



AUSTRALIAN RAIL TRACK CORPORATION LTD

## **Application by ARTC to vary the Hunter Valley Access Undertaking to provide for the indicative services and indicative access charges**

### **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) and as contemplated by section 4.18(b)(ii) of the HVAU. The HVAU was accepted by the ACCC on 29 June 2011 and was subsequently varied on 17 October 2012.

The HVAU provided for a multi-stage process for determining the Indicative Service which included:

- a) determination of an Initial Indicative Service and associated charges within 5 months of the Commencement Date (being 1 July 2011), based on existing HVCCC modelling and coal chain infrastructure constraints under the original section 4.17 of the HVAU; and
- b) determination of a Final Indicative Service and associated charges within 30 months of the Commencement Date, based on more robust optimisation and whole of coal chain modelling under section 4.18 of the HVAU.

This multi-stage process was developed by ARTC in consultation with industry and approved by the ACCC as a:

*“suitably robust approach to determination of Indicative Services, as it provides for accelerated identification of Initial Indicative Service characteristics, which should provide pricing signals regarding the efficient consumption of coal chain capacity within the constraints of the existing infrastructure”<sup>1</sup>.*

On 17 October 2012, ARTC completed the first stage of a transition towards service characteristics that will ultimately promote the efficient operation of, use of and investment in infrastructure. With the ACCC’s consent, ARTC varied the HVAU to incorporate the Initial Indicative Service and Initial Indicative Access Charges developed. ARTC considers that the adoption of Initial Indicative Access Charges and the price differentiation inherent in charges for non-indicative Services in 2012 and 2013 have resulted in more efficient coal train configuration choices being made by industry.

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<sup>1</sup> ACCC Decision in relation to ARTC’s Hunter Valley Rail Network Undertaking dated 29 June 2011, pg 53



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In accordance with its obligations under section 4.18 of the HVAU, ARTC now seeks the approval of the ACCC to vary the HVAU to incorporate the characteristics of the final indicative services. ARTC also submits current estimates of 2015 indicative access charges for final indicative services based on existing forecasts with respect to costs and volumes for 2015.

By determining the characteristics of the final indicative services, ARTC has completed the second and final stage to determining the Indicative Services. The proposed characteristics of the final indicative services, associated estimated charges and amendments to the HVAU are set out below and in **Attachment A**. Once approved, the characteristics of the final indicative services will become those of the Indicative Service under the HVAU.

Section 4.18(b)(iii) also provides for ARTC to seek the approval of the ACCC to vary the HVAU to provide for the adoption of an alternative pricing unit if ARTC considers that gtkm is not an appropriate pricing unit to encourage efficient consumption of Capacity. Having regard to the submission of Access Holders and Operators (as is required under section 4.18(b)(ii) of the HVAU), ARTC considers that gtkm is an appropriate pricing unit to encourage efficient consumption of Capacity, and as such, is not seeking the ACCC's approval to vary the HVAU to provide for the adoption of an alternative pricing unit. Further details in relation to ARTC's consideration of gtkm pricing is provided at **Attachment B**.

### ***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;
- 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.

ARTC considers it appropriate for the ACCC to consent to ARTC's proposed variation for the reasons set out in section 2 below.



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### **2 Proposed Final Indicative Services and Indicative Access Charges**

#### **2.1 Final indicative service**

The HVAU recognises that different train configurations may represent the most efficient utilisation of coal chain capacity on different parts of the network, given infrastructure constraints.

Since the commencement of the HVAU, and in accordance with section 4.18(a), ARTC has developed the final indicative services in consultation with the HVCCC, having regard to optimal utilisation of Coal Chain Capacity given certain Hunter Valley system assumptions. Specifically, ARTC has:

- established a development process for the proposed final indicative services which included:
  - the development and use of more robust modelling by the HVCCC; and
  - the engagement of Access Holders and Operators throughout the process via the establishment and operation of the Stakeholder Reference Group (SRG), intended to facilitate informed discussion and guidance of the final indicative services development;
- through this process, determined:
  - boundaries to underpin the development of the final indicative services including time horizon and infrastructure limits; and
  - System Assumptions to be applied in the HVCCC modelling;
- obtained HVCCC and stakeholder advice in relation to a number of relevant efficiency measures following modelling of scenarios for each selected train configuration;
- identified the train configuration that it considered would deliver optimum utilisation of Coal Chain Capacity, given determined boundaries and System Assumptions;
- undertaken formal consultation with Access Holders, Operators and other relevant stakeholders through the circulation of consultation documents in relation to the proposed final indicative services; and
- had regard to stakeholder submissions and concerns in coming to a final proposal in relation to the final indicative services.

