



AUSTRALIAN RAIL TRACK CORPORATION LTD

Application by ARTC to vary the Hunter Valley Access Undertaking to incorporate Gap to Turrawan Segments

1 Application

1.1 Application

This is an application to the ACCC for consent to vary the Hunter Valley Coal Network Access Undertaking (**HVAU**) under section 44ZZA(7) of the *Competition and Consumer Act 2010* (Cth) (**CCA**). The HVAU was accepted by the ACCC on 29 June 2011 with a Commencement Date of 1 July 2011, and subsequently varied with the ACCC's approval on 17 October 2012.

This application seeks:

- (a) to vary the HVAU to incorporate additional Segments in Pricing Zone 3 of the Network between Gap and Turrawan; and
- (b) the ACCC's approval of the proposed initial value of the regulatory asset base (**RAB**) for the additional Segments between Gap and Turrawan in accordance with section 4.4(a)(ii) of the HVAU.

In addition, ARTC submits for the ACCC's consideration a forecast of the Initial Indicative Access Charge for the 2014 calendar year for the extended Pricing Zone 3. Once 2014 volumes are finalised and ARTC has consulted on the Initial Indicative Access Charge for the extended Pricing Zone 3 with Access Holders, and prior to this application being approved by the ACCC, ARTC will resubmit a finalised 2014 Initial Indicative Charge for Pricing Zone 3 for the ACCC's approval.

ARTC considers it appropriate for the ACCC to consent to ARTC's proposed variation for the reasons set out in section 2 below. A high level overview of how the proposed initial value of the RAB for the additional Segments between Gap and Turrawan is set out in section 3. The forecast Initial Indicative Access Charge for 2014 for the extended Pricing Zone 3 and is set out in section 4.

1.2 Criteria for approving variation

Pursuant to section 2.3 of the HVAU and section 44ZZA(7) of Division 6 of Part IIIA of the CCA, ARTC may vary the HVAU 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;



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- (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 Access Holders and Operators; and
- (f) any other matters that the ACCC thinks are relevant.

2 Proposed Gap to Turrawan Segments

ARTC proposes to extend Pricing Zone 3 of the Network to incorporate an additional four Segments from Gap to Turrawan as specified at Figure 1 (**Additional Segments**). The Additional Segments are north of the Gap and have a combined length of approximately 132 kilometres.

Figure 1

Additional Segments	Kilometre from	Kilometre to	Segment length
Gap to Watermark	416.0	447.1	31.1
Watermark to Gunnedah	447.1	480.8	33.0
Gunnedah to Boggabri	480.1	521.5	41.4
Boggabri to Turrawan	521.5	548.5	27.0

ARTC proposes to incorporate the Additional Segments into the existing Pricing Zone 3. The Additional Segments proposed to be incorporated into the HVAU are currently being utilised by Access Holders operating Train Paths in Pricing Zone 3. These Segments represent existing coal loading points at Gunnedah, Boggabri and Narrabri, and proposed developments at Watermark and Maules Creek.

Incorporating these Segments into the Pricing Zone 3 will provide for a simpler pricing and performance management structure for both Access Holders and ARTC. Due to the existing utilisation of the Additional Segments by Access Holders operating in Pricing Zone 3, ARTC sees little benefit in creating a new Pricing Zone to incorporate the Gap to Turrawan Segments.

ARTC does not anticipate any difficulties under the HVAU or existing Access Holder Agreements arising as a result of incorporating the Additional Segments in the existing Pricing Zone 3.

The Additional Segments north of Gap are currently governed by the NSW Rail Access Undertaking (**NSWRAU**). The NSWRAU’s level of prescription and its practical application has lesser overall requirements than the HVAU.



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Incorporating the Additional Segments into the HVAU will ensure that regulatory principles governing the Hunter Valley Coal chain are consistently applied. ARTC considers that this will facilitate better co-ordination between Access Holders in Pricing Zone 3 and the Hunter Valley coal supply chain.

