BRAVUS
MINING & RESOURCES

11th May 2023

Mr. George Passmore

Queensland Competition Authority

Level 27, 145 Ann Street

Brisbane Queensland 4001

Submitted online: https://www.qca.org.au/submissions/

Dear George,

Bravus response to the Aurizon Network's QCA submission "*April 2023 GAPE Newlands Pricing Draft Amending Access Undertaking* ", dated 6th April 2023.

Bravus Mining and Resources Pty Ltd **(Bravus)** welcomes the opportunity to respond to the April 2023 GAPE Newlands Pricing Draft Amending Access Undertaking (April DAAU)

Our submission in response is set out in the **Attachment**.

Regards,

Ian Gibbons

Ian Gibbons

Supply Chain Consultant

Bravus Mining and Resources

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Attachment

Summary:

The April DAAU is profoundly inequitable and will result in material inefficient increases in Newlands tariffs and anti-competitive cross-subsidisation of Newlands System Infrastructure Enhancements(NSIE) costs between different generations of access holders and between expanding and non-expanding users. In summary, the April DAAU:

Proposal/Issue	Tariff effect	Implications for Access Holders
-socialises capitalised NSIE costs on an equal basis to all access holders, -delays recovery of historic NSIE charges for which parties have already received a benefit	-increases Newlands system tariffs for all Newlands users without regard for distribution of benefits	-does not align expansion benefits and costs - fails to properly account for the historical benefit enjoyed by existing users in relation to the historical NSIE costs and requires more recent users to cross subsidise the legacy railing costs. -effectively provides a subsidy to legacy Access Holders who have enjoyed the full benefits of the NSIE since its commencement -delays holding legacy/NAPE users to account for benefits already delivered
-permits free relinquishment by all Newlands users under the contract volume pricing proposal.	-proposed universal free relinquishments enables the Newlands and NAPE parties to transfer expansion costs and risks to remaining access holders. -increases Newlands tariffs for remaining access holders through a reduction in contract volumes and transfers of expansion costs - misaligns expansion benefits and expansion costs for the remaining access holders.	-proposes mechanistic universal free relinquishments to all parties including the expanding party despite the existence of substitutable contracts at the expanding party's load point. This enables the expanding party to right size their expansion after the event and pass on expansion costs and the expansion scale risk to remaining access holders. - allows legacy railing parties who are able to relinquish to avoid capitalised NSIE costs for which they have already received a benefit in terms of historical rail. This issue also extends to end of term access agreement settlements/volume adjustments that have accrued historical capitalised NSIE costs. - increases tariffs for remaining access holders by way of reduced Newlands system contract volumes and the transfer of expansion costs.
-relinquishes Newlands system paths and makes these unavailable for recontracting for an indeterminate amount of time.	-increases Newlands system tariffs for remaining access holders for an indeterminate amount of time -misaligns expansion benefits and expansion costs for remaining Newlands system access holders for an indeterminate amount of time	-is focussed on non-pricing DAAU objectives - reducing the Existing Capacity Deficit (ECD) without regard for the Newlands system pricing increases or a requirement to match expansion benefits and costs. In doing so, it is not ECD neutral and will result in higher Newlands system tariffs for remaining access holders. - is biased towards relinquishing parties' outcomes rather pursuing matching expansion benefits to costs for remaining access holders in the Newlands system by maintaining historic Newlands system contract volumes (in line with current and expected Newlands system performance) -increases tariffs for remaining access holders by way of reduced Newlands system contract volumes and the transfer of expansion costs for an indeterminate amount of time
-transfers the end of agreement (including NAPE) volume risk/additional expansion costs to remaining Newlands access holders.	- results in a gross misalignment of expansion benefits and costs between parties. - does not account for historic benefit enjoyed by legacy railing contracts including NAPE since 2012	-transfers volume risk/additional expansion costs(with no matching benefit) to remaining access holders at the end of/reduction of all legacy and NAPE access agreements. Noting the NAPE agreement is being triggered with only [redacted] years of tariff contributions remaining in a [redacted] year agreement to partially offset the capitalised deferred NAPE costs accruing since 2014.

NSIE Pricing, Contract Volume Pricing, Treatment of Relinquishments and Network System Losses

i. The April DAAU proposed socialisation of capitalised NSIE costs as presented should be rejected because –
   a) the socialisation of historic capitalised Newlands System Infrastructure Enhancements (NSIE) costs is not cost reflective of historic benefits enjoyed by parties since 2012 and is contrary to the QCA act 138(2), s168(A) and s120(e) and as an aside also non-compliant with the UT5 expansion principles.
   b) it requires nonexpanding Newlands users to underwrite the volume risk of the Newlands Abbot Point Expansion (NAPE) deed tonnage not being recontracted in around [redacted] years time at the expiry of the NAPE deed.

