

Submission to the Queensland Competition Authority
Queensland Rail Draft Access Undertaking 3

14 March 2024

GLENCORE

1 Introduction

This submission is made on behalf of Glencore in response to:

- (a) Queensland Rail's (**QR**) 2025 draft access undertaking (**DAU3**); and
- (b) The initial submissions of other stakeholders made to the Queensland Competition Authority (**QCA**).

Glencore thanks the QCA for the opportunity to make submissions.

Glencore acknowledges the limited and largely incremental nature of changes QR is seeking to the wording of DAU3, and this submission is therefore principally focused on pricing on the Mt Isa line.

2 Context

Glencore is a major user of the Mt Isa Line for its Mount Isa Mines business, which comprises of:

- (a) zinc mining operations (Glencore has announced the Lady Loretta mine will close in 2025, but the George Fisher Mine has a current expected life of mine to 2036 and will continue operating);
- (b) zinc-lead concentrator and lead smelter in Mount Isa;
- (c) copper mining operations (which Glencore has announced will close in the second half of 2025); and
- (d) copper smelter and refinery operations in Townsville (which Glencore has announced it expects to continue operating to 2030 subject to sufficient third party copper concentrate being available and approval of required capital investment).

The closure decision of the copper mines was made on the grounds of economic viability, with a range of issues noted as contributing including 'ageing infrastructure' being a factor.¹

While Glencore acknowledges that declining grade also played a part, the economic viability of copper mining was definitely affected by the high cost of the rail access and transportation. Glencore has made submissions of concern across all of Queensland Rail's access undertakings since the separation of the Aurizon Network and Queensland Rail undertakings.

A material proportion of the goods railed by Mount Isa Mines business are bulk minerals and metals products which, given the long distances involved, are not economic to transport by road (i.e. anode, lead bullion and zinc concentrates).

However, there are inputs to the mining and processing operations which can be transported by truck/road and are currently cheaper than the pricing offered by QR for rail access.

A pricing solution needs to be found in which new or existing users are incentivised to move their products and materials on to rail instead of road, and in which an efficient price is provided for bulk minerals for which QR faces no competition from road.

3 Challenges require a different pricing approach for the Mt Isa line

QR's unwillingness to price rail access in a manner that makes it viable for end users to invest in greenfield projects and expansions of operations using the line has now reached the point of creating challenges for the ongoing sustainability of the line (which will be exacerbated once the announced closures take place).

¹ Glencore, Mount Isa Mines operational changes, 18 October 2023 (accessible: [Mount Isa Mines operational changes \(glencore.com.au\)](https://www.glencore.com.au))

A 'business as usual' approach where QR continues to seek to receive the same revenue requirements spread across a smaller tonnage, will elevate the prices faced by all remaining users of the line to the point of preventing new investment in mining and resulting in further closures, triggering a vicious cycle.

This point has been very clearly raised in submissions from other users of the line, including in this process to date. For example, Glencore notes:

- (a) North-West Phosphate's submissions² that:
 - (i) Mt Isa line access pricing involves costs outpacing CPI, is uncompetitive relative to road and involves very high fixed costs; and
 - (ii) as a result it is more attractive to export phosphate from its greenfield Paradise South phosphate project through the Northern Territory instead;
- (b) Centrex's submissions³ that:
 - (i) it is being prevented from expanding the Ardore phosphate due to a costly supply chain from site to port;
 - (ii) the current pricing structure is hindering the accessibility of rail transport for small to mid-sized companies, impeding economic activities and development in the region;
 - (iii) the costs to utilise the Mt Isa to Townsville corridor are up to 50% more per ton than all equivalent rail corridors nationwide charge customers; and
 - (iv) the current system of path charges is a disincentive to using the rail service;
- (c) Aurizon Operations' submissions⁴ that:
 - (i) in negotiating access on the Mt Isa corridor, QR uses its market power to ensure that it maintains a largely stable revenue stream and profit margin on this corridor while having little accountability in relation to cost efficiency or service quality;
 - (ii) QR uses the prohibition on unfairly differentiation between access seekers as a shield against requests that it apply greater price differentiation and accept more flexible access terms in order to promote market growth, presumably to avoid the risk of reducing access revenue from existing train services as well as to manage the perceived risk around claims of non-compliance with its access undertaking; and
 - (iii) the Mt Isa corridor is the most expensive Australian corridor for the transport of containerised products, with charges for containerised minerals around c.2x to c.3x other comparable corridors.

Glencore also notes that it is clear that users on other lines are also facing affordability issues (New Hope and Yancoal on the West Moreton system and Pacific National on the North Coast Line).

The negotiations that these other submitters describe unfortunately reflect Glencore's experiences as well. In particular, Glencore's experience is that prices are provided on a take it or leave it basis, at a level that damages the economics of its mining and processing operations, well in excess of any reasonably comparable rail service, with limited or no transparency provided as to how floor and ceiling prices have been calculated or how QR has determined the revenue requirement it is seeking from the services.