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

3 Determination of initial value of the RAB

The proposed starting regulatory asset base valuation for the Additional Segments between Gap and Turrawan have been determined using the depreciated optimised replacement cost (**DORC**) method in accordance with section 4.4(a)(ii) of the HVAU. The optimised replacement cost means the cost of replacement by a commercially efficient application of best known current available technology based on existing capacity and performance characteristics of the assets.

The DORC asset value for each of the Additional Segments between Gap and Turrawan proposed by ARTC is shown in **Figure 2** below. A copy of the Gap to Turrawan DORC Valuation Report is provided at **Attachment C**.

Figure 2

Segment (length)	Proposed DORC Asset Valuation (as at 1 January 2013)
Gap – Watermark (31.1km)	\$78.5m
Watermark – Gunnedah (33.0km)	\$94.5m
Gunnedah – Boggabri (41.4km)	\$92.1m
Boggabri – Turrawan (27.0km)	\$59.8m

Subject to approval by the ACCC, the Initial RAB for each Additional Segment between Gap and Turrawan will be set at the DORC for that Segment as at 1 January 2013 and will be rolled forward each year in accordance with the NSWRAU. This is consistent with ARTC's approach, as approved by the ACCC, in rolling forward the DORC asset value for the Dartbrook to Gap Segments prior to the commencement of the HVAU on 1 July 2011.

Transparency of the DORC method to the ACCC is important to provide comfort to Access Holders and operators that each DORC determination process undertaken by ARTC is commercially efficient. Accordingly, further details are provided in the supporting submission at **Attachment B**.

4 Initial Indicative Access Charge and Interim Access Charge for Pricing Zone 3

In determining the forecast Initial Indicative Access Charge for the 2014 calendar year ARTC has considered the pricing objectives set out in section 4.13



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of the HVAU. The forecast Initial Indicative Access Charge for the 2014 calendar year for the extended Pricing Zone 3 is set out in Figure 3 below.

Figure 3

Pricing Zone 3	Non-TOP \$/kgtkm (ex GST)	TOP \$/kgtkm (ex GST)
Initial Indicative Service 1	0.958	6.276

The charges set out in Figure 3 for the 2014 calendar year are based on forecasts of 2014 costs and contracted volumes in the extended Pricing Zone 3. As at the date of this application Access Holders have not yet provided and proposed variations to their 2014 contracted volumes in accordance with section 4.20(a) of the HVAU. Once the 2014 volumes are finalised with Access Holders and prior to this application being approved by the ACCC, ARTC will undertake the process for finalising Indicative Access Charges in accordance with section 4.20 of the HVAU for Pricing Zones 1, 2 and 3. In addition to this process ARTC will:

- (a) notify relevant Access Holders of the Initial Indicative Access Charge in the extended Pricing Zone 3 at the same time ARTC notifies Access Holders of Charges in accordance with section 4.20(d);
- (b) in parallel with the section 4.20 process, consult with Access Holders holding contracted gtkm for the Initial Indicative Service in the extended Pricing Zone 3 in relation to the Initial Indicative Access Charge for the extended Pricing Zone 3;
- (c) after consultation with Access Holders in the extended Pricing Zone 3 and after the expiry of the dispute period, resubmit a finalised Initial Indicative Access Charge for the extended Pricing Zone 3 for the ACCC's approval.

In support of the forecast Pricing Zone 3 Initial Indicative Access Charge for the 2014 calendar year, the submission provided at **Attachment B** sets out the process used by ARTC to develop and determine this charge, the Interim Access Charge and Charges for non-Indicative Services for the extended Pricing Zone 3. ARTC will provide confidential financial modelling underpinning these forecasts to the ACCC.



Attachment A

Proposed variation

Figure 2 below sets out a consolidated list of amendments to ARTC’s proposed variation of the Hunter Valley Access Undertaking and Indicative Access Holder Agreement. For convenience, ARTC has prepared a mark-up of the HVAU to reflect the proposed amendments set out in Figure 4. The mark-up is attached as **Annex 1** and for convenience a clean version is attached as **Annex 2**. In addition, a mark-up and clean of the Indicative Access Holder Agreement (**IAHA**) is attached as **Annex 3** and **Annex 4** respectively.

