AUSTRALIAN RAIL TRACK CORPORATION LTD

2007 ARTC INTERSTATE ACCESS UNDERTAKING

ADDITIONAL EXPLANATORY GUIDE

DECEMBER 2007

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1. INTRODUCTION

On 7 June 2007, the Australian Rail Track Corporation Ltd. ('ARTC') submitted a 2007 Interstate Access Undertaking ('Original Undertaking') to the Australian Competition and Consumer Commission ('ACCC') under Part IIIA of the Trade Practices Act 1974. This undertaking was submitted following a period of consultation with users of the interstate rail network over the previous six months.

The ACCC published an Issues Paper in relation to the undertaking on 22 June 2007 inviting stakeholder submissions. Following review of submissions received, ARTC and the ACCC entered into both informal and formal discussions in relation to the issues raised by the ACCC in the Issues Paper and additional issues following review of submissions. During these discussions the ACCC formally advised ARTC of its position in relation to a number of the issues raised. ARTC has agreed to a number of amendments to the undertaking in order to address the ACCC issues, which necessitated ARTC's withdrawal of the undertaking on 15 October 2007, and advised by the ACCC to stakeholders shortly afterwards.

ARTC has continued discussions with the ACCC since withdrawal aimed at further addressing issues raised by the ACCC, and developing a revised undertaking that substantially addresses the ACCC previous issues and those arising from stakeholder submissions.

ARTC is now submitting a revised undertaking ('Undertaking') to the ACCC, which it believes addresses the ACCC's key issues in relation to the Original Undertaking.

This Explanatory Guide is presented as a companion to the Undertaking submitted by ARTC to the ACCC to expand specifically on the key amendments in the Undertaking. It should be noted that a similar Explanatory Guide was provided to the ACCC (and published on the ACCC website) accompanying the Original Undertaking that expanded on the content of that undertaking more broadly and provided context where appropriate to aid understanding of the issues concerned.

This Guide does not comprise part of the Undertaking nor does it seek to repeat the contents thereof, but rather is intended to aid understanding through provision of supplementary information and clarification. To the extent there may be any apparent inconsistency between this Guide and the Undertaking, the Undertaking shall prevail. ARTC may, during the course of the duration of the term of the Undertaking update this Guide, without reference to the ACCC, if feedback suggests it is warranted. Terms used in this Guide are as per Undertaking definitions unless otherwise obvious from the context.

Apart from addressing issues raised by the ACCC, ARTC believes that the amendments made substantially improve clarity, transparency, and the position of Access Seekers, in relation to many of the processes including a number of new elements introduced in the Original Undertaking. In making these changes, ARTC has sought to do this without substantially deteriorating the position of the access provider, so as not to adversely impact service quality and investment incentives in a vertically separated structure where revenue is constrained by strong intermodal competition in many markets.

2. KEY AMENDMENTS TO THE ORIGINAL UNDERTAKING

In order to assist review of the Undertaking, ARTC has provided the supporting information below in relation to key amendments to the Original Undertaking.

Part 2 Scope and Administration

- **The Term of the Undertaking has been extended to 10 years.**

  ARTC believes that this longer term commitment by ARTC will increase certainty going forward in the industry and will promote greater commitment and investment by users of the network. This is important to ARTC as the achievement of the modal shift from road that underpins ARTC investment in north-south corridors depends very much on complementary investment in above rail assets (locomotives, rollingstock and terminals).

  To date, there has been a suggestion that there is a general reluctance by operators to commit to this investment in north-south markets. One of the reasons cited for this, is a lack of longer term certainty in the market resulting from the relatively short term of access regimes. Some stakeholders have suggested this, and expressed concern with the 5 year term of the undertaking, in submissions to the ARTC and the ACCC.

  ARTC considers that the greater risk in providing longer term certainty to access terms and conditions lies with ARTC. ARTC would be committing to a longer term in an industry environment that is yet to stabilise. The above rail market is still undergoing, and is likely to continue to undergo, significant change in structure and ownership. Despite this, ARTC has indicated to the market that it is willing to enter into access agreements for longer terms than 5 years.

  In relation to Capital Expenditure estimates, ARTC has made provision in the Undertaking for subsequent estimates of 5 year expenditure and associated pricing adjustments if necessary to be submitted to the ACCC for approval during the fifth year of the Term.

ARTC has a commercial incentive to continue to support growth in the interstate rail market in a long term sustainable manner. As such, ARTC believes that the benefits in terms of industry investment, growth and sustainability of making a longer term commitment outweigh the risks to the company as described above.

- **ARTC intends to submit relevant Indicative Access Charge for the Southern Sydney Freight Line (SSFL) to the ACCC for approval prior to commissioning.**

  In order to improve certainty in relation to the operation of the SSFL when commissioned, ARTC intends to submit the relevant Indicative Access Charge to the ACCC at least six months prior to commissioning. The SSFL will not be covered by the Undertaking until the ACCC approves the Indicative Access Charge.

Part 3 Negotiating for Access

- **Objective test for demonstration of certain prudential requirements by an Access seeker (clause 3.4(d) (iii)).**

  In order to increase certainty for Access seekers, ARTC has proposed to include a set of criteria that need to be met by the Access Seeker in order to satisfy the prudential requirement prescribed in clause 3.4(d) (iii). The criteria require demonstration by the Applicant that it has a legal ownership structure with a sufficient capital base and assets of value to meet the actual or potential liabilities under an Access Agreement, including without limitation timely payment of access charges and payment of insurance premiums and deductibles under the required policies of insurance.

- **Increased clarity in relation to the form and requirements of an Access Agreement (clause 3.11).**

  In order to improve clarity and increase certainty for an Access Seeker, ARTC has prescribed to the form and requirement of an Access Agreement that is offered or can be negotiated.

An Access seeker that meets the prudential requirements may take up one of the following:

- the Indicative Access Agreement, or
- any current available market terms and conditions as published on ARTC's website, or
- a negotiated Access Agreement, as long as the essential elements prescribed in Schedule C of the Undertaking are addressed.

