



AUSTRALIAN RAIL TRACK CORPORATION LTD

## Application by ARTC to vary the ARTC Interstate Access Undertaking

### 1 Application

#### 1.1 Application

This is an application to the ACCC for consent to vary the ARTC Interstate Undertaking (**Access Undertaking**) under section 44ZZA(7) of the *Competition and Consumer Act 2010* (Cth) (**CCA**) and as contemplated by section 2.4(c) of the Access Undertaking. The Access Undertaking was accepted by the ACCC on 30 July 2008.

Section 2.4(c) of the Access Undertaking requires ARTC to develop and submit to the ACCC by 31 December 2011, the estimated capital expenditure to be incurred by ARTC for the period 1 July 2012 to 30 June 2018.

ARTC is proposing to amend Schedule H of the Access Undertaking, which currently outlines the capital expenditure applicable for the period 1 July 2006 to 30 June 2012, in order to cover the future period 1 July 2012 to 30 June 2018.

The proposed capital expenditure and amendments to Schedule H of the Access Undertaking are set out in **Attachment A**.

#### 1.2 Criteria for approving variation

Pursuant to section 2.4 of the Access Undertaking and section 44ZZA(7) of Division 6 of Part IIIA of the CCA, ARTC may vary the Access Undertaking at any time with the ACCC's consent.

The ACCC may only consent to a variation if it considers it appropriate to do so having regard to the matters set out in section 44ZZA(3) of the CCA. These matters include:

- a) the objects of Part IIIA of the CCA;
- b) the pricing principles specified in section 44ZZCA;
- c) the legitimate business interests of ARTC;
- d) the public interest, including the public interest in having competition in markets;
- e) the interests of Operators; and
- f) any other matters that the ACCC considers relevant.

ARTC considers it appropriate for the ACCC to consent to the proposed variation for the reasons set out in section 2 below and the Supporting Submission provided as Attachment B.



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### **2 Proposed Capital Expenditure for the period 1 July 2012 to 30 June 2018**

#### **2.1 Capital Expenditure**

Capital expenditure is the annual expenditure incurred by ARTC. The capital expenditure estimates form the basis for determining ARTC's annual revaluation of the network and associated facilities in respect of calculating ARTC's annual economic cost under the Access Undertaking.

The Access Undertaking recognises that capital expenditure is determined on a prudent basis. In section 9.1 of the Access Undertaking, "Prudent" is defined as:

*in relation to Capital Expenditure, capital and renewals projects identified, and expenditure incurred, having regard to:*

- (a) the need to meet market demand for capacity and performance of the Network, or the need to extend the economic life of the Network;*
- (b) whether the scope of works is consistent with that identified in the applicable ARTC Corridor Strategy current as at the Commencement Date or as varied from time to time;*
- (c) what is considered to represent an efficient means to achieve that demand or extend that economic life;*
- (d) what is consistent with existing standard and configuration of adjacent and/or existing infrastructure with similar utilisation and market requirements, or its modern engineering equivalent;*
- (e) expenditure incurred efficiently in implementing the project, in the context of prevailing access and operating requirements, and input costs;*
- (f) adjustments in relation to the timing of commencement and/or commissioning of projects; and*
- (g) support by the industry.*

ARTC is required to develop the capital expenditure applicable to the period 1 July 2012 to 30 June 2018 for submission to the ACCC in accordance with section 2.4(c) of the Access Undertaking. In determining the proposed capital expenditure estimates for the period 1 July 2012 to 30 June 2018 ARTC has had regard to the 'Prudent' requirements set out in the Access Undertaking.

Further details are provided in the supporting submission provided as **Attachment B**.

#### **2.3 Consultation with industry**

ARTC maintains a continuous dialogue with rail operators in the development of its overall investment strategy. Specific discussions in respect of ARTC's investment strategy are held with rail operators on an ad hoc basis as appropriate and drafts of ARTC's investment strategies are regularly circulated to relevant



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industry stakeholders for consultation purposes. It is ARTC's general practice to release its investment strategies to industry as consultation documents and feedback on such strategies is encouraged. Whilst strategy documents set out the context for investment decision making, individual projects undergo further rounds of review and engagement with relevant stakeholders before any final approval is granted.

