aurizon Network and access holders.

Our preliminary view is that it is appropriate for the Concept Study DAAU to be amended to clarify that the process for us to make a determination requiring Aurizon Network to undertake a concept study will be triggered by an independent expert recommendation (following both Aurizon Network's detailed response to the ICAR and supplementary detailed response).

The Concept Study DAAU does not specifically outline the process for considering a concept study that is recommended following Aurizon Network's supplementary detailed report. The QRC considered that if the independent expert makes a recommendation for a concept study for any alternative transitional arrangements (under cl. 7A.5(ea)(vi)), the same provisions should apply as for a concept study recommended by the independent expert following Aurizon Network's detailed response to the ICAR.²⁵

²³ See Concept Study DAAU, cls. 7A.5 (ba), (bb).

²⁴ QRC, sub. 4, pp. 6, 22.

²⁵ QRC, sub. 4, pp. 11, 23–24.

We consider it is in the interests of access holders to clarify that any relevant recommendation by the independent expert can trigger a determination by us requiring Aurizon Network to undertake a concept study. This will ensure:

- a consistent approach is followed for undertaking and considering any concept study required as part of this process
- any consideration of a concept study will form part of a greater process to establish how Aurizon Network is to resolve an ECD.

2.2 Staged implementation of transitional arrangements

We consider it appropriate for UT5 to provide for the staged implementation of the transitional arrangements that will most efficiently and effectively resolve an ECD.

Providing for a determination whereby transitional arrangements may be implemented in the future, and at different times, provides for investment in the capacity of the CQCN to be more reflective of access holders' demand for the service. This provides for efficient investment in the CQCN and may reduce overall costs incurred by Aurizon Network in providing the service. We consider this is in the legitimate business interests of Aurizon Network, access holders and access seekers.

Aurizon Network submitted that UT5 does not expressly contemplate any flexibility in this process to account for staged implementation of initiatives.²⁶ The QRC considered that there will be merit in some transitional arrangements being implemented immediately and others being undertaken in a staged manner.²⁷

Bravus submitted that it does not support any DAAU that would propose to rectify the ECD in an extended and unspecified time frame. Specifically, Bravus considered that the ECD identified in the Newlands and GAPE systems is a direct legacy of the system capacity shortfall created by the GAPE project.²⁸

The focus of the process within UT5 for determining appropriate transitional arrangements is to resolve an ECD in an effective and efficient manner. This process does not:

- require an ECD to be resolved before the provision of access to a new access seeker
- prevent an expansion to the CQCN to address additional demand for train service entitlements from an access seeker.

We consider it appropriate that the staged process for implementing transitional arrangements in the Concept Study DAAU provides for an ECD to not be addressed in full, or until certain conditions arise. We consider this may provide for more efficient investment in the CQCN, noting:

- the capacity benefits obtained from certain transitional arrangements may rely on the prior implementation of other transitional arrangements
- costs associated with providing additional capacity may be inefficient where demand for the additional capacity does not warrant further investment.

²⁶ Aurizon Network, sub. 1, p. 2.

²⁷ QRC, sub. 4, pp. 1–2.

²⁸ Bravus, sub. 2, pp. 2–3.

Importantly, the independent expert's recommendation and our determination can consider these factors in considering whether it is appropriate for an ECD to not be addressed in full, or until certain conditions are met.

Staged consideration of non-expansion transitional arrangements

The Concept Study DAAU provides for expansion studies to be undertaken to further consider potential expansions and for the staged implementation of transitional arrangements. The Concept Study DAAU does not explicitly provide for Aurizon Network to propose non-expansion transitional arrangements in a staged manner, following its detailed response to the ICAR.

Glencore considered that now there is a clear consensus to utilise a longer 'stage gating' approach to consider and review various projects to resolve the ECD, it is logical that each of the potential operating, capital or relinquishment avenues to extinguish the ECD are further considered.²⁹ In this regard, Glencore considered that excluding transitional arrangements other than expansions would be contrary to the intent of UT5, which requires us to have regard to those recommendations that will most efficiently and effectively resolve the ECD.³⁰

We acknowledge that enabling Aurizon Network to subsequently consider non-expansion transitional arrangements in a staged manner potentially provides for an ECD to be addressed in a more efficient manner. However, the process for addressing an ECD outlined in the Concept Study DAAU does not prevent or disincentivise the ongoing implementation of operational changes and relinquishments by Aurizon Network and affected end users—the effects of which may be accounted for as part of the independent expert's analysis of the ECD to be addressed.