Figure 4

CONSOLIDATED LIST OF PROPOSED AMENDMENTS		
Section	Proposed change	Reason for proposed change
4.4(a)(ii)	<p>In relation to the Segments identified as forming part of Pricing Zone 3 in Schedule E, the RAB will be rolled forward annually according to the following methodology:</p> $RAB_{t \text{ start}} = RAB_{t-1 \text{ end}} =$ $(1 + RoR) \times RAB_{t-1 \text{ start}} - \text{Out-turn Revenue}_{t-1} + \text{Out-turn Opex}_{t-1} + \text{Net Capex}_{t-1} \times (1 + 0.5 \times RoR)$ <p>where:</p> <p>$RAB_{t \text{ start}}$ is RAB at the start of the relevant calendar year (t) (which, for the first year following the Commencement Date or the New Segments Commencement Date (as applicable), would be the Initial RAB).</p> <p>$RAB_{t-1 \text{ end}}$ is the RAB at the end of the preceding calendar year (t-1).</p> <p>$RAB_{t-1 \text{ start}}$ is the RAB at the start of the preceding calendar year (t-1).</p> <p>RoR is the nominal pre tax Rate of Return.</p> <p>Out-turn Revenue_{t-1} is the total Access revenue earned by ARTC in the preceding calendar year (t-1) but will not include:</p> <p>(i) a Capital Contribution received from an</p>	<p>To clarify that the starting RAB for the purpose of the RAB Floor Limit roll forward for Gap to Turravan Segments will be that approved as at 1 January 2014.</p>



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	<p>Applicant or an Access Holder; or</p> <p>(ii) Access revenue returned to a Contributor as a result of the operation of a user funding agreement between the Contributor and ARTC.</p> <p>Out-turn Opex_{t-1} is the total operating expenditure incurred by ARTC in the preceding calendar year (t-1), on an Efficient basis, determined in accordance with sections 4.5(a)(i), (iv) and (vii) and 4.5(b).</p> <p>Net Capex_{t-1} is the net additions to the RAB in the preceding calendar year (t-1), that is out turn Capital Expenditure by ARTC less the written down value of any disposals during the preceding calendar year (t-1) on a Prudent basis, including interest cost incurred during construction up until 1 July in the calendar year the asset was commissioned, capitalised in the year the asset was commissioned and determined by reference to the relevant form of the Rate of Return (to the extent that Capital Expenditure is incurred on a Prudent basis, including interest cost), but will not include Capital Contributions.</p>	
<p>4.4(b)</p>	<p>The RAB Floor Limit for a Segment or group of Segments will be:</p> <p>(i) as at the Commencement Date or the New Segments Commencement Date (as applicable), the Initial RAB;</p> <p>(ii) rolled forward annually according to the following methodology</p> $\text{RAB Floor Limit}_{t \text{ start}} = \text{RAB Floor Limit}_{t-1 \text{ end}} =$ $(1 + \text{CPI}_{t-1}) \times \text{RAB Floor Limit}_{t-1 \text{ start}} + \text{Net Capex}_{t-1} - \text{Depreciation}_{t-1}$ <p>where:</p> <p>RAB Floor Limit_{t start} is the RAB Floor Limit at the start of the relevant calendar year (t) (which, for the first year following the Commencement Date or the New Segments Commencement Date (as applicable), would be the Initial RAB).</p> <p>RAB Floor Limit_{t-1 end} is the RAB Floor Limit at the end of the preceding calendar year (t-1).</p> <p>RAB Floor Limit_{t-1 start} is the RAB Floor Limit at the</p>	<p>To clarify that the starting RAB for the purpose of the RAB Floor Limit roll forward for Gap to Turravan Segments will be that approved as at 1 January 2014.</p>



