Consultation Paper

Australian Rail Track Corporation's compliance with the Hunter Valley Coal Network Access Undertaking financial model for 2021

May 2023

Acknowledgement of country

The ACCC acknowledges the traditional owners and custodians of Country throughout Australia and recognises their continuing connection to the land, sea and community. We pay our respects to them and their cultures; and to their Elders past, present and future.

Australian Competition and Consumer Commission

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ACCC May 2023

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Foreword

The Australian Competition and Consumer Commission (ACCC) is conducting a public consultation as part of its assessment of the Australian Rail Track Corporation's (ARTC) compliance for the 2021 calendar year with the Hunter Valley Coal Network Access Undertaking (HVAU).

The ACCC is seeking submissions from interested parties with respect to ARTC's submission. Questions for stakeholders are set out in Chapter 3 of this consultation paper. However, comments are welcome on any aspect of ARTC's submission.

The ACCC's intention is that this will be the only round of consultation before the ACCC makes a final determination in relation to ARTC's compliance in 2021. However, the ACCC may consult further if appropriate.

Submissions are due by **30 June 2023** and should be addressed to:

Mr Matthew Schroder
General Manager
Infrastructure & Transport – Access & Pricing Branch
Australian Competition and Consumer Commission
Email: transport@accc.gov.au

Confidentiality

The ACCC strongly encourages public submissions. Unless a submission, or part of a submission, is marked confidential, we will publish it on the ACCC's website and make it available to any person or organisation upon request. If stakeholders wish to provide a confidential submission, the ACCC asks that stakeholders provide a full copy of the document and a public version with the confidential information omitted, which we will publish on the ACCC website.

Stakeholders should clearly identify sections of submissions that you claim to be confidential. The ACCC will consider each claim of confidentiality on a case-by-case basis. If the ACCC refuses a request for confidentiality, we will give the submitting party the opportunity to withdraw the submission in whole or in part.

The ACCC will redact signatures and any other information it deems personal information from submissions prior to publication.

For further information about the use of information provided to the ACCC, please refer to the ACCC publication '*ACCC & AER Information Policy – the collection, use and disclosure of information*' available on the ACCC website at: https://www.accc.gov.au/publications/acccaer-information-policy-collection-and-disclosure-of-information.

Further Information

ARTC's public annual compliance submission documents and versions 7 and 8 of the HVAU are available on the compliance submission webpage.

If you have any queries about matters raised in this document, please contact the Regulated Access - Rail team at transport@accc.gov.au.

Contents

Executive summary

The HVAU provides for the ACCC to undertake an annual assessment of ARTC's compliance with the financial model as set out in the HVAU.[1]

At its core, the financial model dictates the minimum (floor) and maximum (ceiling) amount of Access revenue ARTC can recover from Access Holders in the Constrained Network (currently Zones 1 and 2) and the unconstrained network (currently Zone 3).[2] The HVAU outlines the calculation of the Regulatory Asset Base (RAB) Floor Limit for the Constrained Network and Zone 3. It also stipulates that a separate RAB must be calculated for Zone 3 to account for loss capitalisation.

The HVAU requires that only Prudent capital expenditure is included in the RAB Floor Limit and RAB, and that only Efficient operating expenditure is recovered from Access Holders.[3] The ACCC must assess whether ARTC has undertaken all these calculations correctly by undertaking an annual compliance assessment.

The ACCC must also assess whether ARTC's true-up test for 2021 meets the requirements of the HVAU.[4]

ARTC has submitted compliance documentation for 2021 to the ACCC for assessment pursuant to the HVAU.

ARTC submitted for the 2021 calendar year that:

- it had an under-recovery of revenue for the Constrained Network (Zones 1 and 2) for the year of $8.1 million
- the loss capitalisation balance for Zone 3 has reduced to $10.5 million
- net capital expenditure was $59.4 million
- total operating expenditure was $211.4 million
- it has complied, in all material respects, with the true-up test requirements as set out in Schedule 2 of the Access Holder Agreements.[5]

1 All references to the HVAU in this consultation paper are refences to version 8, unless stated otherwise. Zone 3 became part of the Constrained Network on 1 January 2023, but is not part of the Constrained Network for the purposes of this compliance assessment.

2 All capitalised terms in this document are defined in the HVAU, unless stated otherwise.

3 'Prudent' and 'Efficient' are defined in section 14.1 of the HVAU.

4 The true-up test determines whether ARTC is liable for any rebates to users for ARTC's failure to deliver contracted path usages.

5 Values in this consultation paper are in nominal dollars, unless stated otherwise. Historical expenditures for multiple years are shown as real values in $2021.

1. Introduction

1.1. Background

ARTC is an Australian Government-owned corporation. It was established in 1998 to be the single point of contact for parties seeking to run trains on the Interstate and Hunter Valley rail networks.

The Hunter Valley coal chain is the largest export coal supply chain in the world and is predominantly used to transport coal from mines in the Hunter Valley region to the Port of Newcastle for export to international customers. Additionally, the network is used for domestic coal purposes, such as for power stations, and by non-coal traffic, including general and bulk freight services (such as grain) and passenger services. ARTC has a natural monopoly over the below-rail infrastructure used to transport coal from the Hunter Valley to the Port of Newcastle.

The Hunter Valley network is divided into Pricing Zones (Zones), where:

- Zone 1 extends from the Port of Newcastle to Muswellbrook and contains the oldest mines. Traffic from the other zones must traverse Zone 1 to reach the port.
- Zone 2 extends east from Muswellbrook to Ulan.
- Zone 3 extends from Muswellbrook north to Narrabri and includes the newest mines.

1.2. Hunter Valley Coal Network Access Undertaking

Access to ARTC's Hunter Valley Rail Network is currently regulated through the HVAU, which sets out the terms and conditions for access seekers.