ii. Bravus has proposed two alternate tariff models to deal with the allocation of capitalised NSIE charges based upon –
   a) the guidance from the QCA's Preliminary Considerations which noted there was no differentiation between GAPE, NAPE and Newlands users of the NSIE service offering.
   b) the QCA's guidance paper that suggests treatment of deferred NAPE costs should be reflective of the benefits individual parties have received or will receive from the NSIE upgrades.
   c) The historic annual NSIE charges should be allocated on the basis of Aurizon Network's 2013 revenue deferral proposal approved by the QCA. Noting this included a commitment to match historical benefits and historical costs over time and in the absence of any other proposed future treatment of depreciation included a commitment to apply the normal business practice of accelerated depreciation costs. This implies the fair value of the NSIE depreciated historic cost (DHC) to be included at the commencement of a DAAU is $46.2m as of 1/7/23.

iii. The Bravus preferred tariff model consists of a new base Newlands system tariff that accounts for the DHC ($46.2m) as well as the capitalised NSIE costs associated with the non-legacy mine commencing railing in November 2021. All other legacy mines including the NAPE mine that commenced railing since 2012 would be subject to a system premium that would be cost reflective of the share of capitalised NSIE costs accrued through railing since 2012.

iv. The April DAAU volume measure for calculation of tariffs fails to propose a plausible predictor of current and future Newlands system railings if contract volumes are reduced by proposed Newlands Relinquishments or Aurizon Network Losses and hence should be rejected. Bravus notes that for the last consecutive 7 months (October 22 to April 23) the Newlands system has averaged around 103% of contract in the presence of long term spare Deliverable Network Capacity. This sustainable Newlands system contract performance coincides with the step up in Bravus railings and the successful commissioning of the Bowen Rail Company train fleet.

v. The April DAAU volume measure for calculation of tariffs should be modified to ensure any post expansion Newlands tariffs are cost reflective of the expansion benefits. Bravus would propose as part of contract volume pricing for setting future Newlands tariffs that a Newlands access seeker be able to take up relinquished Newlands capacity immediately to the extent the existing

Newlands ECD is not increased. Under this modified contract volume pricing proposal contract tonnage levels will better align with historic Newlands levels and additional future Newlands tariffs increases will be minimised.

vi. Aurizon Network needs to hold individual parties accountable for historic capitalised NSIE charges for which benefits have already been enjoyed by customers.

a) The right to relinquishments including the proposed "free" relinquishments and end of agreement access charge settlements or contract volume adjustments should also be cost reflective of historic benefits. All relinquishments and end of access settlements/contract volume adjustments should be apportioned outstanding capitalised NSIE costs associated with the historic railings to prevent the misalignment of expansion costs and expansion benefits to the detriment of remaining access holders.

b) Historic NSIE capitalised charges for which the benefit has already been received should be included in a new Newlands system tariff from the commencement of a DAAU and not delayed as proposed in the April DAAU.

vii. An alternative NSIE Pricing proposal summary is given in appendix A

Private Incremental Costs

viii. The QCA released its final decision in relation to the PIC associated with the Carmichael rail loop and connecting infrastructure on 15 December 2022. The QCA approved $44m as the prudent and efficient value of the PIC.

ix. The approach adopted by Aurizon in its April DAAU is an inappropriate and unlawful attempt to retrospectively reopen a completed regulatory process in respect of the PIC determination which was fully and properly assessed by the QCA and is now completed. Simply, there is no basis, substantively or legally, to link the PIC outcome to the GAPE and NAPE pricing matters in a pricing DAAU.

x. Moreover, Aurizon does not provide a compelling justification for any change to the current definition of Private Infrastructure. The current definition of Private Infrastructure and the QCA approved Bravus PIC have delivered net benefits to all Newlands access holders and the GAPE system while improving the business position of Aurizon Network. This current definition of Private Infrastructure and application of the PIC provisions has delivered an outcome in line with the objectives of the QCA act s138(2), s168(a) and the UT5 PIC provisions.

xi. It would be legally unsafe for the QCA to accept this invitation from Aurizon to use an unrelated DAAU process to amend UT5 in a clear attempt to re-open and retrospectively change a prior (completed) regulatory process. This is especially the case, when doing so would have potentially significant future implications for access seekers and would interfere with the QCA's own findings in relation to the prudency and efficiency of the rail loop and connecting infrastructure costs incurred by Bravus.

Other matters

xii. In keeping with the objective of the QCA act around efficient utilisation of coal system capacity under the QCA act s138(2), Bravus would support changes to Additional Reference Train Criteria in Schedule F on the undertaking to permit GAPE capacity to be consumed in the Newlands system to promote the efficient utilisation of unwanted GAPE coal system capacity by the Newlands Coal system. In doing so, Bravus would support the ongoing separation of Coal Systems after the expiry of the current GAPE and NAPE deeds noting the volume risk to the Newlands system at the expiry of these deeds.

xiii. Bravus supports the proposed proration of costs and revenue from Asset Replacement and Renewals Expenditure on the shared rail corridor.

Detailed Discussion:

NSIE pricing for each party should be cost reflective of individual expansion benefits.

1. The QCA's Guidance Paper[1] suggests for the future treatment of deferred NAPE costs -

   "parties may wish to consider the timing and basis for the recovery of the deferred amounts, taking into account relevant matters (eg the benefits parties have received, or will receive, from the related upgrades and the extent to which the deferred amounts have been recovered under relevant access agreements or access arrangements."