- **Improved clarity in relation to the Dispute Resolution arrangements.**

ARTC has amended the Undertaking in order to clarify that:

- the dispute resolution are aligned to those described in Part IIIA of the Trade Practices Act 1974, and
- clarify application of the arbitrator's costs.

Part 4 Pricing Principles

- **Removal of the proposed 'Capitalisation Approach' to determining Revenue Limits.**

In the Original Undertaking, ARTC proposed to adopt a 'Capitalisation Approach' for annual roll-forward of the Regulatory Asset Base in order to determine the Ceiling Limit for access revenues on a segment. ARTC saw this as a means to increase investment incentives and flexibility in situations where investments are growth driven and market risk is taken by the infrastructure owner.

Given that access revenues on the Network (the interstate network) covered by the Undertaking fall well short of Economic Cost, and are likely to remain so for some time, ARTC has removed provision for the Capitalisation Approach, and has reverted back to a traditional 'Building Blocks' approach, with Regulatory Asset Base annual roll forward now reflecting annual inflation, Net Capital Expenditure and Depreciation only.

- **Amendments to Revenue Limits.**

  ARTC has removed from the revenue test, the ability to receive revenue that is higher than the Ceiling Limit for a Segment (or group of Segments) where this is agreed by an Applicant. This has been done so that a single Applicant cannot elect to pay charges that would result in revenue exceeding the Ceiling Limit, but depriving other existing users of a potential reduction in charges when the Ceiling Limit is reached.

  ARTC has also made amendments to clarify the nature of the test, being a test of revenues on a Segment (or group of Segments).

- **Improved clarification of Capital Expenditure and variations thereof, for the purpose of annual roll forward of the Regulatory Asset Base.**

  ARTC has sought to clarify what is to be considered as Capital Expenditure for the purposes of Regulatory Asset Base annual roll-forward.

  ARTC has proposed to revert to a traditional ‘Building Blocks’ approach to Regulatory Asset Base annual roll forward. Of relevance is the inclusion of Capital Expenditure on a Prudent Basis. ARTC has included an estimate of Capital Expenditure over the first 5 years of the Undertaking at Schedule H. As indicated earlier, ARTC has made provision in the Undertaking for subsequent estimates of 5 year expenditure and associated pricing adjustments if necessary to be submitted to the ACCC for approval during the fifth year of the Term.

  The Undertaking now also provides for increases to Capital Expenditure (subject to a test of materiality) to be considered by the ACCC under certain circumstances relating to:

  - the addition of a capital or renewals project by ARTC needed to meet market demand for capacity and performance of the Network, or needed to extend the economic life of the Network;

  - an increase in the scope of works identified in the applicable ARTC Corridor Strategy current as at the Commencement Date or as varied from time to time;

  - the addition of a capital or renewals project by ARTC resulting from what is considered to represent an efficient means to achieve that demand or extend that economic life;

- a change in what is consistent with existing standard and configuration of adjacent and/or existing infrastructure with similar utilisation and market requirements, or its modern engineering equivalent;

- whether expenditure is incurred efficiently in implementing the capital or renewals project, in the context of prevailing access and operating requirements, and input costs.

- adjustments in relation to the timing of commencement and/or commissioning of projects.

- the removal or addition of a capital or renewals project by ARTC that is supported by the industry.

The test for materiality and requirement for ACCC consideration is that the variation must exceed 20% of the Capital Expenditure on the Network in any single year.

The Undertaking now also provides for ARTC to make an application to the ACCC to provide Additional Capacity, including a variation to the Indicative Access Charges to reflect the cost of that Additional Capacity, at any time during the Term. The ACCC may approve ARTC's application if it considers that ARTC has demonstrated that the provision of the Additional Capacity is worthwhile and beneficial to the industry having regard to:

- the pricing principles specified in section 44ZZCA of the TPA;

- the legitimate business interests of ARTC;

- the public interest, including the public interest in having competition in markets;

- the interests of Applicants who might want access to the service;

- the need to meet market demand for capacity and performance of the Network, or need to extend the economic life of the Network;

- whether the scope of works is consistent with that identified in the applicable ARTC Corridor Strategy current as at the Commencement Date or as varied from time to time;

- the efficiency of the proposed means to achieve that demand or extend that economic life;

- what is consistent with existing standard and configuration of adjacent and/or existing infrastructure with similar utilisation and market requirements, or its modern engineering equivalent; and

- any other matters that the ACCC thinks are relevant

irrespective of whether or not the provision of the Additional Capacity is supported by all Operators.

Where approved by the ACCC, expenditure incurred efficiently in providing the Additional Capacity, in the context of prevailing access and operating requirements and input costs, will be included in Capital Expenditure. The ACCC may also have regard to expenditure incurred efficiently in providing the Additional Capacity, where approving a variation to Indicative Access Charges to reflect the cost of that Additional Capacity.

In all of these circumstances (initially and during the Term), the Undertaking now provides for the ACCC to consider whether Capital Expenditure is Prudent and can be incorporated in the Regulatory Asset Base annual roll-forward. ARTC has now explicitly defined the matters that the ACCC must have regard to in deciding whether Capital Expenditure is Prudent. These matters are:

- the need to meet market demand for capacity and performance of the Network, or the need to extend the economic life of the Network;

- whether the scope of works is consistent with that identified in the applicable ARTC Corridor Strategy current as at the Commencement Date or as varied from time to time;

- what is considered to represent an efficient means to achieve that demand or extend that economic life;

- what is consistent with existing standard and configuration of adjacent and/or existing infrastructure with similar utilisation and market requirements, or its modern engineering standard;

- expenditure incurred efficiently in implementing the project, in the context of prevailing access and operating requirements, and input costs.

- adjustments in relation to the timing of commencement and/or commissioning of projects.

- support by the industry.