As a result of stakeholder concerns received during the formal consultation on ARTC's initial proposal on the final indicative services, ARTC re-considered and substantially revised its proposal in relation to the final indicative services.



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The proposed final indicative services which represent the most efficient consumption of coal chain capacity based on the HVCCC modelling and consultation with Access Holders and Operators are set out in Table 1 below.

**Table 1**

<b>Segments</b>	<b>Indicative Service Characteristics</b>
<b>In Pricing Zone 1*</b>	
Indicative Service 1	<b>30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 96 wagon train length 1543 metres maximum train length section run times as per applicable Hunter Valley standard working timetable</b>
Indicative Service 2	<b>30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 82 wagon train length 1330 metres maximum train length section run times as per applicable Hunter Valley standard working timetable</b>
<b>In Pricing Zone 2*</b>	
Indicative Service 1	<b>30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 96 wagon train length 1543 metres maximum train length section run times as per applicable Hunter Valley standard working timetable</b>
<b>In Pricing Zone 3*</b>	
Indicative Service 1	<b>30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 82 wagon train length 1330 metres maximum train length section run times as per applicable Hunter Valley standard working timetable</b>

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



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### **2.2 *Indicative access charges for the final indicative services***

ARTC is required to develop indicative access charges (TOP and non-TOP) for the proposed final indicative services in each pricing zone for submission to the ACCC in accordance with section 4.18(d)(ii) of the HVAU.

The proposed indicative access charges will apply as Indicative Access Charges in the calendar year immediately following the date that this variation is approved by the ACCC and comes into effect in accordance with section 4.18(e)(ii) of the HVAU. For the purpose of this application, ARTC assumed that, subject to ACCC approval during the 2014 calendar year, the characteristics of the final indicative services and associated charges would come into effect on and from 1 January 2015.

The characteristics of the final indicative services form the basis for determining the indicative access charges in respect of those services. In determining the estimated proposed final indicative access charges ARTC has had regard to the pricing objectives set out in section 4.13 of the HVAU.

As at the date of this application ARTC is not in a position to accurately forecast charges and costs for the 2015 calendar year nor definitively determine indicative access charges in respect of final indicative services. In accordance with the process set out in section 4.20, during a calendar year ARTC confirms the contracted coal volumes under Access Holder Agreements and determines its annual forecast of costs for the following year. Being the first quarter of 2014, ARTC has not yet commenced this process for 2015. To ensure the volumes, costs and capital forecasts for 2015 are as precise as practically possible ARTC would not anticipate completing this process until the final quarter of 2014, but in any event at least by 1 November.

Accordingly, the proposed indicative access charges for 2015 set out in Table 2 below are estimated charges only based on the best information that is currently available to ARTC in respect of the 2015 calendar year. These estimated charges are based on forecasts of 2015 costs and volumes used to determine the existing 2014 Initial Indicative Access Charges.

ARTC reserves the right to revise these prices once the 2015 volumes and forecast costs are finalised with industry in accordance with the annual review of charges set out in section 4.20 of the HVAU, and will amend this application in due course.



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**Table 2**

Segments	Non-TOP \$/kgtkm (ex GST)	TOP \$/kgtkm (ex GST)
<b>In Pricing Zone 1</b>		
Indicative Service 1	1.011	9.487
Indicative Service 2	1.020	10.603
<b>In Pricing Zone 2</b>		
Indicative Service 1	1.693	7.958
<b>In Pricing Zone 3**</b>		
Indicative Service 1	1.592	11.255

\*\* The estimated indicative access charge for Pricing Zone 3 assumes an extended Pricing Zone 3 from Muswellbrook to Turrawan Junction i.e. these estimated charges are inclusive of the rail network beyond the Gap to Turrawan which is currently under consideration by the ACCC. Should the extension of Pricing Zone 3 not be approved by the ACCC, this is likely to have a material impact on the estimated indicative access charge.

The Indicative Access Charges will be revised annually in accordance with section 4.20 of the HVAU, other than Indicative Access Charges for the 2015 which will be approved by the ACCC.

ARTC will promptly publish the Indicative Access Charges for the Indicative Services on ARTC’s website following the approval of the ACCC to vary the undertaking pursuant to section 4.18(e) of the HVAU.

In accordance with section 4.18(e)(iii), ARTC will also determine Charges for Coal Access Rights other than Access Rights for the Indicative Services to apply in the year immediately following the date of approval of the variation, and in doing so will take into account the Indicative Access Charges approved by the ACCC.

In relation to the annual determination of Charges for Coal Access Rights other than Access Rights for the Indicative Services, ARTC proposes to:

- determine Charges for Coal Access Rights for the Initial Services in accordance with section 4.15 of the HVAU and review these charges in accordance with section 4.20 of the HVAU until 30 June 2016; and
- determine and review Charges for other Coal Access Rights in accordance with section 4.15 of the HVAU.