2. The QCA's suggested approach balances the changing interests of access seekers and access holders (QCA act s138(2)(e) and (h)) over time accounting for the complex history of the NSIE by ensuring costs are appropriately allocated between the relevant parties. This suggested approach also promotes the efficient investment in infrastructure, QCA act s138(2)(a). Further, this aligns with the pricing principles set out in the QCA s168(A), specifically the revenue should at least be enough to meet the efficient costs of providing the service (to expanding and non-expanding users) and complies with the pricing limits outlined in UT5 clause 6.6.

3. The QCA suggested approach contrasts with Aurizon Network's April DAAU that fails to allocate deferred NSIE costs to stakeholders against the benefits enjoyed since 2012. Bravus would propose that the April DAAU socialisation of historic NSIE costs be rejected because it fails to consider -
   i. Aurizon Network's 2013 commitment, approved by the QCA, to allocate deferred NSIE costs based upon historical benefits.
   ii. The individual benefits/value enjoyed by parties since 2012 prior to the commencement of the April DAAU.

4. The QCA in its Preliminary Considerations noted there was no differentiation between GAPE, NAPE and Newlands users of the NSIE service offering. It follows that any pricing mechanism following this principle should be cost reflective of the benefits accruing to parties both historically and after implementation of any approved DAAU. The April DAAU fails to account for the differential benefits enjoyed by NAPE and Newlands users since 2012 to the present. Non expansion legacy Newlands mines have benefited from the commencement of project railings since January 2012. The NAPE expansion mine commenced railing in 2014 and retained the option to exercise the NAPE deed from 2012. Bravus as the non-legacy mine did not commence railing until November 2021.

[1] QCA Guidance paper, Pricing of shared infrastructure for the GAPE and Newlands systems. September 2021. p7

5. Bravus notes that Aurizon Network's NAPE/GAPE revenue deferral approach in 2013 approved by the QCA based on the capitalisation of NSIE charges was for the benefit of "existing users" ie Qcoal and Glencore (non-expanding legacy mines) waiting the commencement of railing from the NAPE mine. Aurizon Network's NSIE capitalisation proposal in 2013 did not propose to set these capitalised charges aside to socialise with future access holders but specifically called out the NAPE customer and existing Newlands legacy mines in an applicable reference tariff based upon the benefits received by these legacy customers at that time.[2] Aurizon Network in 2013 did not propose to mismatch historical costs and benefits nor to adjust the rate of depreciation but simply defer these capitalised charges including the accelerated depreciation charges until the commencement of railings of the NAPE customer. Aurizon Network's April DAAU has not commented on their historic commitment to matching historical NSIE costs to those who historically benefited.[3]

6. It follows Aurizon Network's 2013 capitalisation of NSIE charges approved by the QCA supports that historic capitalised charges would be for the account of those legacy mines and NAPE mine once the NAPE deed holder commenced railing with the subsequent value of the NSIE to confront any future access holders being the DHC calculated from the commencement of the project. Secondly, this value of the DHC at the start of any DAAU would also accord with the non-expanding legacy Newlands holder's perspective who would have assumed the NAPE deed holder would have commenced railings in 2012 and the perspective of Bravus in November,2021 who would have assumed Aurizon Network would hold the NAPE user and other legacy Newlands users to account as approved by the QCA in 2013. Presumably based on its own 2013 advice to stakeholders, Aurizon Network in their December DAAU noted the DHC ($46.2m) was the only fair value to incorporate into the Newlands DAAU.

7. The NAPE deed holder has enjoyed a free option value to expand its mine since January 2012 in addition to the value derived from their historic railings ie the annual benefits/value enjoyed by the NAPE deed holder has been the sum of their historic railings and the [redacted] Mtpa NAPE option. In contrast, the non-expanding Newlands users annual benefit since January 2012 have been confined to their actual railings. The apportionment of annual incremental historic capitalised NSIE costs should be on the basis of annual benefits/value enjoyed in line with the QCA act s120(e).

8. Whilst noting that the benefits of this expansion have accrued from January 2012, Bravus would contend the earliest practical date that the NAPE deed should have triggered was 2014 when Drake commenced railing. Bravus notes that the commercial drivers of the NAPE deed not triggering in 2014 is a result of a commercial arrangement outside of the scope of the regulatory framework. However, this commercial arrangement does not diminish the accrual of benefits of the NSIE service to parties including the NAPE deed holder since 2012 under the QCA act. Bravus also notes that claimed NAPE deed commitments made between the NAPE deed holder

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[2] QCA, Final decision Aurizon Network 2014 draft access undertaking Volume III—Pricing & Tariff April 2016.p226

[3] Aurizon Network DAAU Paper – April 2023 GAPE Newlands Pricing Draft Amending Access Undertaking. p11.

and Aurizon Network around the socialisation of costs with Newlands users also resides outside the scope of the regulatory framework.

9. The matching of expansion benefits and costs to establish a system premium or appropriate discount is in line with the UT5 Expansion Principles[4].

   > "*The QCA considers it appropriate that non-expanding users are allocated a portion of expansion costs if there is a genuine benefit to them. Potential benefits are assessed on a case-by-case basis, for example, to identify where non-expanding users might benefit from the expansion if the capacity available to them and/or reliability increases*, holding operating assumptions constant."