- **Revisions to proposed Weighted Average Cost of Capital.**

  In the Original Undertaking, ARTC proposed the following components to be applied in estimating the WACC associated with the Network (interstate network). ARTC also provided supporting documentation, being an assessment undertaken by Synergies Economic Consulting.

WACC Estimate for ARTC's Interstate Network

Parameter	Estimate
Nominal risk-free rate[a]	5.99%
Debt proportion	50%
Equity proportion	50%
Debt margin[b]	1.19%
Debt raising costs	0.125%
Market risk premium	6.5%
Gamma	0
Asset beta	0.65
Debt beta	0
Equity beta[c]	1.29
Tax rate	30%
Equity raising costs (in cashflows)	2.25% p.a.
Cost of debt	7.30%
Cost of equity	14.35%
NOMINAL POST-TAX WACC	10.83%

a Based on a 20 day average for the period ending 30 April 2007; rates converted to annual effective rates
b Based on a 20 day average for the period ending 30 April 2007, assuming a notional credit rating of BBB; rates converted to annual effective rates
c Based on the Hamada formula, which assumes a debt beta of zero

Some of the key conclusions raised by the consultant underpinning this estimate were:

- *'ARTC is exposed to relatively high systematic risk on its interstate network;*

- *there is no clear economic or empirical justification for a fall in the value of the market risk premium. Most long-term studies produce estimates well in excess of 6%, which shows that the assumption that has been consistently adopted by regulators is too low;*

- *a value for gamma of zero, recognising that since the introduction of the 45-day rule, franking credits are now worthless to the marginal foreign investor (noting that under the vanilla WACC formulation, this will be reflected in the cash flows rather than the WACC); and*

- *it is important to have regard to the asymmetric consequences of regulatory error. Given the imprecise nature of beta estimation (and the estimation of WACC more generally), a conservative approach should be taken when determining parameter assumptions.*

The WACC that is submitted here is higher than the WACC determined in the ACCC's 2002 decision (ignoring the impact of variables that move with the economic cycle, such as the risk-free rate and the debt margin), although we are of the view that this decision was still within the lower end of a reasonable range. The key driver of the higher WACC submitted here is the higher asset beta that has been proposed.

Since the 2002 decision, ARTC's business has changed materially after assuming responsibility for the New South Wales interstate network (the impact of the Hunter Valley coal network has been excluded in this analysis). This includes three significant interstate corridors, being Brisbane to Melbourne, Brisbane to Sydney and Sydney to Melbourne, all of which are subject to intense competition from road.

The Melbourne to Sydney market is currently the largest, carrying some 11 million tonnes per annum. As at 2004-05, rail only had a 10% share of that market. Rail has a 19% share of the Sydney to Brisbane market and a 21% share of the Melbourne to Brisbane market. These market shares are low.

The key consequences of this are firstly, low market share can increase ARTC's sensitivities to contractions in demand (which are largely driven by the economic cycle), as it will have to fight harder for market share with very limited ability to reduce prices further.

Secondly, ARTC therefore has little if any market power on these corridors (the possession of market power is generally seen to have a dampening effect on beta). Since 2002, this has also been impacted by increased concentration on the customer side, with Pacific

National now ARTC's dominant customer, although QR has been seeking to increase its presence.

This intense competition from road transport, which also constrains the prices that ARTC can charge on these corridors, is expected to continue into the future. The Productivity Commission is currently reviewing land transport pricing, which may impact the competitive dynamics between road and rail. The implications of this for ARTC are currently extremely uncertain, as are the broader implications of COAG's national reform agenda.'

ARTC notes that the outcomes of the Productivity Commission review of land transport pricing produced little that might impact on the competitive dynamics between road and real in the short to medium term.

Following discussions with the ACCC in relation to many of the parameters proposed in the Original Undertaking, ARTC now proposes to adjust the parameters (and resulting WACC) as follows:

Revised WACC Estimate for ARTC's Interstate Network

Parameter	Estimate
Nominal risk-free rate[a]	5.99%
Debt proportion	50%
Equity proportion	50%
Debt margin[b]	1.96%
Debt raising costs	0.125%
Market risk premium	6.0%
Gamma	0.3
Asset beta	0.65
Debt beta	0
Equity beta[c]	1.30
Equity raising costs (in cashflows)	2.25% p.a.
Cost of debt	8.07%
Cost of equity	13.79%
NOMINAL POST-TAX WACC	10.93%

a Based on a 20 day average for the period ending 30 November 2007;
b Based on a 20 day average for the period ending 30 November 2007, assuming a notional credit rating of BBB
c Based on the Hamada formula, which assumes a debt beta of zero

Specific adjustments include:

- ARTC has now raised dividend imputation factor (gamma) from 0.0 to 0.3, to align with the range contemplated by historic regulatory precedent.
- ARTC has now reduced market risk premium from 6.5% to 6.0% to align with historic regulatory precedent.
- ARTC has removed any adjustment to convert the nominal risk free rate and debt margin to annual effective rates.
- ARTC has now adopted a nominal post-tax framework where taxation is now modelled in the cash flows (vis-à-vis incorporation of the statutory tax rate in the WACC formulation).

- **Revised Floor and Ceiling Revenue Limits**

  Attachment 1 shows revised Floor and Ceiling Revenue Limits determined after the amendments proposed have been incorporated in regulatory financial modelling provided to the ACCC. Limits have been forecasted/estimated over the proposed 10 year Term and compared with access revenue over the same period.

- **Improved clarity and certainty in relation to the application and calculation of the Excess Network Occupancy Charge (ENOC).**

  In order to improve clarity and certainty for Access Seekers in relation to the application of the ENOC, ARTC has now made provision for the ENOC to apply only to time in a path (sought by the Applicant) in excess of:

  - a reasonable allowance for Section run times
  - dwells for crossing and passing other Trains as determined and made available by ARTC
  - a reasonable (specified) allowance for reasonable requirements for operational (above rail) activities whilst on the Network.