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	<p>start of the preceding calendar year (t-1).</p> <p>CPI_{t-1} is the inflation rate for the preceding calendar year (t-1), determined by reference to the CPI for the September quarter of that year.</p> <p>Net Capex_{t-1} is the net additions to the RAB Floor Limit in the preceding calendar year (t-1) that is out-turn Capital Expenditure by ARTC less the written down value of any disposals during the preceding calendar year(t-1) on a Prudent basis, including interest cost incurred during construction up until 1 July in the calendar year the asset was commissioned, capitalised in the year the asset was commissioned and determined by reference to the relevant form of the Rate of Return (to the extent that Capital Expenditure is incurred on a Prudent basis, including interest cost), but will not include Capital Contributions.</p> <p>Depreciation_{t-1} is Depreciation applicable to the RAB Floor Limit in the preceding calendar year (t-1).</p>					
4.13(a)(ii)	<p>(a) In determining Charges, ARTC will have regard to separate cost elements as follows:</p> <p>....</p> <p>(ii) fixed component of costs (“FCC”) being fixed operating costs and Depreciation of, and return on, assets existing as at the Commencement Date and the New Segments Commencement Date (as applicable); and</p>	To clarify the pricing objective with respect to the New Segments.				
4.17(d)	<p>*Pricing Zones contain Segments as specified at Schedule E as at the Commencement Date</p>	To clarify that the Pricing Zones applicable to prescribed Initial Indicative Access Charges do not include the New Segments.				
4.17(d1)	<p>(d1) The following Initial Indicative Access Charge for the Initial Indicative Service in Pricing Zone 3 will apply on and from the New Segments Commencement Date:</p> <table border="1" data-bbox="462 1696 1135 1814"> <tr> <td>In Pricing Zone 3*</td> <td>Non-TOP \$/kgtkm (ex GST)</td> <td>TOP \$/kgtkm (ex GST)</td> <td></td> </tr> </table>	In Pricing Zone 3*	Non-TOP \$/kgtkm (ex GST)	TOP \$/kgtkm (ex GST)		To prescribe the Initial Indicative Access Charges for Pricing Zone 3 for the 2014 calendar year, approved by the ACCC.
In Pricing Zone 3*	Non-TOP \$/kgtkm (ex GST)	TOP \$/kgtkm (ex GST)				



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	Initial Indicative Service 1	0.958	6.276	25 tonne maximum axle load 80 kph maximum speed (loaded) 80 kph maximum speed (empty) 82 wagon train length 1350 metres maximum train length section run times as per applicable Hunter Valley standard working timetable	
*Pricing Zone 3 contains Segments as specified at Schedule E					
<p>4.19(c)</p>	<p>*Pricing Zones contain Segments as specified at Schedule E as at the Commencement Date</p>				<p>To clarify that the Pricing Zones applicable to prescribed Interim Access Charges do not include the New Segments.</p>
<p>13.1(b)</p>	<p>(b) ARTC's obligation to report performance under this section 13 will not arise until the completion of the first full period in respect of which performance is measured, this means that:</p> <p>(i) ARTC will not report quarterly performance until the completion of the first full quarter after the Commencement Date or New Segments Commencement Date in respect of the New Segments (as applicable); and</p> <p>(ii) ARTC will not report annual performance until the completion of the first full calendar year after the Commencement Date or New Segments Commencement Date in respect of the New Segments (as applicable).</p>				<p>To clarify that ARTC's quarterly and annual reporting obligations with respect to the extended Pricing Zone 3 and Network will apply from 1 January 2014.</p>
<p>14.1</p>	<p>“Initial Indicative Access Charges” has the meaning given to it in section 4.17(c) and for the first calendar year of the Initial Period will be as set out in section 4.17(d) and for the calendar year containing the New Segments Commencement Date will be as set out in section 4.19(d1);</p> <p>“Interim Access Charges” has the meaning given to it in section 4.19(a) and for the calendar year containing the Commencement Date will be as set out in section 4.19(c);</p> <p>“New Segments” means the following Segments in Pricing Zone 3 as specified in Schedule E:</p>				