10. It follows that historic NSIE capitalised charges for which the benefit has already been received should be included in any new Newlands system tariff from the commencement of the DAAU and not delayed as proposed in the April DAAU.

Relinquishment and End of Agreement settlement of charges should be conditional on payment of capitalised historic NSIE charges.

11. As a general principle, Aurizon Network needs to hold individual parties accountable for historic NSIE charges for which benefits have already been enjoyed by the customer. Relinquishments including proposed "free" relinquishments and end of agreement settlements and volume adjustments should be apportioned capitalised NSIE costs associated with the access agreement historic railing to avoid shifting expansion costs to those parties that have not enjoyed the matching NSIE benefits.

Volume risk of socialisation at the expiry of the NAPE Deed

12. The QCA act s138 (2)(e) & the QCA Preliminary considerations note that the importance of considering the impact of proposed solutions including on future access seekers who were not part of the agreement.
    i. Aurizon Network received a GAPE/NAPE project premium based upon arguments around risk of project users default, Newlands system users as non-expanding users did not underwrite the risk of default of the project.
    ii. Nonexpanding Newlands users were not consulted on the commercial risk of the NAPE deed that has permitted the expanding party to avoid being accountable against the NAPE deed for 11 years of a [redacted] year agreement.
    iii. The April DAAU socialisation of capitalised NSIE costs should also be rejected whilst it requires nonexpanding Newlands users to underwrite the volume risk of the NAPE deed tonnage not being recontracted in around [redacted] years time.

Post expansion Newlands tariffs need to be cost reflective of expansion benefits under any volume pricing proposal.

12. The April DAAU volume measure for determination of future Newlands tariffs should be rejected because -

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[4] Queensland Competition Authority. Decision - Aurizon Network's 2017 draft access undertaking. December 2018. p324.

i. The April's DAAU does not propose a volume measure for calculation of tariffs that is a plausible predictor of current and future railings.
ii. Contract volume pricing is a tool that should be reserved for solving the dilemma around substitutable train services.[5] A DAAU contract volume pricing solution should not try and also simultaneously solve for a non-pricing DAAU issue ie a combined system ECD if it increases Newlands system tariffs and mismatches expansion benefits and costs for remaining access holders.
iii. The Newlands system has averaged 103% of contract (21Mtpa)for the last seven consecutive months in FY23. The April DAAU fails to outline why the drivers of current Newlands system above contract railing performance will not continue going ahead.

13. The GAPE system has and is forecast to underperform noting this underperformance is due in part to a large parcel of capacity not having matching supply chain rights. Volumes used to calculate tariffs (and allowances for Aurizon Network losses)need to recognise that Deliverable Network Capacity (as opposed to contract capacity) is fungible between the interconnected systems. The step up in Newlands system contract performance in May 2022(see figure 1) coincides with Bowen Rail securing commercial certification to fully utilise its fleet. The step up in the Newlands system performance between May 2022 and March 2023 coincides with Bowen Rail overcoming commissioning issues with a new class of locomotives and the ongoing decline in GAPE system contract performance. Figure 1 demonstrates Newlands contract performance in the presence of spare Deliverable Network Capacity is not linked to Aurizon Network system losses. Specifically –
    i. The Newlands System has averaged 103% contract performance between October 2022 and April 2023 (7 consecutive months) despite increased spikes in Aurizon Network system losses.
    ii. The GAPE system has trended down towards 40% contract utilisation between October 2022 and March 2023 with similar increased spikes in monthly Aurizon Network system losses.

14. The April DAAU proposed volume for calculation of tariffs should be rejected because it fails to provide a plausible prediction of future Newlands railings. Aurizon Network have not substantiated in its reasoning why the current Newlands system performance levels will not continue to step up in light of the decline in GAPE contract performance and the step up in Bravus performance. Bravus has provided Aurizon Network with its forecasts to substantiate

[5] QCA, Final decision Aurizon Network 2014 draft access undertaking Volume III—Pricing & Tariff April 2016.p226

this ongoing step up in Newlands system performance.

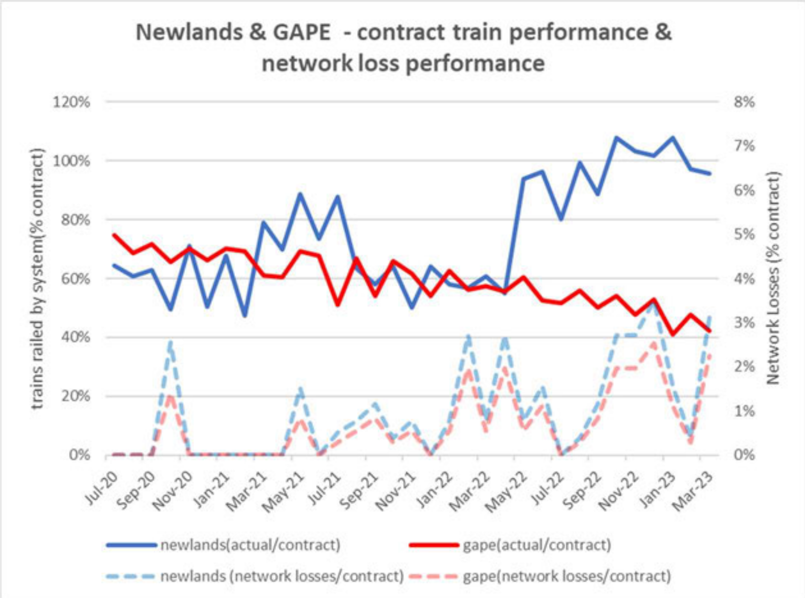

Figure 1 Newlands system and GAPE system contract performance and Aurizon Network Loss performance
Source: Coal Network Capacity Co *Network Performance Trends Report*