² North West Phosphate, 1 February 2024 (accessible: [nw-phos-sub-qr-2025-dau-feb-2024.pdf \(qca.org.au\)](#))

³ Centrex, 31 January 2024 (accessible: [Microsoft Word - AU3 Submission Final \(azure.com\)](#))

⁴ Aurizon Operations, 2 February 2024 (accessible: [Queensland Rail 2025 Draft Access Undertaking \(azure.com\)](#))

(Glencore acknowledges that QR has been willing to engage in some degree of negotiation on some issues beyond the tariff, and as such these submissions are confined to those issues which experience demonstrates are not likely to be resolved through negotiations with QR).

4 Pricing on the Mt Isa line

4.1 Context: challenges in price regulation of the Mt Isa rail line

Glencore acknowledges that there are challenges to shaping the appropriate regulatory solution to the pricing difficulties presented for the Mt Isa line, including:

- (a) a diverse mix of traffics/services utilising the line, including multi-product freighter services;
- (b) there being no history of prudency or efficiency assessments being applied to past investments and expenditure on the Mt Isa line;
- (c) there not being a robust DORC valuation or similar to underpin a regulatory asset base; and
- (d) given the length of the line and the volume carried relative to a single user, the stand alone cost used to provide a ceiling price under the current regime is so excessive and exorbitant that QR's pricing is practically uncapped beyond the point at which its customers become insolvent.

4.2 Glencore's proposal

Having considered those challenges, Glencore's own experiences and the submissions of QR and other users of the line, Glencore submits that regulation of pricing for the Mt Isa line should be overhauled to reflect the following:

Element of Proposal	Rationale
The floor price continuing to be based on the efficient incremental cost of providing the service	While it is important to incentivise greater volumes, other users should not cross-subsidise services that do not meet their incremental costs.
QR being obliged by the undertaking to publish to access seekers details of how it calculated the efficient incremental cost of providing their service	From Glencore's experience access seekers suffer from significant information asymmetry and Glencore's past attempts to use the legislative rights to information under section 105 of the <i>Queensland Competition Authority Act 1997</i> (Qld) have also failed to produce any material additional transparency. Both parties conducting price negotiations on an informed basis is critical to trying to make the current negotiate-arbitrate workable.
If QR wishes to rely on capital expenditure projects in calculating the incremental cost, the inclusion of those costs is subject to the QCA accepting them as prudent (applying the process that already exists for reference tariff services on the West Moreton system);	Glencore's experience is that QR has sought to recover costs for capital projects that either Glencore has doubted the efficiency of, or which have never realised the asserted efficiency benefits of, or despite recovering revenue for have not ultimately actually been developed.

<p>WACC based elements utilised in calculating the incremental costs are taken from the QR final decision as specified in relation to the Mt Isa line (or if not specified those utilised in the calculation of the West Moreton reference tariff</p>	<p>Glencore's experience is that currently no opportunity is provided to consider or challenge QR's assumed WACC for non-reference services. This position would ensure that the WACC based elements are appropriate.</p>
<p>The ceiling price (which QR is not permitted to price beyond) to now be based on the lower of the following (subject to never being reduced below the floor price):</p> <ul style="list-style-type: none"> • the cost at which road transport would be more economic; • the stand alone efficient cost • the cost which is a 10% margin above the floor price. 	<p>This is a critical change – because the standalone cost of building a rail line from Mt Isa to Townsville to service a single customer's needs is completely uneconomic – such that the current ceiling pricing is effectively giving QR a right to uncapped pricing.</p> <p>This cost based approach is intended to result in the price ceiling reflecting efficient pricing.</p>
<p>With QR being obliged by the undertaking to publish to access seekers the details of how it has calculated the ceiling price</p>	<p>See earlier comments in relation to publication of the incremental cost (which equally apply here).</p>
<p>The fixed or take or pay component is limited to the fixed cost component of the build-up of incremental costs</p>	<p>Given the line is underutilised there is no purpose of ensuring access seekers pay a fixed take or pay charge for the purposes of 'reserving' capacity'.</p> <p>In the context of the significant surplus capacity on the Mt Isa line that is currently being unutilised, if a traditional building blocks methodology was being used – Glencore considers that significant optimisation of the regulatory asset would be appropriate – such that take or pay / fixed charges should solely focus on incremental fixed costs.</p>
<p>The price discrimination provisions should be amended to provide that they do not prevent QR from pricing in accordance with this new approach</p>	<p>A rule of this sort is necessary to allow the services on the line to transition to the new system (to prevent a continuation of what other submissions refer to as using the price discrimination provisions as a shield against reducing price).</p>
<p>Arbitration continuing to be available where the parties are unable to reach agreement</p>	<p>Consistent with Part 5 of the QCA, and in the absence of a reference tariff, there needs to be a forum for resolution where negotiations cannot resolve pricing.</p>
<p>The outcomes of any arbitration being required to be provided to</p>	<p>This will provide transparency, and enhance the prospects of future commercial negotiation taking into</p>