The ACCC accepted the original HVAU on 29 June 2011 and has accepted multiple variations and extensions since, most recently version 8 on 2 June 2021. Version 8 is operational from 1 July 2021 until 31 December 2026. Section 4A.1(c) of HVAU version 8 specifies that Schedule J of HVAU version 8 applies to the 2021 and 2022 compliance assessments, and that Section 4 of HVAU version 8 applies from 2023 onwards.[6]

The key changes introduced by version 8 include:

- From 1 July 2021 onwards, a reduction in the Rate of Return and increase in useful life, which will result in lower Access Charges
- improved transparency and reporting, including improved consultation on maintenance expenditure with Rail Capacity Group (RCG)

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[6] The rate of return (ROR) and depreciation set out in HVAU version 7 apply for the period 1 January 2021 to 30 June 2021, while the ROR and depreciation set out in Schedule J of HVAU version 8 apply for the period 1 July 2021 to 31 December 2021 (see sections 4J.7 and 4J.8 of HVAU version 8). Section 4 of the HVAU version 8 applies from 1 January 2023 onwards, as loss capitalisation for Zone 3 ends on 31 December 2022. See pages 35 and 36 of our Draft Decision on the Australian Rail Track Corporation's March 2021 variation to the Hunter Valley Coal Network Access Undertaking for further detail.

- ending of loss capitalisation for Pricing Zone 3 Access Holders on 31 December 2022 (loss capitalisation remains in place for this 2021 compliance assessment).[7]

All variations and extensions to the HVAU are available on the ACCC's website at https://www.accc.gov.au/regulated-infrastructure/rail/hunter-valley-rail-network-access-undertaking.

Schedule J of the HVAU sets out the access pricing principles and the approach to calculating the amount of revenue that ARTC is entitled to recover from Access Holders for the Hunter Valley network. The key concepts outlined in Schedule J are the Economic Cost, the Regulatory Asset Base (RAB) Floor Limit and the RAB. These concepts are explained in further detail in Chapter 2 of the 2019 and 2020 final determination.

1.3. ACCC compliance assessment obligations

Table 1 shows the ACCC's core obligations under the HVAU in relation to the ACCC's annual compliance assessment.

Table 1: Annual compliance obligations for the ACCC in the HVAU

HVAU Section	Obligation
4J.10(d)(i)	Determine whether ARTC has undertaken the roll forward of the RAB in accordance with the HVAU (and if not undertaken in accordance with the HVAU, determine what the closing RAB should be). Determine whether ARTC has undertaken the roll forward of the RAB Floor Limit in accordance with the HVAU (and if not undertaken in accordance with the HVAU, determine what the closing RAB Floor Limit should be).
4J.10(d)(ii)	Determine whether ARTC has undertaken calculations relevant to reconciliation of Access revenue with the applicable Ceiling Limit calculation of any allocation of the total unders and overs amount in accordance with the HVAU (and where calculations are not in accordance with the HVAU, determine what total unders and overs amount allocation would be in accordance with the HVAU).
4J.10(d)(iii)	Determine whether ARTC has complied with the provisions of section 4J.4 in rolling forward the RAB or the RAB Floor Limit, but if Capital Expenditure or Capital Allocations have been endorsed by the RCG, then the ACCC will not consider whether the Capital Expenditure is Prudent or review the Capital Allocations.
4J.10(e)	Determine whether ARTC has incurred Efficient costs and Efficient operating expenditure, in accordance with section 4J.5(b), and if necessary, determine the change to the total unders and overs amount or allocation and the closing RAB and RAB Floor Limit in section 4J.4, that results from Economic Cost under section 4J.5(a) only including Efficient costs and Efficient operating expenditure determined in accordance with section 4J.5(b).
4.10A(k)	Review the final audit report for the annual true-up test undertaken by an independent auditor. Decide, and notify ARTC of, any amounts of underpayment of rebates that are owing to Access Holders or amounts of overpayment of rebates ARTC is entitled to recover.

Source: HVAU version 8.

Further relevant provisions of the HVAU relating to the annual compliance assessment are set out in Appendix A of this consultation paper.

[7] The RCG is a representative group made up of a range of stakeholders, including Access Holders, above-rail operators, and the Hunter Valley Coal Chain Coordinator (in a non-voting capacity).

1.4. ARTC's 2021 annual compliance submission

On 11 April 2023 ARTC submitted its annual compliance documentation for the 2021 calendar year. ARTC submitted revised compliance documentation on 5 and 17 May 2023 containing minor corrections.

ARTC's 2021 public compliance documents are set out as follows:

- Main compliance submission document (titled 'HVAU - 2021 Annual Compliance – ARTC Submission')
- Operating expenditure document (titled 'HVAU - 2021 Annual Compliance – Att 1 Operating Expenditure')
- Capital consultation document (titled 'HVAU - 2021 Annual Compliance – Att 2 Capital Consultation')
- Corridor Capacity Strategy (titled 'HVAU - 2021 Annual Compliance – Att 5.8.11 Hunter Valley Corridor Capacity Strategy')
- True-up test audit report (titled 'HVAU - 2021 Annual Compliance – Att 4 Grant Thornton True-up Test Final Audit Report').

These documents can be found at: https://www.accc.gov.au/by-industry/rail-shipping-and-ports/hunter-valley-rail-network-access-undertaking/hunter-valley-rail-network-annual-compliance-assessment-2021/artcs-compliance-submission.

2. Key areas for the 2021 compliance assessment

Issues for consultation are:

- unders and overs (section 2.1)
- loss capitalisation (section 2.2)
- prudency of capital expenditure (section 2.3)
- efficiency of operating expenditure (section 2.4)
- true-up test audit (section 2.5).