15. The QCA have previously cautioned that relinquishments have the potential to increase access charges for remaining access holders.6 Unfortunately, the April DAAU exposes Newlands system users to sustained additional expansion costs through two different cost drivers. The first driver of sustained increased tariffs stems from Newlands system contracted tonnes being reduced whilst waiting for the GAPE project created ECD to be rectified over an indeterminate amount of time. The second driver of increased tariffs for remaining access holders will result from the transfer of historical NSIE capitalised expansion costs at the end/volume reset of access agreements and via relinquishments including the proposed "free" relinquishments . The QCA Guidance Paper provides a framework for treating any future relinquished contracted capacity that has accrued deferred NAPE expansion costs. The QCA[7] stated that …
"*parties may wish to consider the timing and basis for the recovery of the deferred amounts, taking into account relevant matters (eg the benefits parties have received)*
It follows that relinquishments including the proposed "free" relinquishments and end of access agreement volume resets/settlements should not occur unless apportioned capitalised NSIE costs associated with the access agreement are settled to avoid shifting deferred NSIE expansion costs to those parties that have not enjoyed the matching historical NSIE benefits.

16. Bravus has also previously proposed that the QCA should review its general universal support for free relinquishments with respect to contract volume pricing for all access holders.[8] Bravus in its response to the QCA's preliminary considerations raised concerns around adopting a mechanistic approach to relinquishments for the expanding user with substitutable contracted train services to which the QCA has yet to respond. In this previous submission, Bravus

[6] Queensland Competition Authority. Aurizon Network's Concept Study DAAU. December 2022.p7.
[7] QCA Guidance paper, Pricing of shared infrastructure for the GAPE and Newlands systems. September 2021. p7
[8] Bravus Response to QCA's Preliminary Considerations GAPE and Newlands pricing DAAU. p3.

proposed the option to right size an expansion via free relinquishment after the expansion transfers the cost and risk of right sizing an expansion to non-expanding users. An expanding user with substitutable train services should not have an option for free relinquishments. Noting the Expanding user does retain the option of normal relinquishments, Transfers and the ability to right size contracts at the end of an agreement.

17. Bravus notes parties remain able to transfer to an Access seeker in the Newlands system to promote the efficient utilisation of system capacity and control exposure to take or pay. Bravus would submit that the prospect of free relinquishments proposed by the April DAAU may have provided a disincentive for a transferor to pursue transfers with a Newlands Access Seeker.

18. Any pricing DAAU proposal needs to balance the costs and benefits between systems and classes of access holders/access seekers. The April DAAU should not be seeking to use a contract volume proposal to solve for both the Expanding party's substitutable train services[9] and the GAPE/Newlands ECD. Contract volume pricing is a tool that in this case should be reserved for solving the dilemma around substitutable train services at the expanding party's load point. A balanced pricing solution that aligns with QCA act s138(2)(e) should only seek to leave the Newlands system indifferent from an ECD perspective thereby minimising the impact on historic Newlands system contract levels and future Newlands tariffs. This modified approach ensures costs are better reflective of expansion benefits going ahead.

19. Bravus also notes that under the April DAAU there is no corresponding proposal to reduce GAPE contracted capacity. A cost of rectifying the combined system ECD for an indeterminate amount of time will be borne by the non-expanding system/Newlands users in terms of higher sustained tariffs. GAPE project users under these arrangements will be net beneficiaries with no compensation being proposed under the April DAAU as required under the QCA act s138(2)(e).

20. Bravus would propose as part of contract volume pricing for setting future Newlands tariffs that a Newlands access seeker be able to take up relinquished Newlands capacity immediately to the extent the existing Newlands ECD is not increased ie no Newlands system user or GAPE user is worse off from an ECD perspective. Under this version of contract volume pricing Newlands contract tonnage levels will better align with historic Newlands levels and future Newlands tariffs increases will be minimised.

Network Losses

21. Bravus would also seek to have the QCA reject the April DAAU proposed allowance for Aurizon Network losses with the April DAAU failing to substantiate why current Newlands performance in excess of contract (21Mtpa) will not continue for the reasons outlined in points 13 & 14.

22. Any complete analysis of future Aurizon Network losses needs to include the drivers of future system performance and in particular spare Deliverable Network Capacity not just an historic analysis of GTK performance, SAR versus TAR or system losses. In particular, Bravus would

[9] QCA, Final decision Aurizon Network 2014 draft access undertaking Volume III—Pricing & Tariff April 2016.p226

dispute the April DAAU assertion on the most probable outcomes that actual GTK will not exceed contract GTK noting the current FY23 Newlands system throughput (averaged 103% of contract for the last 7 consecutive months) and its drivers alluded to in points 13,14 and figure 1 including the ongoing underutilisation of GAPE contracted capacity, the absence of GAPE matching supply chain rights and the ongoing step up in Bravus Newlands system railings. Figure 1 outlines that any Aurizon Network losses are being absorbed by spare Deliverable Network Capacity. The April DAAU business case for Aurizon Network losses is based upon hearsay, is incomplete and in error because it fails to account for the forecast drivers and quantum of spare Deliverable Network Capacity.