<p>other users / access seekers on the Mt Isa line</p>	<p>account the QCA's views on appropriate pricing outcomes.</p> <p>This does not make any prior arbitration binding on the QCA/parties to a subsequent arbitration as circumstances of each access negotiation will vary.</p>
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That approach incentivises all rail transport that meets its incremental costs and makes some contribution to the common cost of the Mt Isa line (including the development of new projects), should limit the amount of transportation being diverted to road and provides a reasonable margin to QR where that is actually affordable.

The above approach is a sensible cost-based pricing arrangement that will assist in increasing rail volumes, thereby driving greater economies of scale in the medium term, such that QR may, in the future, be able present an economic more traditional building blocks based price for the major types of traffic on the line at more affordable levels.

4.3 Alignment to statutory considerations

In making these submissions, Glencore notes that it considers them clearly aligned to the considerations the QCA is required to have regard to in assessing a draft access undertaking including:

- (a) The object of Part 5 QCA Act (s 138(2)(a)) – as it promotes efficient use of the Mt Isa rail corridor;
- (b) The legitimate business interests of QR (s 138(2)(b)) – as it ensures that access pricing continues to meet incremental costs;
- (c) The public interest (s 138(2)(d)) – which Glencore submits includes:
 - (i) the State's public policy of growing the North West Queensland mineral province;
 - (ii) maintaining employment and economic growth in the region where its foundation mining operations are likely to need to cease operations to some degree in the next few years;
 - (iii) climate, safety and community considerations in relation to it being clearly preferable from society's perspective to have transport on rail rather than high volumes of heavy haul trucking; and
 - (iv) the State's interest in the line having sufficient volume that State funded or subsidised rail use (for passenger and livestock) is getting the benefits of lower costs through economies of scale arising from.
- (d) The interests of access seekers (s 138(2)(e)) – as this formulation is designed to:
 - (i) incentivise rail use; and
 - (ii) provide an economic/affordable price for access; and
- (e) The pricing principles in s 168A (s 138(2)(g)) – in that it permits multi-part pricing and price discrimination to aid efficiency and provides QR with incentives to reduce costs.

As noted earlier in this submission, Glencore considers a change of this nature is required in the interim in order to ultimately results in pricing being in a position where (with the benefits of economies of scale).

5 Responses to select points raised in other submissions

5.1 Price differentiation

Glencore notes comments from some submitters in relation to price differentiation, particularly the assertions it has been used by QR to deny access seekers a reasonable price due to higher prices contracted for other minerals.

Glencore has obviously not been a party to negotiations involving producers of phosphate or Aurizon's negotiations in respect of other services, such that it cannot directly comment on how QR has or has not conducted such negotiations.

However, clause 3.3(d) of QR's current access undertaking only prevents differentiation where 1) the characteristics of the Train Services are alike; and 2) the Access Seeker(s) and Access Holder(s) are operating in the same end market.

Consequently the pricing being received by, for example, Glencore's Mt Isa operations or South 32's Cannington operations, should not have any bearing on the price being provided to the phosphate projects.

Glencore also considers it is very dangerous to seek to have express regulation seeking to provide a different pricing outcome for different anticipated values of products – where pricing for minerals can be quite cyclical, and vary very significantly during an undertaking term.

5.2 Non-pricing submissions

While Glencore is not enamoured by some other parts of the standard rail access agreement or access undertaking, it considers the focus must be on the pricing terms (which unless changed to efficient levels will effectively strand QR's investment in the line and other parties' investments in mining and process operations utilising the line and disincentive new projects which would rely on the land.

For completeness, Glencore notes that it is supportive of the comments made by other users opposing:

- (a) the deletion from the quarterly report of the reporting requirements in relation to deviation from a Daily Train Plan and ad-hoc possessions; and
- (b) the deletion of the disputes regime which prevents a possession (other than an Emergency or Urgent Possession) proceeding if it is the subject of an unresolved bona fide dispute.

There are material outages and possessions occurring on the Mt Isa line. Until it is obvious that the material cause(s) of those outages has been identified and action has been taken to reduce or mitigate the prospects of those reoccurring – QR's changes regarding those matters are not appropriate.

6 Conclusions

It is plainly evident from the submissions that the QCA has received that the current approach to pricing on the Mt Isa line is no longer workable.

Glencore has put forward what it considers a pricing framework that would rectify the key matters being opposed by stakeholders and commends it to the QCA for careful consideration.

If the QCA has any queries in relation to this submission, please do not hesitate to contact David Kerr on david.kerr@glencore.com.au.