  Section run times will be published on ARTC's website. Dwells for crossing and passing will be determined by ARTC in planning the path. Allowances for above rail requirements are based on existing observed practices on the network and dwell times normally sought by operators when seeking paths. The ENOC would only apply where the Applicant sought to contract a Train path that required more time on the Network than what would be made available by ARTC based on normal parameters.

ARTC has clarified that the ENOC only applies to the excess time in the contracted Train Path, and not the excess time that might arise in actual running.

To provide greater certainty in relation to the quantum of the ENOC, ARTC has now proposed to include an additional commitment in the undertaking as follows:

'(c) In determining the excess network occupancy component, ARTC will pro-rata the flagfall component back to an amount per hour by reference to the total of Section run times applicable to the relevant Segment to which the flagfall component applies.'

ARTC has committed to the level of the flagfall component of the Indicative Access Charge in the undertaking. As such, and based on the additional clause that ARTC has proposed above, ARTC considers that the quantum of the ENOC is committed by ARTC (including annual variation being limited to variation in the flagfall component) and the timing of the ENOC is entirely within the Applicant's control, as it is only activated for a path depending on the Applicant's specification for the path.

At Attachment 2, ARTC has provided the following as an example of the calculation for the Segment Adelaide – Parkeston.

- **Amendments to the mechanism for annual variation of Indicative Access Charges to reflect the extended Term.**

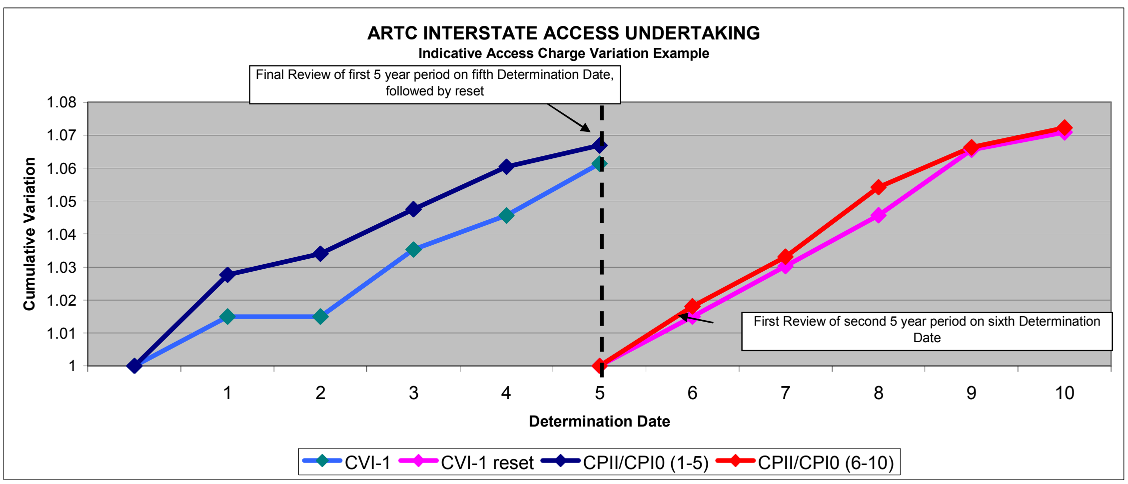
  ARTC's proposed pricing mechanism is intended to increase ARTC's flexibility to better match pricing variation to prevailing circumstances by allowing ARTC to recover a shortfall between the actual variation and a maximum allowable variation in a subsequent year.

  ARTC recognises that there may be greater uncertainty for operators to forecast pricing variations over the extended Term (ten years vis-à-vis five years). To address this, ARTC is proposing to amend the mechanism to apply over ten years, but constrain any opportunity for recovery of shortfalls to a five year period only. That is the period of recovery would be within the first five (or second five) years of the Term Only. Any unrecovered variation at year 6 of the Term that has accrued over the first 5 years would be foregone.

To assist understanding, ARTC has provided an example below of the application of the mechanism over a 10 year Term.

ARTC ACCESS UNDERTAKING - INDICATIVE ACCESS CHARGE VARIATION - EXAMPLE APPLICATION

Determination Date		**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
	0	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
CPI_I	155.6	159.9	160.9	163	165	166	169	171.5	175	177	178
		1	**2**	**3**	**4**	**5**					
CPI_I/CPI_0 (1-5)	1.000	1.028	1.034	1.048	1.060	1.067					
CV_{I-1}	1	1.015	1.015	1.0353	1.045653	1.0613378					
CPI_0 reset						166	**6**	**7**	**8**	**9**	**10**
CPI_I/CPI_0 (6-10)						1	1.018	1.033	1.054	1.066	1.072
CV_{I-1} reset						1	1.015	1.030	1.046	1.066	1.071
		1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
TV_I		2.763	1.878	3.208	2.426	2.026	1.807	1.786	2.329	1.969	0.633
		1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**
V_I		1.5	0	2	1	1.5	1.5	1.5	1.5	1.9	0.5



ARTC has proposed to constrain annual price variation to CPI (plus any accrued prior shortfalls). ARTC's use of a 2/3rds CPI pricing adjustment limit in the 2002 Access Undertaking was not intended to be a mechanism to drive some level of productivity improvement. In 2002, ARTC elected, amongst other efforts to stimulate market growth, to offer ongoing real reductions in pricing for indicative services throughout the 5 year term of the undertaking. This continued its previous practice since the company commenced operations in 1997. A further intention in 2002 of ARTC's approach to price escalation was to provide certainty in relation to access pricing over the 5 year Term.

Throughout this period, and remaining in 2007, ARTC's two part pricing for indicative and other services enables customers to further reduce the cost of access to the ARTC network by operating longer and heavier trains. ARTC has invested in the network to mitigate previous constraints in this regard. Since 1997, real cost of access to the ARTC network (outside of NSW) has fallen by around 20%. Around 13% of this reduction has resulted from annual pricing variations whilst 7% has resulted from customers taking advantage of ARTC's two part pricing approach by increasing utilisation of a path. From ARTC's perspective, real access revenue yield has also fallen by around 20%, well in excess of a reduction that may arise from CPI-X pricing variation alone. During this time, ARTC has been able to maintain and improve returns towards acceptable levels through market growth, cost constraint and productivity improvement.