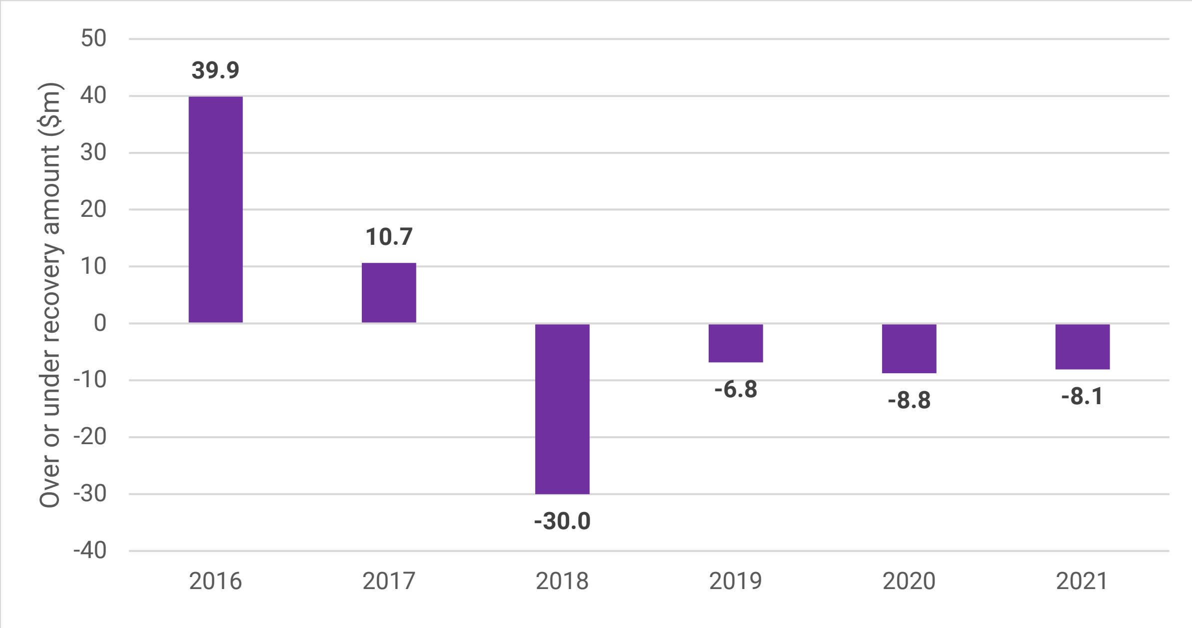
We welcome submissions on other aspects of ARTC's compliance submission that stakeholders consider pertinent to our compliance assessment.

2.1. Unders and overs (Constrained Network – Zones 1 and 2)

Section 4J.10(d)(ii) of the HVAU requires the ACCC to, in respect of the Constrained Network, determine whether ARTC has allocated the total 'unders and overs' amount to Access Holders in accordance with the HVAU. If ARTC's access revenue exceeds the Economic Cost (being the Ceiling Limit) in a compliance period, there is an over recovery and ARTC must refund the amount to Access Holders. If revenue is less than Economic Cost, ARTC can recoup the under-recovered revenue from Access Holders.

ARTC submitted that there were under-recoveries for the Constrained Group of Mines (i.e. Zone 1 and 2 customers) of $8.1 million in 2021. Figure 1 (see overleaf) shows the unders and overs amounts for the Constrained Network from 2016 to 2021.

Figure 1: **Over or under recovery amounts for the Constrained Network ($million), 2016 to 2021**



Source: ACCC, *Final Determination*, 2016 to 2020; ARTC, *Hunter Valley Coal Network Access Undertaking – 2021 Compliance Assessment Submission* (*2021 Submission*), 11 April 2023, p 40.

ARTC also provided confidential spreadsheets to the ACCC that set out the allocation of the total unders and overs amount to individual Access Holders for 2021, as required by Schedule G, clause 2(c)(i)(C) of the HVAU.

If the ACCC determines there has been an under recovery of access revenue, then Access Holders will, in aggregate, be required to pay this value to ARTC. ARTC reported that the under recoveries for 2018 to 2020 have been paid in full.[8]

2.2. Loss capitalisation (Zone 3)

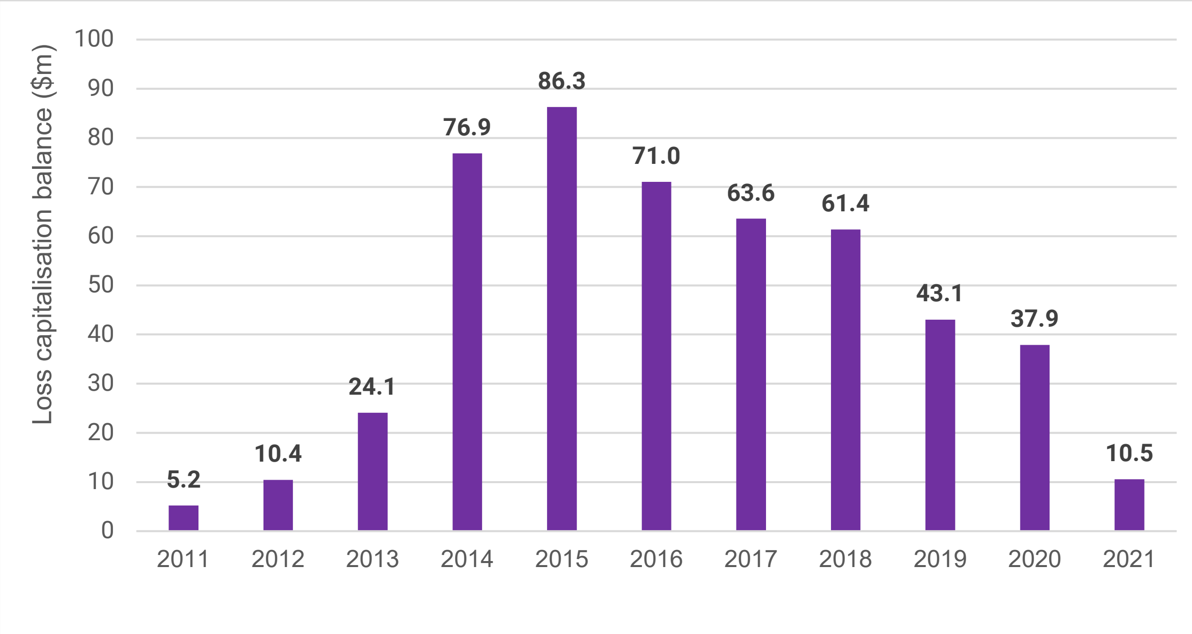
Section 4J.10(d)(i) of the HVAU requires the ACCC to determine whether ARTC has correctly rolled forward the RAB and the RAB Floor Limit. The ACCC must then check whether the RAB exceeds the RAB Floor Limit for Zone 3 and if loss capitalisation still applies.