Furthermore, enabling an access holder to propose a voluntary relinquishment at a later date may in certain instances have adverse implications for access seekers (as future access holders). In this regard, Bravus noted that any further relinquishment using this process would permanently extinguish system nameplate capacity and ultimately reduce Newlands system volume, leading to an increase in the Newlands system tariffs for remaining Newlands users. Bravus considered that the capacity shortfall rectification costs should not be transferred to Newlands users under this process via increased Newlands tariffs.³¹

2.3 Consideration of potential transitional arrangements

Our preliminary view is that it is appropriate for the Concept Study DAAU to be amended so that it does not restrict the transitional arrangements that can be considered in determining the transitional arrangements that will most efficiently and effectively resolve an ECD.

Aurizon Network's Concept Study DAAU restricts the transitional arrangements that can be considered in determining those arrangements that will most efficiently and effectively resolve an ECD. In this regard, the Concept Study DAAU results in a process where:

- the independent expert is only able to make a recommendation in relation to those transitional arrangements that Aurizon Network proposed

²⁹ Glencore submitted that in most cases, changes to maintenance and operational practices, and in particular, fee free relinquishments, would be considered the most cost-effective, efficient and prudent method to address any ECD.

³⁰ Glencore, sub. 3, p. 1.

³¹ Bravus, sub. 2, pp. 4–5.

- we are only able to make a determination in relation to those transitional arrangements that were recommended by the independent expert.

In determining the transitional arrangements that will most efficiently and effectively resolve an ECD, we do not consider it appropriate to confine the independent expert's or our consideration of potential transitional arrangements to only those that Aurizon Network proposed.

We consider that broadening the consideration of transitional arrangements beyond those that Aurizon Network proposed will establish a more robust assessment process that provides for efficient investment in the CQCN. Furthermore, where the independent expert considers there is a more effective and efficient transitional arrangement than those Aurizon Network recommended, it may be the case that the independent expert is unable to make a recommendation that addresses an ECD in full.

The underlying information and modelling assumptions Aurizon Network uses in considering and proposing transitional arrangements may differ from those the independent expert used in making its recommendation. For instance, Aurizon Network may use internal modelling to estimate the benefits of an expansion, whereas the independent expert is required to develop a dynamic model to undertake its deliverable network capacity analysis.³² This may result in Aurizon Network and the independent expert forming different conclusions on the effectiveness and efficiency of particular transitional arrangements.

We consider that seeking to tie the independent expert's and our consideration to what Aurizon Network has proposed is not consistent with the current undertaking and is inconsistent with the intended purpose of the amendments—to provide greater flexibility in relation to the transitional arrangements. The QRC identified this as an issue of fundamental importance—and outlined circumstances (and proposed subsequent drafting amendments) where it considered Aurizon Network's proposed drafting amendments are too restrictive.³³

Aurizon Network previously stated that it is intended that the independent expert will consider all matters it considers relevant and that its consideration will not be confined to Aurizon Network's response to the ICAR.³⁴ Aurizon Network has not provided any reason for now confining the consideration of potential transition arrangements to those it proposes. Indeed, Aurizon Network said that the Concept Study DAAU was never intended to vary the independent expert's and our roles under UT5 in ways that did not relate to the concept studies.³⁵

Providing for the independent expert to consider other factors

We consider it is appropriate for the independent expert to consider forecast demand for capacity and an annual capacity assessment in making a recommendation under UT5 as to the transitional arrangements that will most efficiently and effectively resolve an ECD.

As outlined above, we consider that the staged implementation of transitional arrangements provides for investment in the capacity of the CQCN to be more reflective of demand for the service. Therefore, we consider that enabling the independent expert to have regard to forecast demand for CQCN capacity in making its recommendation will provide a better decision-making framework for determining the scope and timing of transitional arrangements that Aurizon Network is to deliver. Aurizon Network submitted that the Concept Study DAAU seeks to enable

³² UT5, cl. 7A.4.1(f).