Selection of a Tariff recovery model

23. The April DAAU socialisation of historic capitalised costs is not cost reflective of historic benefits enjoyed by parties since 2012 is contrary to the QCA act 138(2), s168(A) and s120(e) and as result also non-compliant with the UT5 expansion principles.
24. Bravus would propose that a user's future Newlands tariff until the expiry of the NAPE deed be based upon –
    i. the guidance from the QCA's Preliminary Considerations which noted there was no differentiation between GAPE, NAPE and Newlands users of the NSIE service offering. (see point 4)
    ii. the QCA's guidance paper that suggests treatment of deferred NAPE costs should be reflective of the benefits individual parties have received or will receive from the NSIE upgrades. (see point 1)
    iii. The DHC ($46.2m as of 1/7/23) of the NSIE that would be included into the current Newlands RAB at the commencement of any revised DAAU (see point 6)
    iv. The historic annual NSIE charges should be allocated on the basis of Aurizon Network's 2013 revenue deferral proposal approved by the QCA. These proposed costs should be allocated on the basis of historical benefits since 2012 and did not include any cost shifting proposal to move away from the normal treatment of accelerated depreciation.(see points 5 & 6)
25. Given the criteria raised in point 25, there are two tariff recovery models that could be employed to recover historical capitalised NSIE charges -
    i. A top down, April DAAU socialised model modified with at least one provision for a discounted tariff : A modified April DAAU's treatment of socialised capitalised NSIE costs to include at least the addition of a Bravus load point discount recognising that Bravus as a non-legacy mine did not commence railing until 2021. This discount to be cost reflective of the historic share of capitalised NSIE costs attributable to legacy mines railing since 2012 ; or
    ii. A bottom up, system premium incremental cost model: Made up of, a new base Newlands system tariff that accounts for the NSIE DHC ($46.2m) as well as the capitalised NSIE costs associated with the non-legacy mine, Bravus commencing railing in 2021 - This base Newlands tariff is the lowest tariff outcome. All other legacy mines that commenced railing since 2012 would be subject to a system premium that would be cost reflective of the share of capitalised NSIE costs accrued through railing since 2012. Bravus is of the view that this approach is more transparent than the alternate top down approach.

Application of the approved Newlands PIC Discount to Bravus Newlands system trains services

26. The QCA in its UT4 discussion on Private Incremental Costs noted the broader goal of promoting the development and operation of efficient coal networks in line with QCA act s138(2)(a), s138(2)(g)(iv) and part 5 of the act.

27. On the 15th December 2022 the QCA approved a $44m PIC application for Bravus. The QCA noted the approval was not outside bounds of what was considered when the PIC provisions were put in place.

28. The QCA in its final decision on UT4 –
    a. *"considered it appropriate that a reference tariff would be calculated for each new train service based on the pricing principles in force at the commencement of operations of each train service.[10] "*
    b. *" considered that a transparent and consistent approach to calculating reference tariffs in the CQCN was in the interests of access seekers and holders (s138(2)(e) and (h) of the QCA Act*).[11]"

    This also recognised Aurizon Network's legitimate business interests as it did not adversely affect Aurizon Network's ability to earn revenue that reflected its efficient costs and appropriate rate of return (s138(2)(b) and (g) of the QCA Act)"

29. Given the guidance of the UT4 final decision on reference tariffs outlined above and the timing of AN's submission after the approval of the PIC and commencement of Bravus first rail , Bravus would propose that any retrospective change to the definition of Private Infrastructure that seeks to change Bravus PIC outcome does not align with the past regulatory practice around setting reference tariffs or align with the notions of transparency and consistency.

30. The submission made by Aurizon Network on PIC does not present any detail on the financial impact on stakeholders of the approved PIC amount nor how the with /without the approved Bravus PIC align with the broader objectives of the QCA act /UT5 PIC provisions. Aurizon Network's submission appears primarily designed to link the PIC outcome to an unrelated pricing DAAU involving the commercial resolution of NSIE and GAPE cost allocation issues.

31. Bravus utilises historic Newlands capacity, it connects at Carmichael Junction within the Newlands system 164 km from NQXT. Aurizon Network provided Bravus with a Newlands system access agreement in 2019 sourced from historic Newlands system capacity relinquishments. Bravus railing commenced in November 2021 under a Newlands system tariff. Bravus notes that in November 2021 only one tariff existed in the Newlands system - A Newlands system reference tariff.

[10] QCA, Final decision Aurizon Network 2014 draft access undertaking Volume III—Pricing & Tariff April 2016.p126
[11] QCA, Final decision Aurizon Network 2014 draft access undertaking Volume III—Pricing & Tariff April 2016.p128

32. Bravus notes that the commercial arrangements Aurizon Network put in place with the NAPE mine, Drake in 2014 have resulted in only the Newlands system tariff being in place at the time Bravus commenced railing in November 2021.