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ARTC also proposes that Charges for Initial Services will cease to be Indicative Access Charges for the purposes of section 4.15 of the HVAU as they are no longer intended to send signals to users on the most efficient consumption of capacity. To recognise that Initial Services will in the short to medium term account for a significant component of current contracted capacity under Access Holder Agreements, Initial Access Charges will continued be reviewed under section 4.20 of the HVAU until 30 June 2016.

### ***2.3 Appropriateness of gtkm as a pricing unit***

Section 4.18(b)(iii) provides for ARTC to seek the approval of the ACCC to vary the HVAU to provide for the adoption of an alternative pricing unit if ARTC considers that gtkm is not an appropriate pricing unit to encourage efficient consumption of Capacity. Having regard to the submissions of Access Holders and Operators (as is required under section 4.18(b)(ii) of the HVAU), ARTC considers that gtkm is an appropriate pricing unit to encourage efficient consumption of Capacity, and as such, is not seeking the ACCC's approval to vary the HVAU to provide for the adoption of an alternative pricing unit. Further detail in relation to ARTC's consideration of gtkm pricing is included at **Attachment B**.

## **3 Consultation with industry and the ACCC**

### ***3.1 Consultation on proposed final indicative service***

Pursuant to section 4.18(b), in addition to consulting with the HVCCC, ARTC is required to consult with Access Holders and Operators on the proposed characteristics of the final indicative services prior to seeking approval from the ACCC for variation of the HVAU.

ARTC considers that it has followed the consultation requirements of section 4.18 of the HVAU in selecting the characteristics of the final indicative services. In accordance with this requirement:

- In April and June 2012, ARTC proposed to industry an approach to the development of the characteristics of the final indicative service. ARTC's approach prescribed a detailed development process which included:
  - establishing objectives, modelling framework/boundaries for and model development; and
  - determining appropriate measurements and detailed analysis of outcomes to be undertaken jointly by ARTC and the HVCCC.Where possible, ARTC utilised HVCCC (and other external third party) resources with expertise in these areas (letters to the HVCCC and industry outlining the development process are included at **Attachment C** and **Attachment D**).



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- As part of this approach, ARTC established the SRG consisting of 8 industry representatives in addition to delegates from the HVCCC and ARTC. Member of the SRG are set out in Table 3.

**Table 3**

<b>Access Holders</b>
1 Xstrata
2 Whitehaven
3 BHP Billiton Energy Coal Australia
4 Coal and Allied
5 Yancoal
<b>Port Operators</b>
1 PWCS
<b>Rail Operators</b>
1 Aurizon (QR National)
2 PN

- In addition to the above members, other non-SRG stakeholders including Idemitsu (Access Holder) and Freightliner (Operator) also regularly attended SRG meetings.
- Throughout the process the SRG acted in an advisory capacity to both ARTC and the HVCCC, rather than in a project management capacity. The SRG met a total of 4 times during the period of review where modelling updates and scenarios were presented for feedback and comment.
- ARTC regularly consulted with SRG delegates and non-representative (SRG) stakeholders outside of formal SRG meetings. This included circulating minutes & associated presentations of the SRG meetings and briefings during quarterly Access Holder meetings to keep parties informed of the progress and development of the final indicative services.
- ARTC circulated a consultation document to all Access Holders and Operators in October 2013 in relation to the characteristics of the final indicative service (included at **Attachment E**), seeking submissions and comment by 22 November 2013. This enabled all industry stakeholders to formalise their input prior to finalisation of ARTC's variation application.

Submissions were received from a number of Access Holders, Operators and a terminal operator up until 29 November 2013. To the extent that stakeholders have confirmed that ARTC is able to provide these to the ACCC, or for publication, these submissions are included at **Attachment F**.





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Given different operational and commercial perspectives of stakeholders, ARTC recognised that unanimous support in all areas of the development of the final indicative services was unlikely. Nevertheless, given the overall industry objective to move towards more efficient utilisation of the Hunter Valley network, and the strong industry support for the inclusion of Section 4.18 by the industry representative body and key producers during finalisation of the HVAU in 2010 and 2011, ARTC felt broad support for the final indicative services development and process could be achievable.

Despite the high-level of industry involvement throughout the development of the final indicative services, in response to ARTC' formal consultation documents, ARTC received extensive concerns from stakeholders on the approach and development of the final indicative services. In particular stakeholders:

- expressed concerns about there being two final indicative services proposed, including an ‘aspirational’ final indicative service (being a configuration that might act as a future goal but not capable of widespread application on the current infrastructure). ARTC initially considered that it would be inappropriate in the development of the final indicative service to pre-empt a particular strategy that the industry may take in order to achieve long term optimal utilisation of Coal Chain Capacity. ARTC expected that industry would ultimately decide which of the two proposed final indicative services would be preferred; and
- either sought to delay the final indicative service development until more extensive whole of coal chain characteristics and investments could be considered, limiting the development the final indicative service to a configuration that was capable of widespread operation in the Hunter Valley and/or requested current arrangements to be maintained for a period of time.