ARTC submitted that loss capitalisation still applies for Zone 3. Figure 2 (see overleaf) shows that the loss capitalisation balance was $37.9 million at the end of 2020 and $10.5 million at the end of 2021. This is a reduction of $27.4 million from 2020 to 2021.[9]

[8] ARTC, *2021 Submission*, p 45.

[9] Figures do not align due to rounding.

Figure 2: Closing loss capitalisation balance for Zone 3 ($million), 2011 to 2021



Source: ACCC, *Final Determination*, 2013 to 2020; ARTC, *2021 Submission*, p 33.

2.3. Prudency of capital expenditure

Sections 4J.4(a) and (b) of the HVAU define net capital expenditure as capital additions to the RAB and RAB Floor Limit, plus interest costs incurred during construction, less the written-down value of any disposals. The HVAU requires that, for capital expenditure to be included in the RAB and RAB Floor Limit, it must be incurred on a 'Prudent' basis (see Table 1).

The HVAU provides for the RCG to endorse major (expansion) and minor (sustaining) capital expenditure.[10] ARTC has provided information on the RCG's endorsement of both major and minor capital expenditure to the ACCC on a confidential basis. The ACCC will review this in its assessment.

2.3.1. Summary of capital expenditure

As shown in Table 2, ARTC's total net capital expenditure fell from $90.2 million in 2020 to $59.4 million in 2021. In 2021, the Constrained Network and Zone 3 accounted for 73.3% and 24.3% of net capital expenditure, respectively.[11]

In relation to the decrease in net capital expenditure from 2020 to 2021, ARTC reported that:

- in 2020 there was significant expenditure on the ARTC's Network Control Optimisation project (ANCO) and track reconditioning works for Zones 1 and 3 compared to 2021
- the COVID-19 pandemic resulted in a significant reduction in capital scope in 2021

[10] Sections 9.2(a)(i) and (ii) of the HVAU.

[11] Expenditure on Segments in the Constrained Network and Zone 3 comprise less than 100% of net capital expenditure because the $59.4 million figure includes expenditure on unconstrained Segments in Zone 1.

- severe flooding in March and November resulted in 2021 scope being deferred to 2022, which in turn, reduced 2021 scope.[12]

Table 2: Capital expenditure ($million), 2021

Category	Constrained Network	Zone 3	Total
Major (expansion) capital	0.3	0.0	0.4
Minor (corridor/sustaining) capital	52.1	16.1	69.6
Interest during construction	0.8	-	0.8
Disposal value	(9.7)	(1.7)	(11.4)
Net capital expenditure	43.5	14.4	59.4

Source: ARTC, *2021 Submission*, pp 19, 51-52.

ARTC submitted major capital expenditure of $0.4 million in 2021 (compared to $12.5 million in 2020) and minor capital expenditure of $69.6 million in 2021 (compared to $92.8 million in 2020).[13]

Key minor capital projects in 2021 included the:

- Bridge Street Bridge project, which is part of the Muswellbrook Bridge Replacement Project
- Waratah to Sandgate Signalling Project
- 100km/h Down Direction Train Running capital enhancement project.[14]

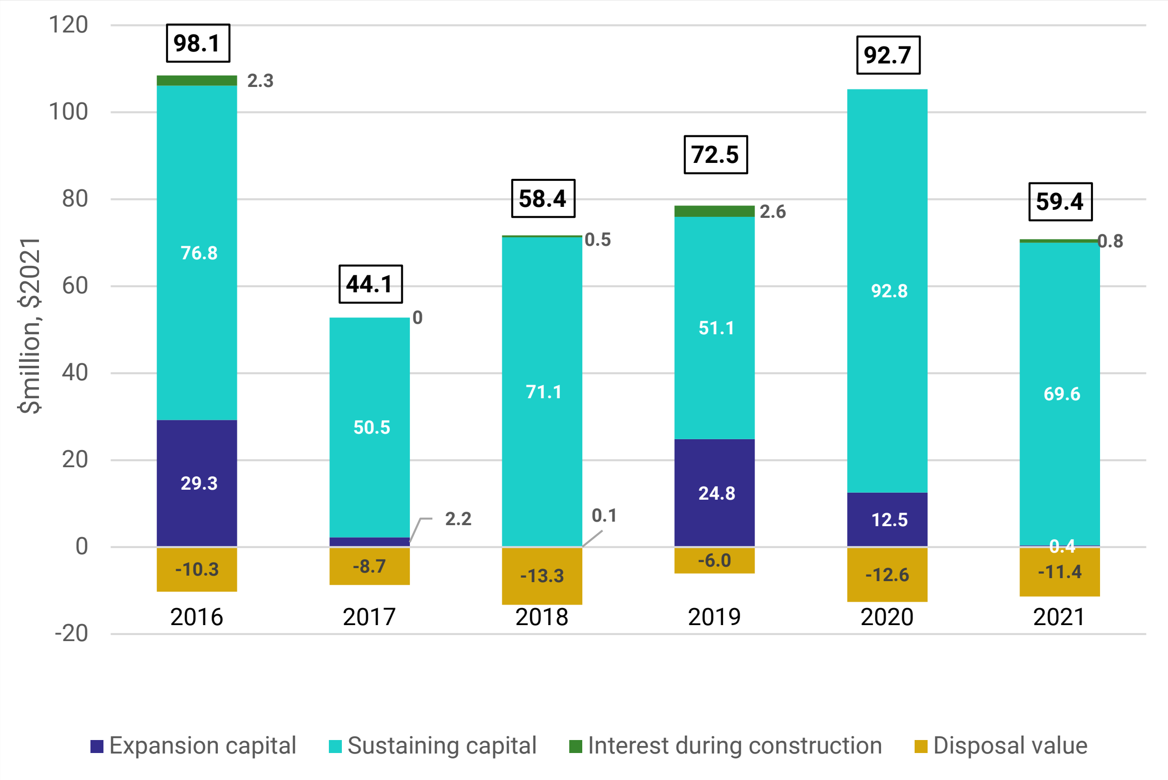
Figure 3 (see overleaf) illustrates that from 2016 to 2021 the majority of ARTC's net capital expenditure comprised sustaining capital. This trend reflects stakeholders' interest in optimising existing network infrastructure rather than expanding the network. Major capital expenditure fell significantly in 2021 following 2 significant years of expenditure on ANCO in 2019 and 2020.