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	<p>(a) <u>Gap – Watermark;</u></p> <p>(b) <u>Watermark- Gunnedah;</u></p> <p>(c) <u>Gunnedah – Boggabri; and</u></p> <p>(d) <u>Boggabri – Turrawan;</u></p> <p><u>“New Segments Commencement Date” means 1 January 2014;</u></p>																																									
Schedule B of HVAU and Schedule 1 of IAHA	<p>Insertion of the following new Item 7:</p> <p><u>7. Gap 416.000 km to Turrawan 548.465 km</u></p>	To incorporate the railway line between Gap to Turrawan into the Network and prescribe the extent of that railway line.																																								
Annexure 1 to Schedule B	<p>The map represents the railway lines described at Schedule B as at the <u>New Segments Commencement Date</u>. This map may change over the Term. Applicants should refer to ARTC’s website for an up to date map of the railway lines described at Schedule B.</p>	To clarify that the map at Annexure 1 to Schedule B represents the railway lines described at Schedule B, including Gap to Turrawan Segments.																																								
Schedule E	<p>Insertion of the following new Segments and amendment of the existing Pricing Zone 3 Segments</p> <table border="1"> <thead> <tr> <th><u>Pricing Zone</u></th> <th><u>Segment</u></th> <th><u>Description</u></th> <th><u>Length</u></th> </tr> </thead> <tbody> <tr> <td><u>3</u></td> <td><u>0968</u></td> <td><u>Boggabri – Turrawan Jct</u></td> <td><u>27.0</u></td> </tr> <tr> <td><u>3</u></td> <td><u>0966</u></td> <td><u>Gap – Watermark</u></td> <td><u>31.1</u></td> </tr> <tr> <td><u>3</u></td> <td><u>0988</u></td> <td><u>Watermark – Gunnedah</u></td> <td><u>33.0</u></td> </tr> <tr> <td><u>3</u></td> <td><u>0967</u></td> <td><u>Gunnedah – Boggabri</u></td> <td><u>41.4</u></td> </tr> <tr> <td><u>3</u></td> <td><u>0965</u></td> <td><u>Werris Creek – Gap</u></td> <td><u>5.2</u></td> </tr> <tr> <td><u>3</u></td> <td><u>0964</u></td> <td><u>Murulla – Werris Creek</u></td> <td><u>71.4</u></td> </tr> <tr> <td><u>3</u></td> <td><u>0963</u></td> <td><u>Dartbrook Jct – Murulla</u></td> <td><u>42.9</u></td> </tr> <tr> <td>3</td> <td>0401</td> <td>Dartbrook – Werris Creek</td> <td>114.3</td> </tr> <tr> <td>3</td> <td>0402</td> <td>Werris Creek – Gap</td> <td>5.2</td> </tr> </tbody> </table>	<u>Pricing Zone</u>	<u>Segment</u>	<u>Description</u>	<u>Length</u>	<u>3</u>	<u>0968</u>	<u>Boggabri – Turrawan Jct</u>	<u>27.0</u>	<u>3</u>	<u>0966</u>	<u>Gap – Watermark</u>	<u>31.1</u>	<u>3</u>	<u>0988</u>	<u>Watermark – Gunnedah</u>	<u>33.0</u>	<u>3</u>	<u>0967</u>	<u>Gunnedah – Boggabri</u>	<u>41.4</u>	<u>3</u>	<u>0965</u>	<u>Werris Creek – Gap</u>	<u>5.2</u>	<u>3</u>	<u>0964</u>	<u>Murulla – Werris Creek</u>	<u>71.4</u>	<u>3</u>	<u>0963</u>	<u>Dartbrook Jct – Murulla</u>	<u>42.9</u>	3	0401	Dartbrook – Werris Creek	114.3	3	0402	Werris Creek – Gap	5.2	<p>To prescribe the four additional Segments from Gap to Turrawan in Pricing Zone 3.</p> <p>Amendment of the existing Pricing Zone 3 Segments is to a historical classification in their description.</p>
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Annex 1

Mark-up of the HVAU to reflect proposed variation amendments



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Annex 2

Clean version of the HVAU incorporating proposed variation amendments



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Annex 3

Mark-up of the IAHA to reflect proposed amendment



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Annex 4

Clean version of the IAHA incorporating proposed amendment



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Attachment B

ARTC supporting documentation



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Attachment C

Gap to Turrawan DORC Valuation Report