33. Bravus rejects the GAPE tariff as the relevant tariff under clause 6.3.2, noting the relevant tariff in clause 6.3.2 is Coal System specific. The GAPE reference tariff is not a tariff that is expressed with any rights of claim to Newlands system contracted capacity in UT5. Hence the GAPE tariff is not a relevant tariff for consideration under clause 6.3.2. Aurizon Network recognise this in their own submission - Notably a Newlands system reference train is not able to consume GAPE system contracted capacity and a GAPE system reference train is unable to consume Newlands system contracted capacity.

34. Aurizon Network's discussion around tariff equivalence to Middlemount is in error and incomplete noting it has included the haulage distance for Carmichael Rail Network in its comparison with Middlemount but failed to acknowledge the existence of additional CRN tariffs.

35. As to "cost neutrality", Aurizon Network appears to argue that wider consideration of the position of GAPE system volumes is required. Bravus accepts that any volumes that Bravus acquires from a current GAPE user under this April DAAU proposed changes would not be subject to a PIC discount.

36. As Middlemount noted in its failed GAPE PIC application, the GAPE system tariff is based upon incremental costs only.[12] [13] Given that the PIC discount represents a discount to common costs, no GAPE PIC discounts are possible in the GAPE system. All other coal system tariffs including the Newlands system are based on contributing to both common costs and incremental costs. AN have consistently dealt with PIC on this basis. Specifically, all systems where tariffs contribute to common costs including the Newlands system are entitled to the equivalent of a PIC discount and no GAPE system users are entitled to receive a PIC discount. In terms of non-discriminatory pricing, Bravus would once again seek AN continue to adopt a transparent, consistent, delineated by system and neutral stance on PIC applications in accordance with clause 2.3 of UT5. The QCA approved the Bravus PIC application on the basis that -
    i. Bravus is a Newlands mine utilising historic Newlands capacity.
    ii. Bravus has invested substantially in a new loop and track that connects to the Newlands coal system.
    iii. This PIC application only relates to the proportion of PIC associated with its Newlands contracted capacity and not any proposed expansion tonnage through GAPE.

37. Bravus is unclear of the threat to other Newlands access holders of its PIC application noting the existence of only one Newlands PIC proposal in a now fully contracted Newlands system. On the contrary, Bravus notes the Newlands system tariffs in the absence of Bravus contract tonnage

[12] Aurizon Network Access Undertaking (2010) Draft amending Access Undertaking Reference Tariff for the GAPE system. April 2013.

[13] Middlemount Submission to QCA. GAPE Draft Amending Access Undertaking. November 2012.

would more than double in time. Bravus also notes that that through railing in the Newlands, Aurizon Network's business interests have also improved in terms of its risk profile. Bravus would propose the QCA reject the Aurizon Network's proposed change in definition of Private Infrastructure noting in the case at hand , the introduction of Bravus tonnage into the Newlands system does promote system efficiency and development in line with the objectives of the QCA act and the PIC provisions.

38. Further Bravus notes, based upon the evidence at hand in assessing the Bravus PIC outcome, the current prudency and efficiency test that includes an independent external review balances the objectives of the QCA act, in terms of the public interest and the interests of Aurizon Network's business, access seekers and access holders by allowing the QCA to assess each case on its own merits and in doing so can avoid the pitfalls and restrictions of mechanistic policy.

39. Bravus would propose that the weight of establishing a clear business case for a change in the approach to PIC should not be based upon hearsay and rest with Aurizon Network in line with its obligations to establish the impact on stakeholders, access seekers and access holders under clause 2.3 of UT5 and the objectives of the QCA act.

40. From a competitive neutrality perspective, Bravus notes that historic mine loads outs and spurs have been and continue to be funded through the application of the current Newlands system tariff. In terms of price discrimination, Bravus would contend that under clause 2.3 it is entitled to receive a PIC discount equivalent to historical benefit enjoyed by other producers, for which the cost of connecting mine spurs and loops has been socialised.

41. From a construction competitive neutrality perspective - Arcadis has assessed the allowance for Private incremental capital Costs as being prudent and efficient and is not dependent upon who did the construction – Aurizon Network or a Private infrastructure Owner.

42. Bravus has a separate access agreement with the owner of the Carmichael Rail Network, Carmichael Rail Network Pty Ltd. Bravus is not the Private Infrastructure Owner of CRN. Carmichael Rail Network is not the applicant for a PIC discount. The Private infrastructure owned by CRN does connect to the Rail Infrastructure of the CQCN.

43. Any issues around CRN, its competitive neutrality or the content of its access agreement should be addressed with CRN or a regulatory authority and as the QCA noted, is not relevant to the Bravus PIC claim.

    "*while the pieces of infrastructure included in the Bravus PIC claim are connected to the CRN project, the CRN itself is not part of the claim, and as such the nature of the CRN is not relevant* [14]"

44. Private Incremental Costs are defined in UT5 as -

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[14] Queensland Competition Authority. Decision Notice. Private Incremental Cost Carmichael Rail Loop and Connecting Infrastructure.p2

“those costs of providing access to the relevant Private Infrastructure…” .