ARTC undertakes stakeholder consultation in relation to investment strategies in accordance with section 6.5 of the Access Undertaking.



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### Attachment A

#### Proposed variation

ARTC proposes to vary the Access Undertaking by way of extending the existing Schedule H to include the period 1 July 2012 to 30 June 2018 as outlined in blue below.

#### SCHEDULE H (Capital Expenditure)

Segment/Activity	Estimated Expenditure*											
	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
<b>1. Adelaide (Dry Creek) – Parkeston</b>												
Improvement Project Works	597	1,629	1,913	1,913	1,913	-	14,000	54,825	40,825	-	-	-
ATMS Roll-out	-	-	-	-	-	-	-	-	36,200	36,962	-	-
Corridor Infrastructure Investment	9,476	10,151	10,313	10,243	10,363	10,563	5,754	6,189	6,591	6,321	6,399	6,399
<b>Total Capital Expenditure</b>	<b>10,073</b>	<b>11,779</b>	<b>12,226</b>	<b>12,156</b>	<b>12,276</b>	<b>10,563</b>	<b>19,754</b>	<b>61,014</b>	<b>83,616</b>	<b>43,283</b>	<b>6,399</b>	<b>6,399</b>
<b>2. Adelaide (Dry Creek) – Melbourne (Spencer Street)</b>												
Improvement Project Works	7,756	42,966	7,049	1,913	1,913	-	-	-	-	-	-	50,000
ATMS Roll-out	-	-	-	-	-	-	-	-	-	17,338	45,300	38,225
Corridor Infrastructure Investment	7,270	7,222	4,205	4,205	3,364	4,310	2,443	2,628	2,799	2,684	2,717	2,717
<b>Total Capital Expenditure</b>	<b>15,026</b>	<b>50,189</b>	<b>11,254</b>	<b>6,118</b>	<b>5,277</b>	<b>4,310</b>	<b>2,443</b>	<b>2,628</b>	<b>2,799</b>	<b>20,022</b>	<b>48,017</b>	<b>90,942</b>
<b>3. Melbourne (Tottenham) – Macarthur</b>												
Main South Track Improvement Works	118,322	300,807	194,873	-	-	-	-	-	-	100,000	100,000	50,000
Train Control Consolidation -												