ARTC appreciates the need to conduct a rigorous cost benefit analysis and would be supportive of further investigation. A constraint on the development of the final indicative service was the limited time frame (effectively 18 months) to conduct its development sought by industry during HVAU development.

The intent of setting an ‘aspirational’ final indicative service was to overcome the need to continually revisit the final indicative service and to provide certainty to industry on the general direction to be taken.

However, ARTC acknowledges stakeholder’s concerns in relation to the requirement, under section 4.18 of the HVAU, for ARTC to offer access and pricing for an ‘aspirational’ final indicative service. An ‘aspirational’ service may have the effect of encouraging, the operation of such a configuration on some parts of the Network ahead of the necessary investment to make such an operation beneficial to Coal Chain Capacity. In the near future, operation of an



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aspirational configuration in a limited manner is more likely to be detrimental to Coal Chain Capacity.

Following consideration of the views expressed by stakeholders, ARTC substantially revised its proposal and now proposes characteristics for a final indicative service that is no longer 'aspirational', but realistic and capable of widespread utilisation in the Hunter Valley in the short term, being at least until the expiry of the HVAU (30 June 2016). Accordingly, System Assumptions can be based around investments endorsed or planned in this period.

In the context of the ongoing development of the Network north of Dartbrook planned to facilitate 30 tonne axle load operations, ARTC considers for the period prior to expiry of the HVAU that the characteristics of the indicative services described in Table 1 will deliver optimum utilisation of Coal Chain Capacity, given likely System Assumptions over this time frame.

### **3.2 Consultation on pricing unit to encourage efficient consumption**

As part of the consultation process for determining the final indicative service, section 4.18(b) of the HVAU provides that ARTC:

- a) will consult with Access Holders, Operators and the HVCCC on whether gtkm is the appropriate pricing unit to encourage efficient consumption of Capacity; and
- b) having regard to submissions arising from the consultation above, if ARTC considers that gtkm is not an appropriate pricing unit to encourage efficient consumption of Capacity, submit to the ACCC for approval an alternative pricing unit that ARTC considers will encourage efficient consumption of Capacity.

ARTC considers that it has followed the requirements of section 4.18(b) of the HVAU in relation to whether gtkm is the appropriate pricing unit to encourage efficient consumption of capacity. ARTC circulated a consultation document to the HVCCC, all Access Holders and Operators in October 2013 in relation to the appropriateness of the gtkm pricing unit (included at **Attachment G**), seeking submissions and comment by 22 November 2013.

Submissions were received from a number of Access Holders, Operators and a terminal operator up until 29 November 2013. To the extent that stakeholders have confirmed that ARTC is able to provide these to the ACCC, or for publication, these submissions are included at **Attachment H**.

Submissions received from stakeholders in responses indicated that the process undertaken to establish the Initial Indicative Service and the associated differentiation in prices have alleviated historical concerns in relation to the appropriateness of gtkm as a pricing unit. These concerns may have stemmed from the interim pricing that was not calculated on a differentiated basis.



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Following consideration of the views expressed by stakeholders, ARTC considers that, whilst there may be other pricing units that could be used that would achieve the same or similar outcome to the use of gtkm, there would not seem to be any basis upon which to conclude that gtkm is not an appropriate pricing unit to encourage efficient consumption of Capacity, nor to propose an alternative pricing unit at this time. On this basis ARTC is not proposing an alternative pricing unit as part of this application and does not seek to vary the HVAU in this regard.

### **4 Interaction between and operation of interim indicative services, initial indicative services and indicative services**

The HVAU as proposed sets out the following services to operate on the Hunter Valley network:

- Interim Services that have the characteristics set out in section 4.19(c) to apply until 31 December 2014. Historically Interim Services were a transitional arrangement to apply until charges were differentiated under the Initial Indicative Services variation. Interim Services are non-Indicative Services and have been retained to recognise the historical investments Access Holders have made on the basis of the interim arrangements. Charges for Interim Services will be determined and reviewed in accordance with section 4.15 of the HVAU. It is expected that Interim Service configurations will no longer be widely used on the Network and after 31 December 2014 will be treated, for pricing purposes, on the same basis as existing non-Indicative Services.
- Initial Services that have the characteristics set out in section 4.17(d) (previously Initial Indicative Services) to apply during an extended Initial Period ending on 30 June 2016. Initial Services have been retained as a transitional arrangement ahead of the take up of the Indicative Services. Initial Services are no longer Indicative Services for the purpose of section 4.15 of the HVAU as they no longer represent the most efficient consumption of coal chain capacity (other than the characteristics of the Initial Service 1 in Pricing Zone 1 and 2 that ARTC has proposed to be the Indicative Service in those Pricing Zones as set out in Table 1). To recognise the existing predominant utilisation of Initial Services on the Network, Charges will continue to be determined under section 4.15 and reviewed in accordance with section 4.20 of the HVAU.
- Indicative Services which will represent the optimum utilisation of coal chain capacity based on updated HVCCC modelling and certain System Assumptions. Indicative services should promote the efficient consumption of coal chain capacity given the planned investment in the Hunter Valley coal network during the remainder of the Term of the HVAU.



## Attachment A

### Proposed variation

ARTC proposes to vary the HVAU by way of replacing the existing sections 4.14, 4.17 to 4.19 in their entirety with new sections 4.14, 4.17, 4.18 and 4.19 as outlined below.

Figure 3 below sets out a consolidated list of amendments to ARTC’s proposed variation of the Hunter Valley Access Undertaking.

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**.

### ***New sections 4.14, 4.17, 4.18 and 4.19***

#### **4.14 Indicative Access Charge**

- (a) In formulating each year the Indicative Access Charges for Coal Access Rights with the characteristics of applicable Indicative Services ARTC will have regard to the System Assumptions. System Assumptions applicable to the Indicative Services will include the following:
  - a. maximum axle load;
  - b. maximum speed;
  - c. Train length; and
  - d. section run times.
  
- (b) There may be more than one Indicative Service and Indicative Access Charge within a Pricing Zone. Indicative Service characteristics and Indicative Access Charges would apply to all Segments within a Pricing Zone. Indicative Service characteristics and Indicative Access Charges may both vary between Pricing Zones.
  
- (c) The following Indicative Access Charges for Indicative Services will apply on and from the first day of the calendar year following the publication of the prices as contemplated in **section 4.18(a)**.

Note: These Charges are exclusive of GST.

Segments	Non-TOP \$/kgtkm (ex GST)	TOP \$/kgtkm (ex GST)	Indicative Service Characteristics
<b>In Pricing Zone 1*</b>	[ ]	[ ]	[ ]



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Segments	Non-TOP \$/kgtkm (ex GST)	TOP \$/kgtkm (ex GST)	Indicative Service Characteristics
Indicative Service 1	[ ]	[ ]	30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 96 wagon train length 1543 metres maximum train length section run times as per applicable Hunter Valley standard working timetable
Indicative Service 2	[ ]	[ ]	30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 82 wagon train length 1330 metres maximum train length section run times as per applicable Hunter Valley standard working timetable
<b>In Pricing Zone 2*</b>			
Indicative Service 1	[ ]	[ ]	30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 96 wagon train length 1543 metres maximum train length section run times as per applicable Hunter Valley standard working timetable
<b>In Pricing Zone 3*</b>	[ ]	[ ]	
Indicative Service 1	[ ]	[ ]	30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 82 wagon train length 1330 metres maximum train length section run times as per applicable Hunter Valley standard working timetable

\*Pricing Zones contain Segments as specified at Schedule E



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- (d) ARTC will offer the applicable Indicative Access Charges to Applicants seeking Coal Access Rights with applicable Indicative Service characteristics (including Access Holders seeking to vary their Access Holder Agreements so as to operate Indicative Services on existing contracted Train Paths).

**4.17 Initial Services and Initial Access Charges**

- (a) From 1 November 2012 until 30 June 2016 (“**Initial Period**”), the characteristics set out in **section 4.17(b)** will apply as the Initial Services.
- (b) Access charges applicable to the Initial Services (“**Initial Access Charges**”) will be determined each calendar year in accordance with **section 4.15(a)** and will be subject to annual review for each calendar year of the Initial Period in accordance with **section 4.20**.
- (c) Initial Services have the following service characteristics.

Segments	Non-TOP \$/kgkm (ex GST) **	TOP \$/kgkm (ex GST) **	Initial Service Characteristics
<b>In Pricing Zone 1*</b>			
Initial Service 1	0.844	8.314	30 tonne maximum axle load 60 kph maximum speed (loaded) 80 kph maximum speed (empty) 96 wagon train length 1543 metres maximum train length section run times as per applicable Hunter Valley standard working timetable
Initial Service 2	0.812	9.636	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
<b>In Pricing Zone 2*</b>			
Initial	2.393	6.920	30 tonne maximum axle load 60 kph maximum speed



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Segments	Non-TOP \$/kgkm (ex GST) **	TOP \$/kgkm (ex GST) **	Initial Service Characteristics
Service 1			(loaded) 80 kph maximum speed (empty) 96 wagon train length 1543 metres maximum train length section run times as per applicable Hunter Valley standard working timetable
<b>In Pricing Zone 3*</b>			
Initial Service 1	0.837	5.564	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 Zones contain Segments as specified at Schedule E

\*\*Pricing applied as at 1 November 2012.

