

Australian Rail Track Corporation Access Undertaking Application

1) APPLICANT DETAILS:

This application is submitted by:

Australian Rail Track Corporation Ltd (ARTC),
ACN: 081 455 754

2) ADDRESS FOR SERVICE OF DOCUMENTS:

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4) ARTC BUSINESS

ARTC was established in 1998 to manage the infrastructure, and access to, the standard gauge rail network connecting the mainland capital cities between Brisbane and Perth.

ARTC currently has responsibility for the management of around 10,000 route kilometres of standard gauge track, in South Australia, Victoria, NSW, Western Australia and Queensland. ARTC owns the following rail corridors:

- Adelaide – Wolseley;
- Adelaide – Pt Augusta – Kalgoorlie;
- Pt Augusta – Whyalla;
- Broken Hill – Crystal Brook;
- Tarcoola – Alice Springs (long term lease to The Australasia Railway Corporation, responsible for the operation of the Alice Springs – Darwin Railway); and
- Parts of the Adelaide metropolitan track between Dry Creek and Outer Harbour.

In Victoria, ARTC has a 60 year lease over the two mainline interstate standard gauge corridors from the Victorian Government, being:

- Melbourne – Wolseley; and
- Melbourne – Albury.

Further to the above, ARTC leases the intrastate standard gauge corridor between Manoora and Portland, and manages the Benalla – Oaklands line pursuant to a branch line management agreement with the Victorian Government.

ARTC also manages access to the connection from the interstate mainline network to the Appleton Dock precinct in Melbourne.

ARTC has a 60 year lease of the following parts of the NSW rail network:

- Albury – Macarthur;
- Woodville Junction (Newcastle) – Queensland border;
- Cootamundra – Broken Hill;
- Parkes (Goobang Junction) – Werris Creek/Ulan; and
- Hunter Valley rail network (Newcastle ports – Werris Creek/Ulan).

Further, ARTC is currently negotiating an incorporation of the Metropolitan Sydney freight lines and Port Botany into the NSW lease.

In addition, ARTC has a 60 year lease of the standard gauge interstate mainline in Queensland between the Queensland border and Acacia Ridge.

Access management incorporates the planning, scheduling and transit of trains through the network and associated commercial arrangements with train operators.

5) FACILITY SUBJECT OF THIS APPLICATION

Infrastructure assets subject to this application include track and other facilities required to provide access to the track for mainline and terminal operations on the Hunter Valley coal network, being coal lines in Newcastle from the Newcastle port terminals and extending through the Hunter Valley to Werris Creek (The Gap) and the Ulan coal mine.

6) SERVICES

This application covers the provision of rail access to all applicants seeking train paths on the network which is the subject of the undertaking (“Hunter Valley Network”).

7) DECLARATION

None of the services covered by this application are currently declared under s.44H of the Act.

8) ACCESS REGIMES

The services are subject to the NSW Rail Access Undertaking pursuant to Schedule 6AA of the Transport Administration Act 1988 (NSW).

9) EXISTING CONTRACTS

A range of customers have access contracts with ARTC, both in NSW and outside of NSW. The access contracts relating to non-coal services are largely consistent with ARTC's Indicative Terms and Conditions as approved by the ACCC in July 2008.

Some of the NSW non-coal access contracts have been extended to include the Werris Creek and Hunter Valley Section. The Werris Creek and Hunter Valley Section is presently regulated under the NSW Rail Access Undertaking (NSWRAU) administered by IPART. The terms of the ARTC lease in NSW provide for coverage of the Hunter Valley Network by the NSWRAU until the ACCC has accepted an alternative undertaking submitted by ARTC.

Services provided under these non-coal access contracts also cover parts of the network in NSW that are regulated under the Interstate Access Undertaking administered by the ACCC.

If any part of the Werris Creek and Hunter Valley Section becomes regulated under an undertaking other than the NSW Rail Access Undertaking, then either party to the NSW access contract may give notice to the other requesting amendments to the access contracts in respect of those parts of the Werris Creek and Hunter Valley Section which are regulated by a new undertaking to the extent necessary to reflect the terms of the new undertaking.

ARTC will seek to develop access terms and conditions with all customers that are consistent with this undertaking.

10) INDUSTRY SECTOR

The Hunter Valley Network is predominantly used for rail services to the Hunter Valley export and domestic coal markets. The vast majority of coal carried on the network is intended for overseas export through coal terminals at the port of Newcastle. Road transport and movement by conveyor belt represent minor competitors in these markets.

The Hunter Valley Network is also used by other rail services to the general freight, minerals and agricultural industries in NSW, as well as regional passenger markets. Rail is, to varying extent, competing with road transport in these markets.

There are currently a number of coal producers operating mines served by the Hunter Valley Network. These include major producers such as:

- Coal & Allied Industries Limited, a subsidiary of Rio Tinto (part of Rio Tinto Coal Australia). Coal & Allied owns three main mining operations in the Hunter Valley, being Hunter Valley Operations, Mount Thorley Operations/Warkworth Mine and Bengalla Mine.
- Xstrata Coal NSW Pty Ltd, a subsidiary of Xstrata plc. Xstrata owns (either through joint ventures or companies), manages and operates several mining operations in the Hunter Valley.
- Anglo Coal Australia Pty Ltd, a subsidiary of Anglo American plc. Anglo has a majority interest in Dartbrook and Drayton mines.
- Hunter Valley Energy Coal Limited (a wholly owned subsidiary of BHP Billiton).
- Yancoal Australia Limited – operates several mines in the Hunter Valley including Moolarben, Ashton and Astar through wholly owned subsidiaries Felix Resources Limited and Astar Coal Mine Pty Ltd.
- Whitehaven Coal Limited – operates several Gunnedah Basin mines including Gunnedah and Werris Creek.
- Peabody Energy Australia – operates the Wambo and Wilpinjong mines in the Hunter Valley.

Other producers include:

- Bloomfield Collieries Pty Limited;
- Vale Australia;
- Centennial Coal Company Limited;
- Donaldson Coal Pty Limited;
- Gloucester Coal Ltd; and
- Idemitsu Australia Resources Pty Ltd.

Other coal mining companies likely to enter the Hunter Valley coal market during the term of the undertaking include Shenhua Energy.

Three operators currently provide rail haulage services to the Hunter Valley coal producers – QR National and Pacific National (owned by the Asciano Group).

Further, Pacific National and a number of smaller rail operators utilise the Hunter Valley network for the transport of non-coal freight services. Other smaller operators include:

- Southern and Silverton Railway;
- El Zorro Transport; and
- Independent Railways Australia.

RailCorp utilises the Hunter Valley coal network for regional passenger services.

Port Operations are carried out at terminals (Port Waratah and Kooragang) located in the Port of Newcastle by Port Waratah Coal Services ("PWCS") and, recently the Newcastle Coal Infrastructure Group ("NCIG") terminal at the Port of Newcastle commenced operation.

ARTC continues to discuss the provision of access with a range of other companies.

11) AFFECTED PARTIES

All companies seeking new access to the network will be subject to the undertaking, including but not limited to the parties set out above. ARTC is seeking to develop access terms and conditions with all customers that are consistent with this undertaking and, where applicable, the ARTC Interstate Access Undertaking accepted by the ACCC in July 2008.

12) TERM

This undertaking will apply for a period of ten years from twenty-one days after publishing of an accepted undertaking by the ACCC.

13) UNDERTAKING TERMS

The full terms and conditions are contained in the attached document, entitled "Hunter Valley Coal Network Access Undertaking".