[12] ARTC, *Hunter Valley Coal Network Access Undertaking 2021 Annual Compliance Assessment, Attachment 2: Capital consultation* (*2021 Submission – Att. 2: Capital consultation*), 11 April 2023, p 7.

[13] Major capital expenditure relates to projects that create additional capacity in the network. Minor capital expenditure relates to projects that are minor in scope or cost. A project would typically be considered minor if it relates to ongoing annual programs for asset replacement, cost reduction or safety-related projects, rather than additional capacity.

[14] ARTC, *2021 Submission – Att. 2: Capital consultation*, pp 2, 9-10.

Figure 3: Capital expenditure components ($million, real $2021), 2016 to 2021



Source: ACCC calculations based on ACCC, *Final Determination*, 2016 to 2020; ABS CPI data; ARTC, ARTC, *Submission – Att. 2: Capital consultation*; p 7; and ARTC's confidential modes for 2021.

Note: The chart shows real values. The number at top of each column is the total net capital expenditure for the year.

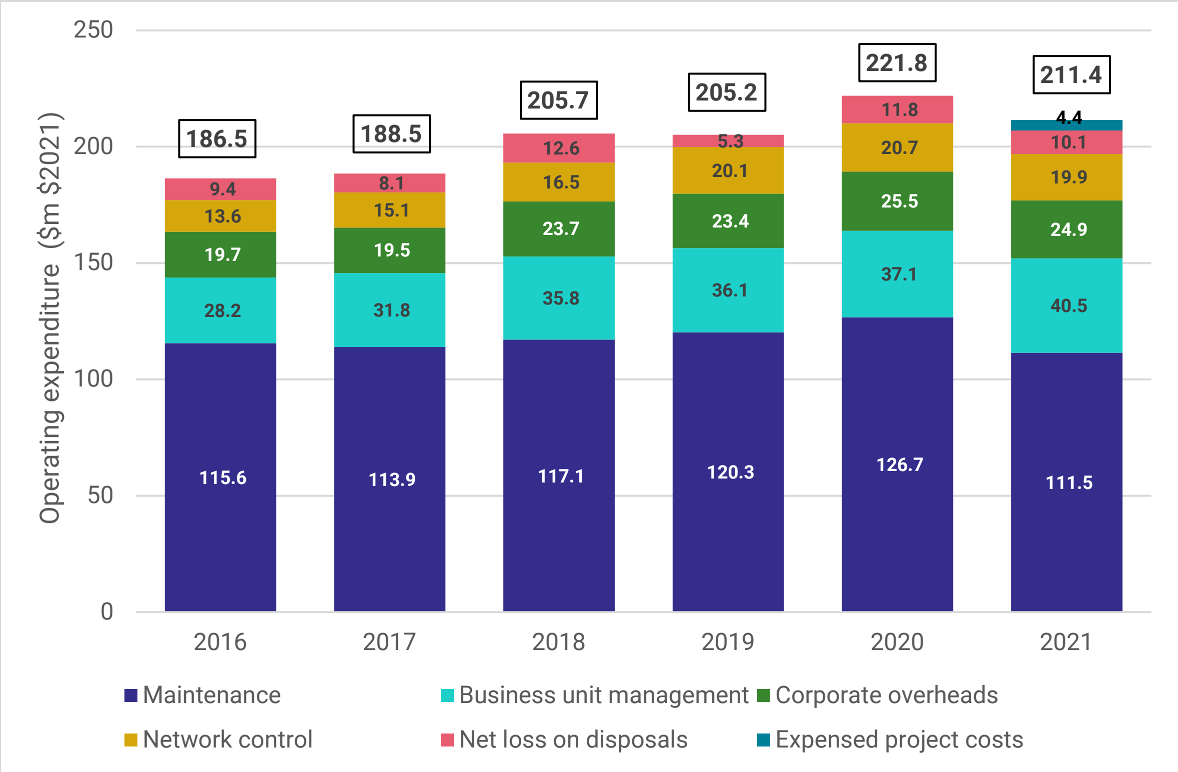
2.4. Efficiency of operating expenditure

Section 4J.10(e) of the HVAU provides for the ACCC to assess the efficiency of ARTC's operating expenditure. Efficient costs and operating expenditure, in turn, inform the calculation of the Economic Cost and the maximum amount of revenue that ARTC is entitled to recover from its customers.

Figure 4 (see overleaf) shows that from 2016 to 2021:

- there has been an increase in ARTC's real operating expenditure, with 2021 being the largest decrease over this period (a 4.7% decrease over 2020 to 2021)
- the majority of ARTC's operational expenditure comprised infrastructure maintenance.

Figure 4: Operating expenditure components ($million, real $2021), 2016 to 2021



Source: ACCC calculations based on ABS CPI data and ARTC's financial models for the 2016 to 2021 HVAU Annual Compliance processes.

Note: The chart shows real values. The number at top of each column is the total operating expenditure allocated to coal in the Hunter Valley for the year.