The Bravus PIC application includes a portion of the costs associated with the as built loop and the as built track associated with the connection agreement, that is the minimum Mine Specific Infrastructure (MSI) solely to connect an Access Holder’s loading facility to Rail Infrastructure. From a compliance with the UT5 definition perspective, these costs are a subset of the total costs of providing access to the relevant Private Infrastructure. They were submitted by Bravus in view of the requirement for prudency and efficiency and to mirror the socialised MSI already included in the Newlands system RAB in the interests of competitive neutrality.

45. Geospatial considerations around PIC approval are not relevant under the PIC provisions. The focus of these provisions is on prudent and efficient cost criteria. The disconnect between geospatial considerations and prudency/efficiency criteria is implicit in the PIC provisions under clause 6.3.2(e)(i) where the QCA can refuse to approve elements of a PIC application based upon prudency and efficiency reasons. This outcome can result in a geospatial disconnection of track as well as Private Incremental Costs being a subset of the total Private Infrastructure costs.

46. Bravus simply requests a Newlands PIC discount be deducted from its standard Newlands System tariff in line with the current undertaking.

GAPE Reference Train Service Criteria

47. In keeping with the objective of the QCA act around efficient utilisation of coal system capacity under the QCA act s138(2), Bravus would support changes to Additional Reference Train Criteria in Schedule F to permit GAPE capacity to be consumed in the Newlands system to promote the efficient utilisation of unwanted GAPE coal system capacity by the Newlands Coal system. In doing so, Bravus would support the ongoing separation of Coal Systems after the expiry of the current GAPE and NAPE deeds noting the volume risk to the Newlands system at the expiry of these deeds.

Asset Replacement and Renewals Expenditure

48. Bravus supports the proposed proration of costs and revenue from Asset Replacement and Renewals Expenditure on the shared rail corridor.

Appendix A

Issue	Tariff effect	Implications for Access Holders
A tariff structure needs to be cost reflective of historical benefits since 2012	Load point/mines are responsible for costs associated with historical benefit accrued since 1st January 2012.	At least 2 separate tariffs as part of a future DAAU. The minimum tariff structure needs to recognise a non-legacy mine commenced railing in November 2021. whilst legacy mines & the NAPE mine commenced railing from 2012/2014
Historic capitalised NSIE costs need to be allocated to a load point/mine on the basis of historic railing. Settlement charges for relinquishments and end of contract term settlements or volume resets need to account for outstanding capitalised NSIE costs associated with historical benefits from historic railing.	Matches historic benefit and historic costs to prevent future transfers of expansion costs that would result in a misalignment of expansion benefits. Control Volume risk to remaining access holders.	Allocation and calculation of capitalised NSIE costs in keeping with QCA approved treatment of deferred costs in 2013 including using accelerated depreciation. Relinquishments including the "free" relinquishments and any end of term access agreement settlements/volume adjustments (include NAPE) need to include settlement of outstanding capitalised NSIE charges associated with historical railing. Normal UT5 relinquishments need to also include forecast capitalised NSIE charges through to the end of the access agreement.
"Free" relinquishments under contract volume pricing should <u>not</u> be available to the Expansion user with substitutable paths.	This prevents the Expansion party with substitutable paths from rightsizing their expansion contract after the event and passing on expansion scale costs /risks to non-expanding users.	One off relinquishments associated with contract volume pricing should only be available to non-expanding parties without substitutable contracts provided all outstanding NSIE capitalised charges are met prior to relinquishment. Normal UT5 relinquishments remain available to all parties but should also include settlement of future NSIE charges. Transfers remain available to all parties noting the Transferee will become responsible for historic and future capitalised NSIE costs under transfers (see below)
Controlling take or pay at the commencement of Contract Volume Pricing	Contract volume pricing is seen as a solution to the substitutable services held by the expanding party	Contract volume pricing is required to control cost shifting by the expanding party with substitutable train services. Take or Pay exposure to contract volume pricing can be controlled through relinquishments or transfers. Transfers have the potential to be a lower cost option for a transferor.
Minimising the impact of relinquishments and Network system losses on any future Newlands system tariff.	Newlands system volumes need to be maintained to minimise the impact on Newlands system pricing to ensure expansion benefits align with expansion costs. There is no requirement for Network system losses in the presence of spare Deliverable Network Capacity.	Any DAAU should not be trying to solve for both Newlands system price and improve the system ECD. Any relinquished tonnes should be immediately available to an Access Seeker to the extent the system ECD does not increase. This solution is ECD neutral and as a result the Newlands system tariff will better align with the expansion benefits. . Remaining access holders will enjoy a lower tariff by maximising the ability of an Access Seeker to take up relinquished tonnes to the extent that a system ECD is neutral and setting Network System Losses to zero in the presence of spare Deliverable Network Capacity.
Consistent tariff structure	Tariff structure needs to be independent of the impact of future transfers	Transferee becomes responsible for historic capitalised NSIE costs and forecast capitalised NSIE costs. Transferors are incentivised to transfer to reduce exposure to historic capitalised NSIE costs as well as contract volume pricing. Transferor/Transferee are able to negotiate responsibility for historic capitalised NSIE charges outside of the regulatory process.