ARTC will commit to maintaining real pricing during the Term in order to provide certainty. Customers will continue to have the opportunity to reduce cost of access by increasing above rail efficiency as described earlier. ARTC's commitment does not preclude real price reductions where circumstances permit.

ARTC's pricing is market based, and as such constraining pricing variations to less than CPI is unlikely to provide any more incentive for ARTC to seek productivity improvements than would have existed through normal profit and return maximisation needs, where regulation does not constrain ARTC's returns to existing inadequate levels. ARTC does not consider it to be in the reasonable commercial interests of the access provider to impose real price reductions when prices are inadequate to enable the access provider to recover the economic cost of service delivery.

Also, in these circumstances, it is unreasonable to impose sharing of productivity improvements with customers beyond what a customer may derive through reduced access pricing for operating more efficiently, so long as this does not distort markets. In 1999, the QCA supported this viewpoint

> ARTC view put to the QCA on the matter of 'Sharing of Efficiency Gains' (1999 QR Draft Access Undertaking Draft Decision):
> '…, in competitive markets, where prices have been negotiated, or set, at levels designed to make rail competitive and grow rail's market share (usually at a level; such that revenue is below the ceiling limit), the revenue benefit of any growth in volumes should be allowed to be captured by the access provider, up to the ceiling limit.'
>
> QCA response (Final Decision on the QR 1999 Draft Access Undertaking):
> 'The QCA accepts ARTC's argument that QR should get the full benefits of volume growth on its non-coal traffics, where QR does not earn the stand-alone cost of providing the service, so long as there is no distortion in the above-rail or end-user markets.'

There is now plenty of evidence demonstrating ARTC's credentials in relation to both improving cost productivity and constraint in pricing variation over the last 10 years. With or without the presence of regulation, ARTC has in every year of its existence reduced real access pricing for indicative services. On some occasions it has even reduced nominal pricing. Over the last 10 years, ARTC also has a record of improving its operating efficiency, through investment in its assets, technology and smarter techniques for managing its product. This has not come at a cost to the quality of service provision.

In each pricing variation decision over the last five years, ARTC has sought and obtained independent and comprehensive advice in relation to changes both road and rail pricing in order to have regard for the competitive impact of its pricing decisions. This practice is not required by regulation, and is not readily available in the market place.

Many industries have over the last few years been forced to increase pricing in excess of CPI due to specific impacts of relevant input costs such as fuel, labour and materials. This has particularly affected the transport sector where fuel is a significant cost item. Similarly, in relation to infrastructure maintenance and investment, construction labour and materials cost increases have exceeded inflation for some years due to high demand and supply shortage. It could be argued that constraining pricing to CPI may, in fact, lead to implied productivity improvements in many industries, including transport and below-rail transport infrastructure.

Evidence of recent cost inflationary pressures that have faced ARTC (and are likely to continue) is cited in a 'Review of WestNet Rail's Floor and Ceiling Costs for Certain Rail Lines' conducted by PriceWaterhouseCoopers (PWC) for the Economic Regulation Authority in WA. The consultants confirmed with the ABS that the Producer Price Index: Road and Bridge Construction Costs for WA (series 6427.0 Table 15) was the most appropriate for measuring the change in rail network costs. PWC indicated that the increase in this index in WA was 18.1% of the 3 year period June 2003 – June 2006. A review of the same index on a national basis to the June 2007 Quarter reveals:

Output of General Construction Industry (ABS 6427.0 Table 16)

	Road and bridge construction (4121) Index	Inflation	CPI Index	Inflation
Sep-03	119.3		142.1	
Sep-04	123.7	3.7%	145.4	2.3%
Sep-05	130.2	5.3%	149.8	3.0%
Sep-06	138.6	6.5%	155.7	3.9%
Sep-07	143.7	3.7%	158.6	1.9%
Annualised		**4.8%**		**2.8%**

The above table would suggest that constraining cost increases to CPI over the 4 year period to September 2007 would have intrinsically implied a productivity improvement of 2%.

Given the above circumstances, ARTC has not proposed to make a commitment, in the regulatory environment, to a real access price reduction during the Term of the Undertaking.

Part 5 Capacity Management

- **Improved clarification and certainty in relation to the application and quantum of the Reservation Fee.**

To provide greater certainty for Access Seekers, ARTC has now proposed to cap the reservation fee to a certain amount. This will enable ARTC reasonable flexibility to cater to specific circumstances and adequately balance internal demands of increasing network utilisation and risk of lost opportunity.

ARTC has proposed to cap the fee to the flagfall component associated with the reserved Access Rights, plus a variable component that would arise if the Access Rights were 50% utilised, where full utilisation is determined by applying the average train length and average axle load for an Indicative Service. This would be the maximum fee that ARTC could apply to the reserved capacity for the period of reservation. The application would reference prevailing flagfall and variable component of the relevant Indicative Charge.

ARTC would envisage that the quantum of the cap would not vary substantially over the Term.

Part 6 Network Connections and Additions

- **New provision for ACCC approval of Additional Capacity sought by ARTC for the benefit of the rail industry**

  This has been described earlier in this Explanatory Guide

Schedule D Indicative Access Agreement

- **Improved clarity in relation to the Network and Associated Facilities.**

  In order to improve clarity for Access Seekers, ARTC has now clarified those parts of the interstate network that are covered by the Undertaking.

  Primarily, the amendments seek to clarify some uncertainty expressed by stakeholders with regard to the included and excluded parts in the Newcastle region. ARTC has included on maps, the ARTC Sector Codes that reference the written description of the Network in NSW.