2021 was the first time since 2014 where ARTC reported expensed project costs.[15] ARTC reported that the $4.4 million increase in expensed project costs in 2021 was due to the suspension of the Widden Creek Loop, Kooragang Departure Roads and Whittingham Down Relief Hub projects.[16]

Figure 5 (see overleaf) shows that from 2020 to 2021, in respect of coal traffic, real operating expenditure per 1,000 Gross Tonne Kilometres (GTKs) declined by 1.1%.[17]

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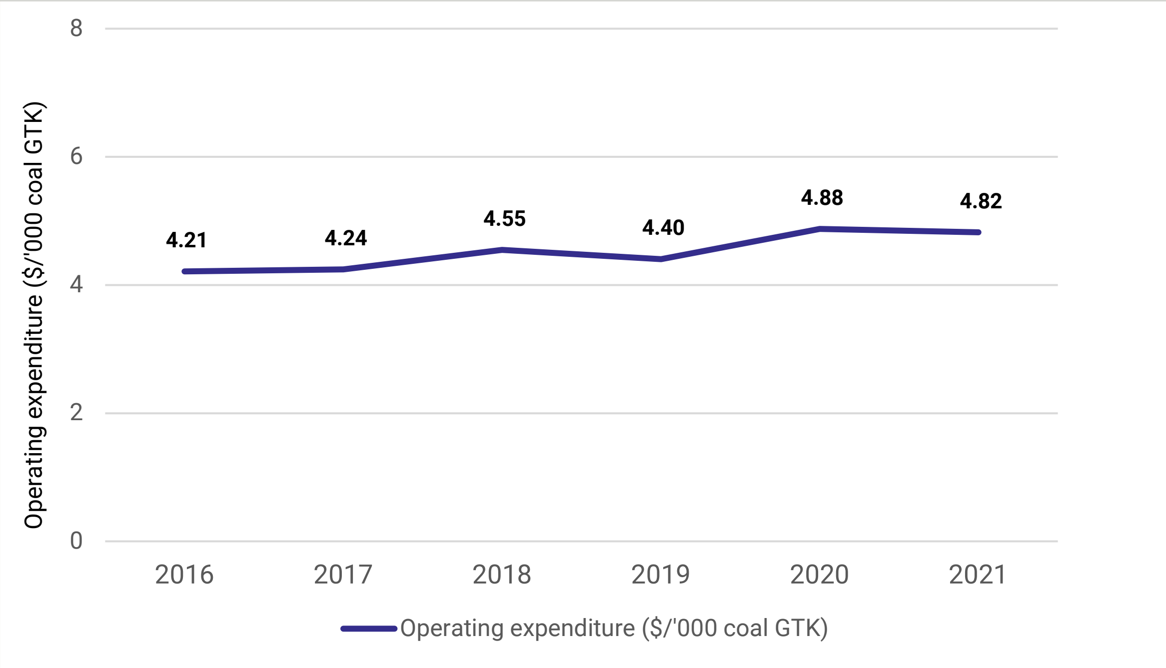
15 Expensed projects reflect the development cost of capital projects (as endorsed by the RCG) that have since been determined will no longer be required. The amount expensed represents the value of work in progress up to the point at which the project was suspended.

16 ARTC, *Hunter Valley Coal Network Access Undertaking 2021 Annual Compliance Assessment Attachment 1: Hunter Valley Network Operating Costs* (*2021 Submission – Att. 1: Operating costs)*, 11 April 2023, p 42.

17 GTK measures gross tonnes of coal carried multiplied by the number of kilometres travelled.

Figure 5: Total Operating Expenditure per '000 GTKs (real $2021), 2016 to 2021



Source: ACCC calculations based on ARTC's financial models for the 2016 to 2021 HVAU Annual Compliance processes.

Notes: The chart shows real values.

2.4.1. Maintenance costs

ARTC submitted total maintenance costs of $111.5 million in 2021 down from $123.3 million in 2020.

Table 3 (see overleaf) shows that in 2021 there was an increase in expenditure on ballast cleaning, rail grinding, full track reconstruction, maintenance resurfacing, and turnout resurfacing. In 2021, ARTC reported a decrease in expenditure on turnout steel component replacement, inspection and minor repairs of points, ballast undercutting, turnout grinding and rail defect removal.

ARTC reported a large increase in full track reconstruction from $7.8 million in 2020 to $10.5 million in 2021. In its submission, ARTC noted that this was primarily due to:

- a 22% increase in scope from 2020 to 2021
- extreme flooding events in March and November 2021.[18]

More information on ARTCs maintenance activities can be found in pages 13 to 39 of Attachment 1 to the compliance submission.

[18] ARTC, *2021 Submission – Att. 1: Operating costs*, p 24.

Table 3: Top 10 Hunter Valley infrastructure maintenance expenditures ($million), 2020 and 2021

Expenditure category	2020	2021	Change from 2020 to 2021
Ballast Cleaning	[confidential][19]	[confidential]	12.0%
Rail Grinding	[confidential]	[confidential]	4.2%
Full Track Reconstruction	7.8	10.5	35.0%
Maintenance Resurfacing	8.6	8.6	0.1%
Turnout Steel Component Replacement	9.0	8.5	-5.5%
Turnout Resurfacing	4.3	4.6	6.5%
Inspection and Minor Repairs of Points	4.1	3.9	-6.0%
Ballast Undercutting	4.5	3.6	-20.1%
Turnout Grinding	4.0	3.3	-17.3%
Rail Defect Removal	6.5	3.2	-50.2%
Total top 10	**74.3**	**73.9**	**-0.5%**

Source: ARTC, *2021 Submission – Att. 1: Operating costs*, p 19.

Note: All other maintenance activities comprise the balance of ARTC's maintenance costs.

2.4.2. Business unit management costs

Business unit management costs comprise Hunter Valley specific costs and encompass four functions:

- Hunter Valley Customer Service and Operations
- Hunter Valley Asset Delivery, including the Provisioning Centres
- Hunter Valley Asset Development
- Hunter Valley Management and Support.

