



20 June 2017

*{by e-mail}*

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Dear Matthew

## **Whitehaven Coal Response to ACCC Consultation Paper on ARTC's proposed variation to the 2011 Hunter Valley Access Undertaking**

### *Introduction*

The Australian Competition and Consumer Commission (**ACCC**) has provided a Consultation Paper on the proposed variation to the 2011 Hunter Valley Access Undertaking (HVAU) submitted by ARTC.

As one of the largest Access Holders in the Hunter Valley, Whitehaven Coal believes the HVAU is essential to the continued stability of the Hunter Valley coal supply chain and therefore must be preserved to ensure the reliable transportation of coal to the Port of Newcastle.

We understand that the time constraints the ACCC must work to for this variation does not allow any changes to be recommended to ARTC, and for the HVAU to remain on foot ACCC must approve the variation without changes.

Given the importance of the HVAU to Whitehaven Coal's business, although we do not agree with the proposed variation of the 2011 HVAU in its current form we feel compelled to request the ACCC approve the variation to avoid significant operational risk to Whitehaven.

By way of example, the proposed WACC and WAML compared to those outlined by ACCC in its Draft Decision leads to an additional cost to Whitehaven of [REDACTED].

Whitehaven Coal is a member of the Hunter Valley Rail Access Taskforce (HRATF). This access user group comprised of nine coal producers will be providing a comprehensive submission to ACCC on the draft 2017 HVAU. Whitehaven Coal supports the HVRATF position in all areas not outlined in this submission.

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### *Rate of Return*

The ACCC Draft Decision dated 20 April provided guidance on the WACC outcome when using the proven methodology to determine the cost of capital parameters. Whitehaven sees no reason for the industry and ARTC to move away from this ACCC derived outcome of 4.6% pre-tax real result.

ARTC have used the compressed time line to exert pressure on the industry to accept a WACC result which is significantly higher (17%) than the derived ACCC result.

### *Weighted Average Mine Life (WAML) and Depreciation*

The ACCC Draft Decision also provided guidance on the methodology and calculation of the WAML based on publicly available information that produced a range of 20 to 32 with a point estimate of 23 years using a number of assumptions.

Whitehaven believes a robust analysis of these assumptions for the Hunter Valley coal producers would result in a WAML of 28 – 29 years. Also using conservative assumptions specifically relevant to Pricing Zone 3 results in a WAML for this Zone at the high end (32 years) of the ACCC range.

### *Application of True Up Test (TUT)*

Whitehaven continues to have significant concerns with the current application of the TUT. This has not been included as an area for review in the variation but Whitehaven requests ACCC to take this into consideration in its determination of the variation terms required by the end of 2017.

### *Allocation of Overheads*

The proposed variation includes a significant change to the allocation of corporate overheads with an increase in the Hunter Valley Coal producer contribution of \$6m - \$8m. This is through the use of a report commissioned by ARTC from a third party. As it was commissioned by ARTC without consultation, is a redacted version and does not replicate existing cost allocations, Whitehaven does not believe this report should be the basis for overhead allocation in the variation.

### *Summary*

Although Whitehaven does not agree with the variation submitted by ARTC, to minimize operational risk Whitehaven requests ACCC accept this variation.

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Whitehaven requests ACCC ensure the 6 month review process be commenced as soon as possible to ensure a comprehensive consultation process is possible. Whitehaven will provide a submission on the issues above and those ARTC have highlighted in their variation application, through the consultation process.

Please contact me if you would like further clarification on the above.

Yours sincerely,



Keiron Rochester

**GENERAL MANAGER – INFRASTRUCTURE**