  It should be noted that the maps provided with the Undertaking no longer are formally part of the Undertaking. Description of the Network is included at Schedule 1 of the Indicative Access Agreement. The maps provided with the Undertaking are current as at December 2007 and are intended to provide some indication as to configuration of the Network to assist stakeholders in their review. ARTC intends to publish (and update from time to time as is necessary) maps of the Network in order to assist Access Seekers as required under clause 2.7(b) of the Undertaking.

  ARTC has also amended the definition of Associated Facilities to clarify the sidings are excluded.

- **Clause 4.1 Flagfall Charges and Clause 4.3 Excess Network Occupancy Charges**

  ARTC has now amended these clauses to clarify that the charges are not payable when non-utilisation of a Train Path results from the Train Path not being available for use due to ARTC cause.

- **Clause 4.4 Invoices and Monthly Statement**

  ARTC has now amended clause 4.4(b) to provide for disputed amounts to be held by the Operator following receiving advice from the Operator of the dispute and its terms, and subject to the Operator paying the amount, plus interest, to ARTC if the dispute is subsequently resolved in ARTC's favour.

- **Clause 15.2 Definitions (Indemnities)**

  ARTC has now clarified what is meant by 'solicitor/client basis' to be 'full indemnity' in clause 15.2(b).

Schedule E Network and Associated facilities

- **Improved clarity in relation to the Network and Associated Facilities.**

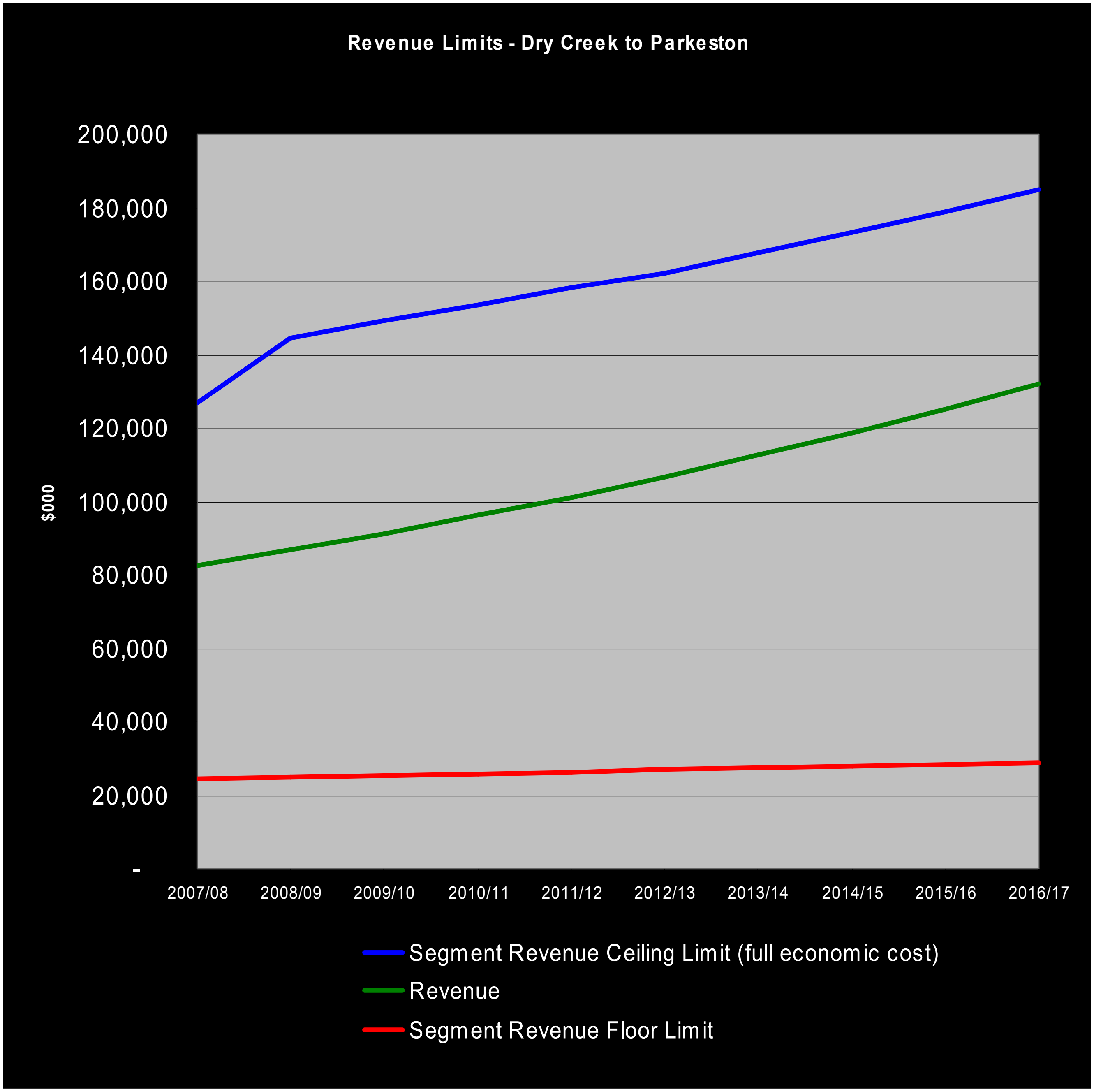
  In order to improve clarity for Access Seekers, ARTC has now clarified those parts of the interstate network that are covered by the Undertaking.