Business unit management costs increased from $36.1 million in 2020 to $40.5 million in 2021 (an increase of 12.3%, in nominal terms). ARTC has reported that there was a $4.5 million increase in business unit management costs due to an internal review of the accounting treatment of various cloud-based software. This review resulted in certain types of expenditure on this software, which were originally categorised as capital expenditure, being re-categorised as business unit management costs.[20]

[19] To avoid identification of the businesses due to ARTC having a small number of suppliers for ballast cleaning and rail grinding, these figures have been marked as confidential.

[20] ARTC, *2021 Submission – Att. 1: Operating costs*, pp 46-47.

2.4.3. Corporate overhead costs

Corporate overheads are general costs shared across the organisation and include the following categories of expenditure: executive, finance, people, corporate services and safety, and strategy. Corporate overheads increased from $24.8 million in 2020 to $24.9 million in 2021.[21]

We noted in our *2019 and 2020 HVAU Compliance Final Determination* that we would continue to monitor ARTC's procurement-related expenditure.[22]

ARTC reported in 2021 that its procurement costs remained consistent with 2020.[23] Furthermore, it noted that throughout 2021 it utilised the Procurement Transformation Project (PTP) roadmap to improve its procurement processes and 'unlock efficiencies'.[24]

2.4.4. Network control costs

Network control expenditure includes 'labour and materials associated with the delivery of the following functions:

- train control and signalling both on the main line and within the coal terminals
- train planning and programming
- operations and operational customer interface
- incident management, and
- communication costs'.[25]

ARTC submitted that its network control costs were $19.9 million in 2021.[26] This represents a 1.3% reduction, in nominal terms, from 2020 to 2021.

ARTC Network Control Optimisation (ANCO) project

In the *2019 and 2020 HVAU Compliance Final Determination* we noted that we will continue to monitor ARTC's network control expenditure in future compliance processes to see whether ANCO delivers cost savings.[27]

ARTC reported that operating expenditure on ANCO for 2021 remained consistent with 2020.[28] ARTC provided the following reasons for the ANCO project not delivering cost savings in 2021:

- ARTC needed to maintain its headcount of network controllers to support the implementation of ANCO and ensure the integrity and safety of the network. The cost of maintaining this headcount was significant due to a shortage of network controllers across Australia and COVID-19 restrictions.

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21 ARTC, *2021 Submission – Att. 1: Operating costs*, p 50.

22 ACCC, *Final Determination: Australian Rail Track Corporation's compliance with the Hunter Valley Coal Access Undertaking financial model for calendar years 2019 and 2020* *(2019 and 2020 Final Determination)*, December 2022, p 43.

23 ARTC, *2021 Submission – Att. 1: Operating costs*, p 50.

24 ARTC, *2021 Submission – Att. 1: Operating costs*, p 50. See pp 42-43 of our 2019 and 2020 final determination for a further explanation of the PTP.

25 ARTC, *2021 Submission – Att. 1: Operating costs*, p 44.

26 ARTC, *2021 Submission – Att. 1: Operating costs*, p 44.

27 ACCC, 2019 and 2020 Final Determination, p 47.

28 ARTC, *2021 Submission – Att. 1: Operating costs*, p 45.

- To facilitate the implementation of ANCO, ARTC incurred costs relating to support services, licence fees, testing and training.[29]

ARTC reported that ANCO has resulted in a reduction in train dwell times, improved data capture and a 5% increase in track utilisation.[30]

2.4.5. ARTC's reporting on the HVAU financial model and unit rates

The Hunter Rail Action Task Force (HRATF) has previously raised concerns about a lack of transparency around the HVAU financial and tariff models.[31]

In response to HRATF's concerns, ARTC held a series of workshops in 2022 and 2023 to explain the key aspects of the financial model to stakeholders. In the workshops, ARTC provided Microsoft Excel excerpts from the financial model to its customers, which contained anonymised data to demonstrate working calculations and scenario analysis.

In a submission to the 2019 and 2020 annual compliance process, ARTC noted that it commenced providing more detailed data on maintenance and unit rates to the RCG in the 2022 March quarter.[32] ARTC has previously noted that reporting on unit rates is not useful for activities such as turnout steel component replacement, rail defect removal, full track reconditioning and ballast undercutting.[33] For example, turnout components can be small and simple or large and complex. Accordingly, the cost per unit for these components can range from a few thousand dollars to half a million dollars.

We note that in the 2021 submission, ARTC has reported on unit rates for ballast cleaning, rail grinding, maintenance resurfacing and turnout resurfacing.[34]

2.5. True-up test audit

The true-up test (TUT) determines whether ARTC is liable for any rebates to users for ARTC's failure to deliver contracted path usages.

Grant Thornton was retained by ARTC to conduct the TUT audit for 2021. The final audit report concluded that ARTC had complied, in all material respects, with Schedule 2 of the Access Holder Agreements under the HVAU for the period 1 January 2021 to 31 December 2021, and ARTC is not liable to pay any rebates to users.[35]

The report noted that in 2021 ARTC has addressed all minor non-compliance outlined in the 2020 audit report.[36]

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29 ARTC, *2021 Submission – Att. 1: Operating costs*, pp 9-10.

30 ARTC, *2021 Submission – Att. 1: Operating costs*, p 9.

31 HRATF, *Submission to Australian Rail Track Corporation's compliance with the Hunter Valley Coal Network Access Undertaking for 2019 and 2020*, 24 March 2022, p 1.

32 ARTC, *Further Submission for ARTC's 2019 and 2020 Joint Compliance Assessment* (*2019 and 2020 Further submission*), December 2022, pp 9-10.

33 ARTC, *2019 and 2020 Further submission*, p 12.

34 See ARTC, *2021 Submission – Att. 1: Operating costs*, pp 21, 22, 27 and 33.

35 Grant Thornton, *Australian Rail Track Corporation Limited - Independent Reasonable Assurance Engagement Report Hunter Valley Access Undertaking – System Wide True Up Test Audit* (2021 TUT Audit report), March 2022, p 3.