- (d) ARTC will offer the applicable Initial Access Charges to Applicants seeking Coal Access Rights with applicable Initial Service characteristics during the Initial Period.

**4.18 Indicative Services (efficient train configuration)**

- (a) Within 20 Business Days of receiving approval from the ACCC to vary the Undertaking for the adoption of the Indicative Services, ARTC will promptly publish on its website:
- a. the characteristics of the Indicative Services, Indicative Access Charges applicable to the Indicative Services (“**Indicative Access Charges**”), and the annual process for the finalisation of Indicative Access Charges under **section 4.20** will not apply to the determination of Indicative Access Charges for that year; and
  - b. Charges for non-Indicative Services taking into account the Indicative Access Charges accepted by the ACCC, including Initial Access Charges during the Initial Period and Charges for other non-Indicative Services.



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- (b) From the first day of the year following the publication of the Indicative Access Charges in accordance with **section 4.18(a)(i)**, the characteristics set out in **section 4.14(c)** will apply as the Indicative Services.
- (c) Indicative Access Charges will be subject to annual review in accordance with **section 4.14**. Subject to **section 4.20**, for each calendar year, ARTC will, using reasonable endeavours and having regard to available information, determine:
  - a. Indicative Access Charges applicable to the Indicative Services; and
  - b. Charges for other Services associated with Coal Access Rights including Initial Services during the Initial Period and Charges for other non-Indicative Services.
- (d) Once Indicative Access Charges for Indicative Services are finalised each calendar year in accordance with **section 4.20**, ARTC will publish Indicative Access Charges on its website.

**4.19 Interim Services and Interim Access Charges**

- (a) From the Commencement Date until the end of the Regulatory Transition Period the characteristics set out in **section 4.19(c)** will apply as the Interim Services.
- (b) Access charges for Coal Access Rights with Interim Service characteristics as described in **section 4.19(c)** (“**Interim Access Charges**”) will be determined by ARTC for each calendar year until the end of the Regulatory Transition Period in accordance with **section 4.15(a)**.
- (c) Interim Services have the following service characteristics.

Segments	Non-TOP \$/kgkm (ex GST) **	TOP \$/kgkm (ex GST) **	Interim Service Characteristics
<b>In Pricing Zone 1*</b>			
Interim Service 1	0.935	7.563	30 tonne maximum axle load 60kph maximum speed (loaded) 80kph maximum speed (empty) 91 wagon train length section run times as per applicable Hunter Valley standard working timetable
Interim Service 2	0.935	7.563	30 tonne maximum axle load





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Segments	Non-TOP \$/kgkm (ex GST) **	TOP \$/kgkm (ex GST) **	Interim Service Characteristics
			60kph maximum speed (loaded) 80kph maximum speed (empty) 74 wagon train length section run times as per applicable Hunter Valley standard working timetable
Interim Service 3	0.935	7.563	25 tonne maximum axle load 80kph maximum speed (loaded) 80kph maximum speed (empty) 72 wagon train length section run times as per applicable Hunter Valley standard working timetable
<b>In Pricing Zone 2*</b>			
Interim Service 1	0.572	7.563	30 tonne maximum axle load 60kph maximum speed (loaded) 80kph maximum speed (empty) 91 wagon train length section run times as per applicable Hunter Valley standard working timetable
Interim Service 2	0.572	7.563	30 tonne maximum axle load 60kph maximum speed (loaded) 80kph maximum speed (empty) 74 wagon train length section run times as per applicable Hunter Valley standard working timetable
<b>In Pricing Zone 3*</b>			



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Segments	Non-TOP \$/kgkm (ex GST) **	TOP \$/kgkm (ex GST) **	Interim Service Characteristics
Interim Service 1	0.769	5.575	25 tonne maximum axle load 80kph maximum speed (loaded) 80kph maximum speed (empty) 72 wagon train length section run times as per applicable Hunter Valley standard working timetable

\*Pricing Zones contain Segments as specified at Schedule E

\*\*Pricing applied as at the Commencement Date

- (d) ARTC will offer the Interim Access Charges to Applicants seeking Coal Access Rights with applicable Interim Service characteristics during the period until the end of the Regulatory Transition Period.