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South	48,852	5,691	-	-	-	-	-	-	-	-	-	-
Corridor Infrastructure												
Investment	6,783	11,586	2,330	2,082	2,405	2,170	4,511	7,560	4,600	6,410	6,353	6,353
<b>Total Capital Expenditure</b>	<b>173,957</b>	<b>318,084</b>	<b>197,203</b>	<b>2,082</b>	<b>2,405</b>	<b>2,170</b>	<b>4,511</b>	<b>7,560</b>	<b>4,600</b>	<b>106,410</b>	<b>106,353</b>	<b>56,353</b>
<b>4.Newcastle (Islington Junction via mains) – Queensland Border (Border Tunnel)</b>												
North Coast Improvement Works	80,266	125,752	27,799	728	-	-	-	-	-	-	-	-
North Coast Signals/Train Control Improvement Works	2,447	-	-	-	-	-	-	-	-	-	-	-
Northern Train Control Consolidation (allocation)	8,754	2,834	4,279	-	-	-	-	-	-	-	-	-
ATMS Roll-out	-	-	-	-	-	-	-	-	-	-	-	7,075
Corridor Infrastructure												
Investment	12,914	13,271	5,796	7,880	6,461	5,987	1,949	3,267	1,988	2,770	2,746	2,746
<b>Total Capital Expenditure</b>	<b>104,381</b>	<b>141,857</b>	<b>37,874</b>	<b>8,608</b>	<b>6,461</b>	<b>5,987</b>	<b>1,949</b>	<b>3,267</b>	<b>1,988</b>	<b>2,770</b>	<b>2,746</b>	<b>9,821</b>
<b>5.Crystal Brook – Parkes</b>												
Western NSW Improvement Works	8,834	9,986	417	-	-	-	14,000	21,000	-	-	-	-
Corridor Infrastructure												
Investment	3,569	3,775	2,166	4,256	3,723	1,616	3,082	3,314	3,530	3,385	3,427	3,427
<b>Total Capital Expenditure</b>	<b>12,403</b>	<b>13,760</b>	<b>1,749</b>	<b>4,256</b>	<b>3,723</b>	<b>1,616</b>	<b>17,082</b>	<b>24,314</b>	<b>3,530</b>	<b>3,385</b>	<b>3,427</b>	<b>3,427</b>
<b>6.Cootamundra - Parkes</b>												
Improvement Project Works	-	-	-	-	-	-	-	-	-	-	-	-
Corridor Infrastructure												
Investment	1,771	783	3,660	2,807	1,399	970	569	612	651	625	632	632
<b>Total Capital Expenditure</b>	<b>1,771</b>	<b>783</b>	<b>3,660</b>	<b>2,807</b>	<b>1,399</b>	<b>970</b>	<b>569</b>	<b>612</b>	<b>651</b>	<b>625</b>	<b>632</b>	<b>632</b>
<b>7.Adelaide (Dry Creek) – Pelican Point</b>												
Corridor Infrastructure												
Investment	23	-	-	-	-	-	57	61	65	62	63	63



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<b>Total Capital Expenditure</b>	<b>23</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>57</b>	<b>61</b>	<b>65</b>	<b>62</b>	<b>63</b>	<b>63</b>
<b>8.Port Augusta – Whyalla</b>												
Corridor Infrastructure Investment	-	50	50	-	-	-	216	232	247	237	240	240
<b>Total Capital Expenditure</b>	<b>-</b>	<b>50</b>	<b>50</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>216</b>	<b>232</b>	<b>247</b>	<b>237</b>	<b>240</b>	<b>240</b>
<b>9.Moss Vale - Unanderra</b>												
Corridor Infrastructure Investment	337	494	117	876	766	738	198	332	202	282	279	279
<b>Total Capital Expenditure</b>	<b>337</b>	<b>494</b>	<b>117</b>	<b>876</b>	<b>766</b>	<b>738</b>	<b>198</b>	<b>332</b>	<b>202</b>	<b>282</b>	<b>279</b>	<b>279</b>
<b>Network (allocation)</b>												
Track Investment (eg Wayside Detection, Wagons, Plant & Equipment)	2,520	2,558	-	5,677	5,722	-	-	-	-	-	-	-
Signals & Train Control Investment (ATMS Concept)	552	13,940	20,351	32,053	-	-	-	-	-	-	-	-
Communications Investment (eg 3G 850, NTCS, ICE)	3,670	28,330	17,920	-	-	-	-	-	-	-	-	-
<b>Total Capital Expenditure</b>	<b>6,742</b>	<b>44,828</b>	<b>38,271</b>	<b>37,730</b>	<b>5,722</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Other</b>												
Southern Sydney Freight Line	3,464	94,518	143,651	-	-	-	-	-	-	-	-	-
<b>Total Capital Expenditure</b>	<b>3,464</b>	<b>94,518</b>	<b>143,651</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

ARTC proposes to further vary the Access Undertaking by way of deleting section 2.4(c) of the Access Undertaking. Clause 2.4(c) is obsolete once the existing Schedule H is extended to include the period 1 July 2012 to 30 June 2018. Section 2.4 will consequently be re-numbered.

For convenience, ARTC has prepared a clean version of the Access Undertaking to reflect the above proposed amendments. The clean version is attached as **Annex 1**.



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## **Annex 1**

**Clean version of the Access Undertaking incorporating proposed variation amendments**



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## **Attachment B**

**ARTC supporting documentation**