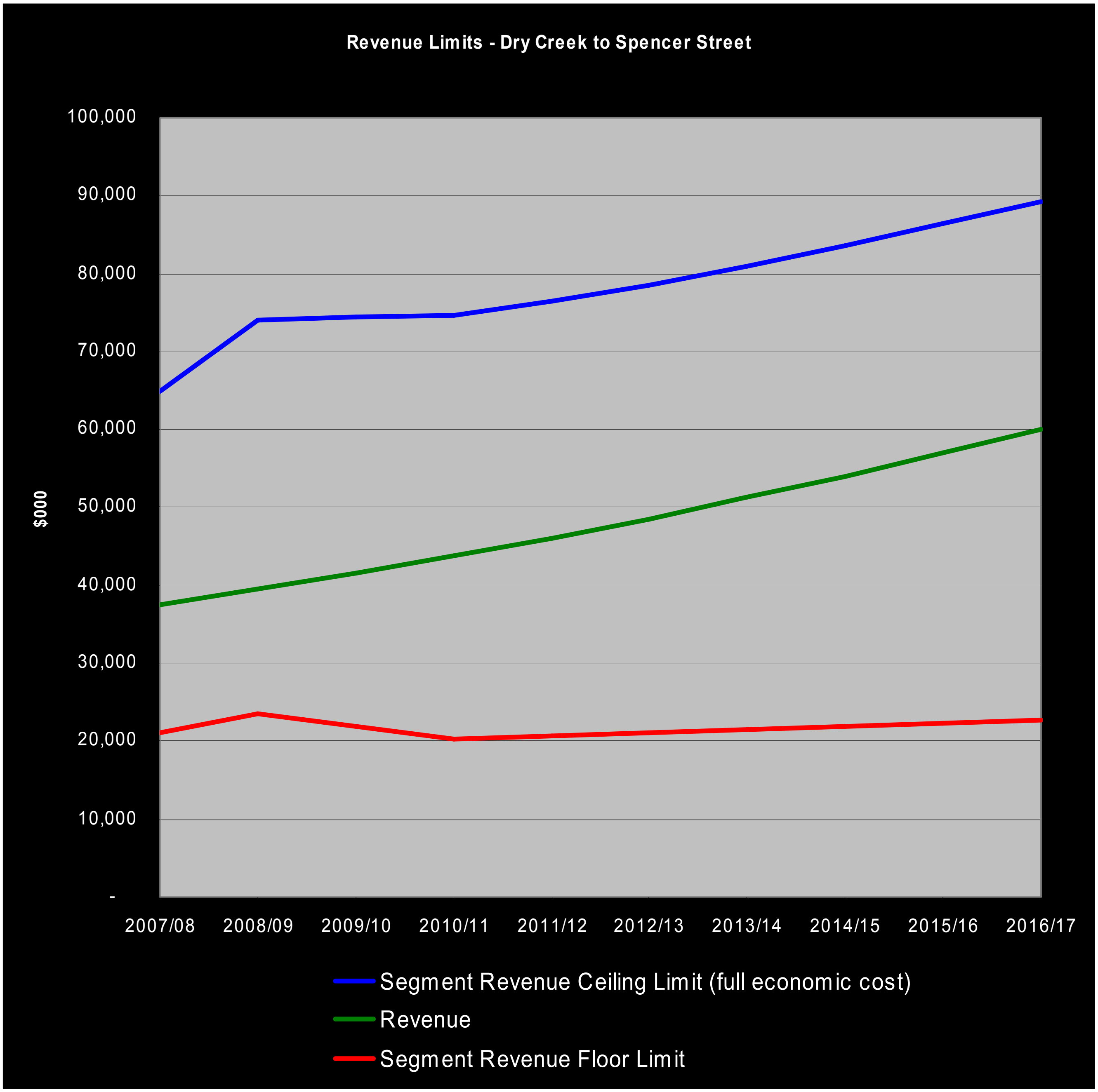
  Primarily, the amendments seek to clarify some uncertainty expressed by stakeholders with regard to the included and excluded parts in the Newcastle region. ARTC has included on maps, the ARTC Sector Codes that reference the written description of the Network in NSW included in Schedule E of the Undertaking.

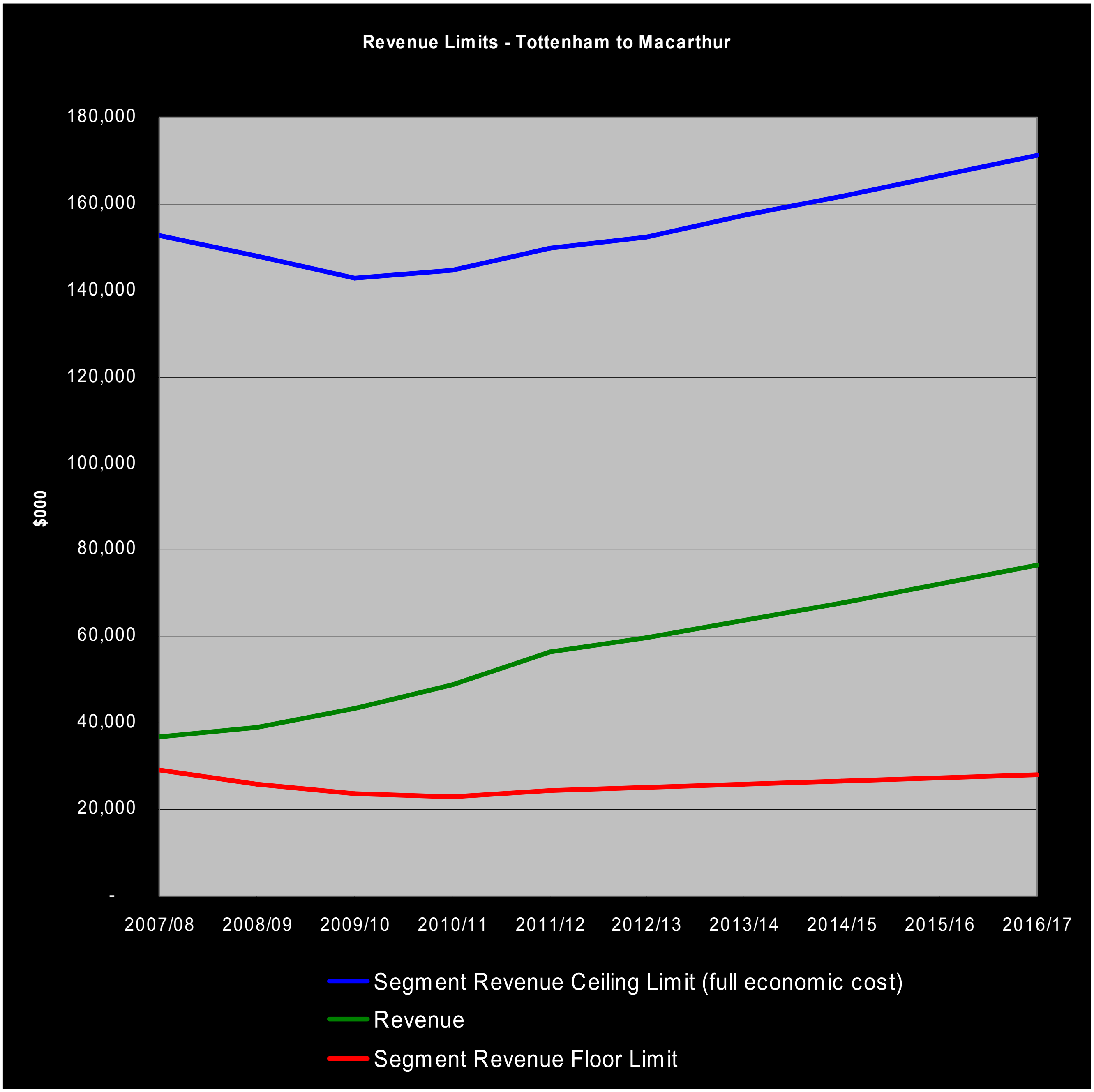
  It should be noted that the maps provided no longer are formally part of the Undertaking. Description of the Network is included at Schedule E of the Undertaking. The maps provided with the Undertaking are current as at December 2007 and are intended to provide some indication as to configuration of the Network to assist stakeholders in their review. ARTC intends to publish (and update from time to time as is necessary) maps of the Network in order to assist Access Seekers as required under clause 2.7(b) of the Undertaking.