Figure 3

CONSOLIDATED LIST OF PROPOSED AMENDMENTS		
Section	Proposed change	Reason for proposed change
General	Initial <del>Indieative</del> Services Initial <del>Indieative</del> Access Charges	To clarify that Initial Services are not Indicative Services.
3.14(b)(i)(A)	the Indicative Access Holder Agreement subject to the Applicant seeking Access Rights intended for the operation of Indicative Services <del>or Interim Services</del> ;	Interim Service are only being retained for the purposes of pricing parity under section 3.15(a)(iii) of the HVAU. Interim Services are a transitional concept and do not constitute an ‘indicative service’.
3.14(c)(i)	if the Applicant seeks Access Rights for the operation of Indicative Services <del>or Interim Services</del> ;	See comments re 3.14(b)(i)(A) above.
4.10(a)(iii)	where documentation in (i) above demonstrates that RAB is above RAB Floor Limit in Pricing Zone 3, documentation demonstrating that Indicative Access Charges or <u>Initial Access Charges during the Initial</u>	Interim Services are a transitional concept and do not constitute an ‘indicative service’.



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	<p><del>Period</del><del>Interim Access Charges</del>, as applicable, satisfies the requirements in section 4.3(b).</p>	<p>Initial Services and Initial Access Charges have been retained during the Initial Period to recognise that they will be predominately used on the Network during this period.</p>
4.14	See new section 4.14 above	To be replaced by new section 4.14 above.
4.15(a)(iii)(A)	<p>the Charges for the services described in <b>section 4.19(c)</b> as Interim Service 1 and Interim Service 2 in Pricing Zone 1 may be the same, and the Charges for Interim Service 1 and Interim Service 2 in Pricing Zone 2 may be the same <del>notwithstanding those services will no longer constitute Interim Services after the Interim Period</del>; and</p>	Interim Period has expired and is redundant.
4.15(d)-(e)	<p><b>(d)</b> <del>Subject to section 4.15(f)</del>, If an Access Holder disagrees with a Charge formulated by ARTC, other than an Indicative Access Charge <u>or an Initial Access Charge during the Initial Period</u> <del>or Interim Access Charge</del>, then the Access Holder may give ARTC a Dispute Notice within twenty (20) Business Days of being notified of the Charge and the dispute will be resolved by arbitration in accordance with <b>section 3.15(f)</b> of the Undertaking (if an Access Holder disagrees with an <del>Interim Access Charge during the Interim Period</del>, an Initial <del>Indicative</del> Access Charge during the Initial Period or an Indicative Access Charge then the Access Holder must give ARTC a Dispute Notice in accordance with the requirements in <b>section 4.20(f)</b>).</p> <p><b>(e)</b> If the Dispute Notice given under <b>section 4.15(d)</b> concerns Coal Access Rights in a Pricing Zone and ARTC receives Dispute Notices from Access Holders holding two thirds or more of the contracted gtkm for Indicative Services or <del>Interim</del> <u>Initial</u> Services <u>during the Initial Period</u> in that Pricing Zone in accordance with the requirements in <b>section 4.20(f)</b>, then a dispute notified under <b>section 4.15(d)</b> will be stayed pending the arbitrator's determination of the dispute notified under <b>section 4.20(f)</b>.</p>	<p>Initial Period has been extended to recognise that the Initial Services account for the majority of current contracted capacity under Access Holder Agreements and to enable Access Holders to transition to Indicative Service.</p> <p>To clarify that the dispute resolution process in section 4.20 applies to Initial Services during the Initial Period and the two-thirds rule will apply to disputes in relation to Initial Access Charges.</p> <p>Interim Services no longer represent a substantial component of contracted capacity.</p>



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		Interim Access Charges are only relevant for the purpose of section 4.15(a)(iii).
4.15(f)	<u>(f) If ACCC approval to vary the Undertaking for the adoption of Indicative Services is received on or after 1 November 2014 and finalisation of the Interim Access Charges has been undertaken in accordance with the section 4.20, then the annual process for the finalisation of Interim Access Charges under this section 4.15 will not apply to the determination of Interim Access Charges for the 2015 calendar year.</u>	If ACCC approval of this application occurs post 1 November 2014, then ARTC will have already undertaken the section 4.20 review process in relation to the Interim Services. To clarify that the dispute resolution process in section 4.15 will not apply to the Interim Access Charges if the section 4.20 process has been undertaken in relation to the Interim Access Charges.
4.17	See new section 4.17 above	To be replaced by new section 4.17 above.
4.18	See new section 4.18 above	To be replaced by new section 4.18 above.
4.19	See new section 4.19 above	To be replaced by new section 4.19 above.
4.20(h)	All references to Indicative Services and Indicative Access Charges in this section 4.20 will be read as  (i) <del>Interim Services and Interim Access Charges respectively during the Interim Period; and</del>  (ii) Initial <del>Indicative</del> Services and Initial <del>Indicative</del> -Access Charges respectively <u>for each calendar year of</u> <del>during</del> the Initial Period.	To clarify that Access Holders using the Initial Services during the Initial Period can access the dispute resolution provision in section 4.20.
4.20(i)	To avoid doubt, the requirement in <b>section 4.20(f)</b> to give ARTC a Dispute Notice if Access Holders holding two thirds or more contracted gtkm in the relevant	To clarify that the two-thirds majority rule is to apply separately to