36 Grant Thornton, 2021 TUT Audit report, p 8.

3. Questions for stakeholders

The ACCC welcomes stakeholders' views on any aspect of ARTC's 2021 compliance submission. In particular, the ACCC is seeking responses to the following questions. Please provide details.

Key figures

1) Do you have comments on the figures reported by ARTC for 2021:
   (a) under recovered revenue of $8.1 million
   (b) a loss capitalisation balance of $10.5 million
   (c) net capital expenditure of $59.4 million
   (d) operating expenditure of $211.4 million?

Capital expenditure

2) Do you have any comments on ARTC's compliance with the HVAU regarding:
   (e) the cost of major capital projects to be rolled into the regulatory value of assets for 2021, and
   (f) the level of capital expenditure in relation to minor capital projects and the costs of those projects to be rolled into the regulatory value of assets for 2021?
3) Do you have any comments on the process conducted by ARTC in relation to consultation with, and endorsement of, capital expenditure by the RCG?

Operating expenditure

4) Do you have any comments on whether the operating expenditure incurred by ARTC during the 2021 compliance period was incurred in an Efficient manner (as defined in section 14.1 of the HVAU)?
5) Do you have any comments on the benefits of key operational expenditure projects, such as ANCO and PTP? Benefits may include cost savings, improved safety, or an increase in the efficiency and reliability of the network.
6) Do you have any comments on the level of disclosure provided by ARTC in its:
   (a) workshops on the financial model, and
   (b) reporting on maintenance costs and unit rates?

True-up Test audit

7) Do you have any comments regarding ARTC's application of the TUT for 2021 or the findings set out in the audit report prepared by Grant Thornton?

Appendix A: Annual compliance assessment provisions in HVAU (Version 8)

Section 4J.10

Section 4J.10 of version 8 of the HVAU provides for the ACCC to conduct an annual compliance assessment to determine whether ARTC has complied with the access pricing principles under the HVAU for the year 2021. Some of the key provisions in section 4J.10 are set out below.

a) Subject to sub-section (a1), ARTC will submit to the ACCC by the later of 30 April each year and 4 months from the ACCC's final determination in respect of the previous calendar year:

   i. documentation detailing roll-forward of the RAB and the RAB Floor Limit, and comparisons between RAB and RAB Floor Limit;

   ii. where documentation in (i) above demonstrates that RAB is at or below RAB Floor Limit, documentation detailing calculations relevant to reconciliation of Access revenue with the applicable Ceiling Limit and calculation of any allocation of the total unders and overs amount; and

   iii. where documentation in (i) above demonstrates that RAB is above the RAB Floor Limit in Pricing Zone 3, documentation demonstrating that the Standard Access Charges satisfy the requirements in section 4J.3.

a1) For Compliance Assessments for the 2021 compliance year onward, if due to a delay in the finalisation of the Compliance Assessment for earlier years, it is not reasonably possible for ARTC to comply with sub-section (a), then, before 30 April of the calendar year following the compliance year under assessment, ARTC must:

   i. propose and seek to promptly agree with the ACCC a revised timetable for the Compliance Assessment with the objective of expediting the assessment to the extent practicable; and

   ii. give notice to the ACCC and Constrained Coal Customers of its indicative estimate of the total unders and overs amount for the relevant compliance year under assessment.

b) The documentation submitted by ARTC to the ACCC will, unless otherwise agreed with the ACCC and having regard to the relevant circumstances applicable at the time, meet the information provision guidelines and the timeframes set out in Schedule G.

c) If the ACCC reasonably considers that it requires additional information, other than that provided by ARTC in accordance with Schedule G, in order to carry out its assessment under section 4J.10(d), it may request this information from ARTC in accordance with section 3 of Schedule G and upon receipt of such a request ARTC will use reasonable endeavours to provide the information to the ACCC as soon as reasonably practicable.

d) The ACCC will determine whether ARTC has undertaken:

   i. roll-forward of the RAB and RAB Floor Limit in accordance with the Undertaking and, where the roll forward is not in accordance with the Undertaking, determine what closing RAB or RAB Floor Limit would be in accordance with the Undertaking;

   ii. when required, the calculations relevant to reconciliation of Access revenue with the applicable Ceiling Limit and calculation of any allocation of the total unders and overs amount in accordance with the Undertaking, and where the calculations are not in accordance with the Undertaking, determine what total unders and overs amount or allocation would be in accordance with the Undertaking having regard to the operation of its unders and overs account;

   iii. in determining whether ARTC has complied with the provisions of section 4J.4 in rolling forward the RAB or the RAB Floor Limit, the ACCC may have regard to the submissions of relevant industry participants but if Capital Expenditure or Capital Allocations have been endorsed by the RCG in accordance with section 9, the ACCC will not consider whether that Capital Expenditure is Prudent or review the Capital Allocation;

   iv. the ACCC will publish its findings on its website and/or circulate to Access Holders in relation to the matters for its determination; and

   v. ARTC will revise the closing RAB and manage Constrained Coal Customer Accounts in accordance with any determination by the ACCC.

e) The ACCC will determine whether ARTC has incurred Efficient costs and Efficient operating expenditure in accordance with section 4J.5(b), and determine the change (if any) to:

   i. the total 'unders and overs' amount or allocation; and

   ii. closing RAB and RAB Floor Limit in section 4J.4,

   that results from Economic Cost under section 4J.5(a) only including Efficient costs and Efficient operating expenditure determined in accordance with section 4J.5(b).

Section 4.10A

Section 4.10A(j) of the HVAU provides that, not later than 30 April of the following calendar year, ARTC will provide the final written report of the True-Up Test, as prepared by the independent auditor, to the ACCC.

Section 4.10A(k) provides that the ACCC will review the Final Audit Report and will decide and notify ARTC of, any amounts of underpayment of rebates that are owing to Access Holders or amounts of overpayment of rebates ARTC is entitled to recover.