³³ QRC, sub. 4, pp. 2, 4–25.

³⁴ Aurizon Network, response to QCA RFI question 27, 23 July 2019, p. 9.

³⁵ Aurizon Network, sub. 1, p. 5.

the independent expert to consider forecast demand in making its recommendation and to assess, at this initial stage, the prudence of proceeding with transitional arrangements.³⁶

We consider it appropriate to take into account forecast demand associated with existing contracted capacity. We do not accept Bravus' view that the independent expert should also consider demand arising from Aurizon Network's capacity notification register in making its assessment.³⁷ The objective of this process in UT5 is to address an ECD. Other processes included in UT5 provide for access seekers to obtain existing capacity where available, or expand the existing capacity of the CQCN.

We also consider it beneficial for the independent expert to consider the most recent information available when making a recommendation. Consideration of an annual capacity assessment will provide for more informed decisions³⁸ as to whether transitional arrangements are efficient and effective in addressing an ECD. Aurizon Network considered that it is logical to require the independent expert to consider the annual capacity assessment in making its recommendations on the most effective and efficient transitional arrangements.³⁹ Bravus also supported giving the independent expert the ability to update the ECD based upon the latest datasets and model assumptions, including changes to contract assumptions.⁴⁰

2.4 Other stakeholder concerns

The QRC also proposed a number of other amendments to the Concept Study DAAU to address various concerns that it had identified.⁴¹

We recognise there is potential to introduce further flexibility into the process or to provide greater clarity with respect to Aurizon Network's approach to identifying and resolving an ECD. However, we do not consider the QRC's suggested changes (beyond those relating to the issues identified and addressed above) are necessary in order for the Concept Study DAAU to be appropriate to approve. In this regard, we consider that Aurizon Network's Concept Study DAAU:

- ensures that an expansion study, where undertaken, forms part of a broader process to establish how Aurizon Network is to resolve an ECD
- does not seek to further limit the timing or scope of any independent expert's recommendation, or determination made by us
- does not seek to restrict the independent expert from having regard to those matters which it considers relevant
- outlines a clear process for a pre-feasibility or feasibility study to be undertaken and taken into consideration as part of the independent expert's recommendation
- seeks to ensure that where transitional arrangements can be recommended without further studies, these arrangements can progress in parallel with concept studies
- provides for the independent expert to review or assess any transitional arrangement Aurizon Network recommended or expansion Aurizon Network proposed to address an ECD.

³⁶ Aurizon Network, sub. 1, pp. 2–3.

³⁷ Bravus, sub. 2, p. 4.

³⁸ The annual capacity assessment will provide up-to-date analysis of the deliverable network capacity.

³⁹ Aurizon Network, sub. 1, p. 2.

⁴⁰ Bravus, sub. 2, p. 3.

⁴¹ QRC, sub. 4, pp. 2, 4–25.

That said, we welcome further submissions on the QRC's proposed suggestions and amended drafting. We also encourage further collaboration between stakeholders on further drafting amendments where there are opportunities to reach consensus.

Separately, Bravus considered that any costs associated with the GAPE project to deliver 51 mtpa of installed capacity should be allocated to GAPE project users, including those costs associated with performing additional studies.⁴²

We do not consider that Aurizon Network's Concept Study DAAU, in itself, directly affects the way in which costs of an expansion are to be allocated amongst parties. Rather, the amendments primarily relate to the process for addressing an ECD. The focus of the process within UT5 for determining appropriate transitional arrangements is to resolve an ECD in an effective and efficient manner. It does not specifically have regard to cost allocation matters. The cost allocation matters Bravus raised should be further considered as part of other ongoing processes.

Way forward

Subject to stakeholder views we receive in response to this preliminary position, we would be minded to refuse to approve Aurizon Network's Concept Study DAAU.

If we refuse to approve Aurizon Network's Concept Study DAAU, we must provide a written notice stating the reasons for the refusal and the way in which we consider it is appropriate to amend Aurizon Network's Concept Study DAAU.

⁴² Bravus, sub. 2, pp. 2–3.