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	<p>pricing zone dispute <del>Interim Access Charges or</del> <u>Indicative Access Charges or</u> Initial <del>Indicative</del> Access Charges applies separately to Access Holders operating <del>Interim Indicative</del> Services and Initial <del>Indicative</del> Services in the relevant Pricing Zone (as applicable).</p>	<p>Access Holders using the Initial Services and Indicative Services.</p>
<p>4.21(b)</p>	<p>The 10 year information provided by ARTC under this section will include information for the calendar year for which Indicative Access Charges or the <del>Interim-Initial</del> Access Charges <u>during the Initial Period</u>, as applicable, are determined and information provided for under section 4.20(d).</p>	<p>Initial Services have been included in the 10 year information to be provided by ARTC to recognise that they currently account for the majority of current contracted capacity under Access Holder Agreements and to enable Access Holders to transition to Indicative Service.</p>
<p>14.1 (Definitions)</p>	<p><del>“Final Indicative Services” has the meaning given to it in section 4.18 and will have the characteristics approved by the ACCC in accordance with section 4.18;</del></p> <p><del>“Indicative Services” means Initial Indicative Services or Final-Indicative Services operating on the Network that have the characteristics set out in section 4.14(c) as applicable;</del></p> <p><u>“Indicative Access Charges” has the meaning given to it in section 4.18(a) and for the first year following publication of the prices in accordance with section 4.18(a) will be as set out in section 4.14(c);</u></p> <p><del>“Initial Indicative Access Charges” has the meaning given to it in section 4.17(b)(e) and for the first calendar year of the Initial Period will be as set out in section 4.17(d);</del></p> <p><del>“Initial Indicative Services” means Indicative-Initial Services operating on the Network during the Initial Period that have the characteristics set out in section 4.17(d);</del></p> <p><del>“Interim Access Charges” has the meaning given to it in section 4.19(b)(a)(i) and for the calendar year</del></p>	<p>Consequential changes.</p>



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	<p><del>containing the Commencement Date will be as set out in section 4.19(c);</del></p> <p>“Interim Services” <del>has the meaning given to it in section 4.19(a) and will</del> <u>means Interim Services operating on the Network during the Regulatory Transition Period that</u> have the characteristics set out in section 4.19(c);</p> <p><del>“Interim Period” has the meaning given to it in section 4.19(a).</del></p>	
<b>Schedule D, footnotes 2 &amp; 4</b>	<p>Separate reporting will be undertaken in relation to an Indicative Service <del>(or an average of Interim Services as applicable)</del> over each Pricing Zone. Reported performance will only relate to that on the Network.</p>	<p>Reporting on Interim Services is no longer relevant.</p>
<b>Schedule G(2)(d)</b>	<p><del>where the documentation shows RAB to be greater than the RAB Floor Limit in Pricing Zone 3, documentation setting out the Interim Access Charge or Indicative Access Charge, as applicable for Pricing Zone 3 in that calendar year and the previous calendar year.</del></p>	<p>This reporting obligation is no longer relevant.</p>



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## **Attachment A - Annex 1**

**Mark-up of the HVAU to reflect proposed variation amendments.**



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## **Attachment A - Annex 2**

**Clean version of the HVAU incorporating proposed variation amendments.**





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## **Attachment B**

**ARTC supporting documentation.**



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## **Attachment C**

**Letter to HVCCC regarding planned approach to final indicative service development – 4 April 2012.**



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## **Attachment D**

**Letter to Stakeholders regarding planned approach to final indicative service development – 25 June 2012.**



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## **Attachment E**

**ARTC Consultation Document - Specification of Final Indicative Service (Efficient Train Configuration) – October 2013.**



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## **Attachment F**

**Submissions on ARTC's consultation paper entitled "Specification of Final Indicative Service (Efficient Train Configuration) – October 2013".**



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## **Attachment E**

**ARTC Consultation Document - Is gtkm the appropriate pricing unit to encourage efficient consumption of capacity? – October 2013.**



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## **Attachment H**

**Submissions on ARTC's consultation paper entitled "Is gtkm the appropriate pricing unit to encourage efficient consumption of capacity? – October 2013".**