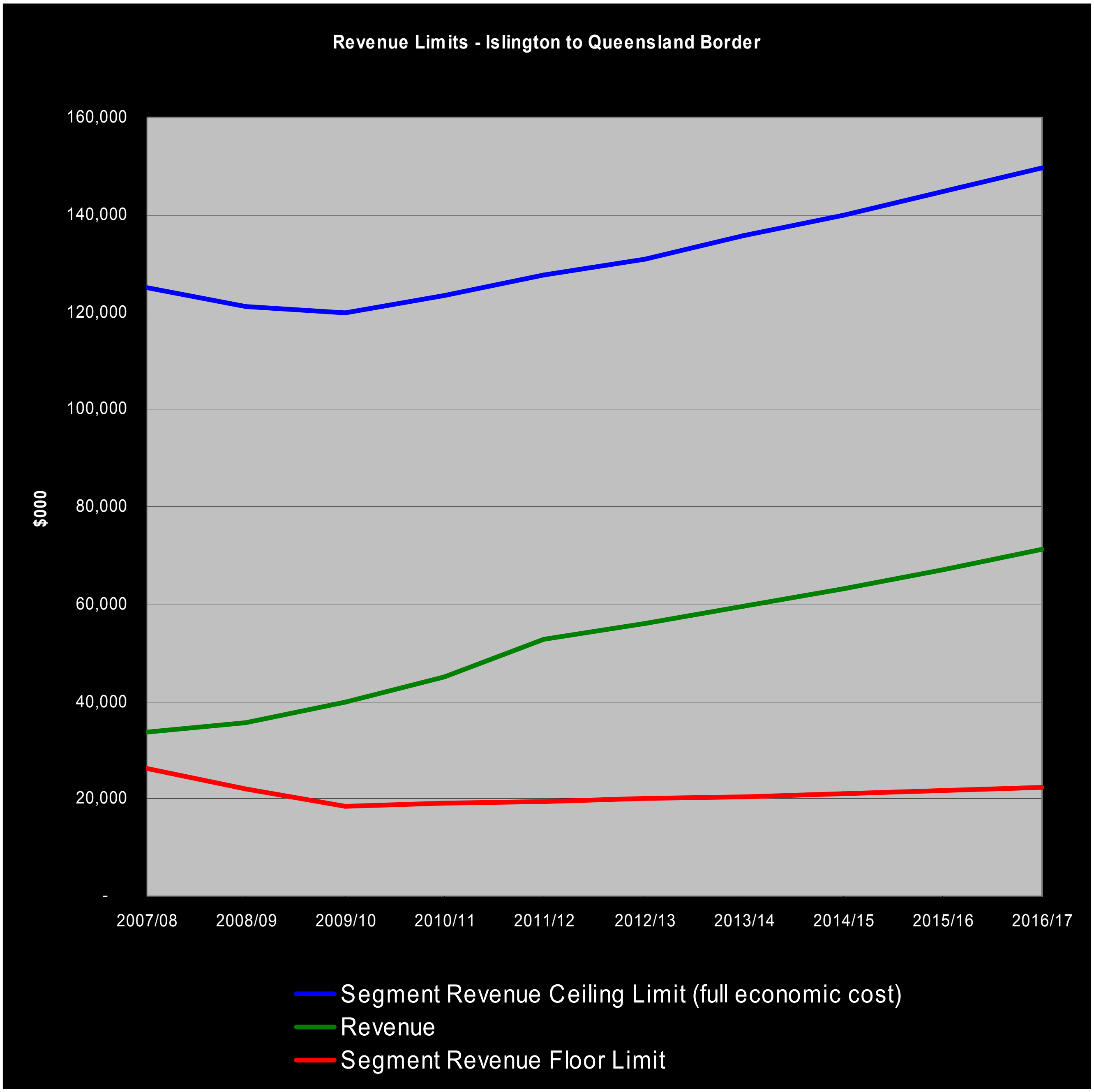
ATTACHMENT 1

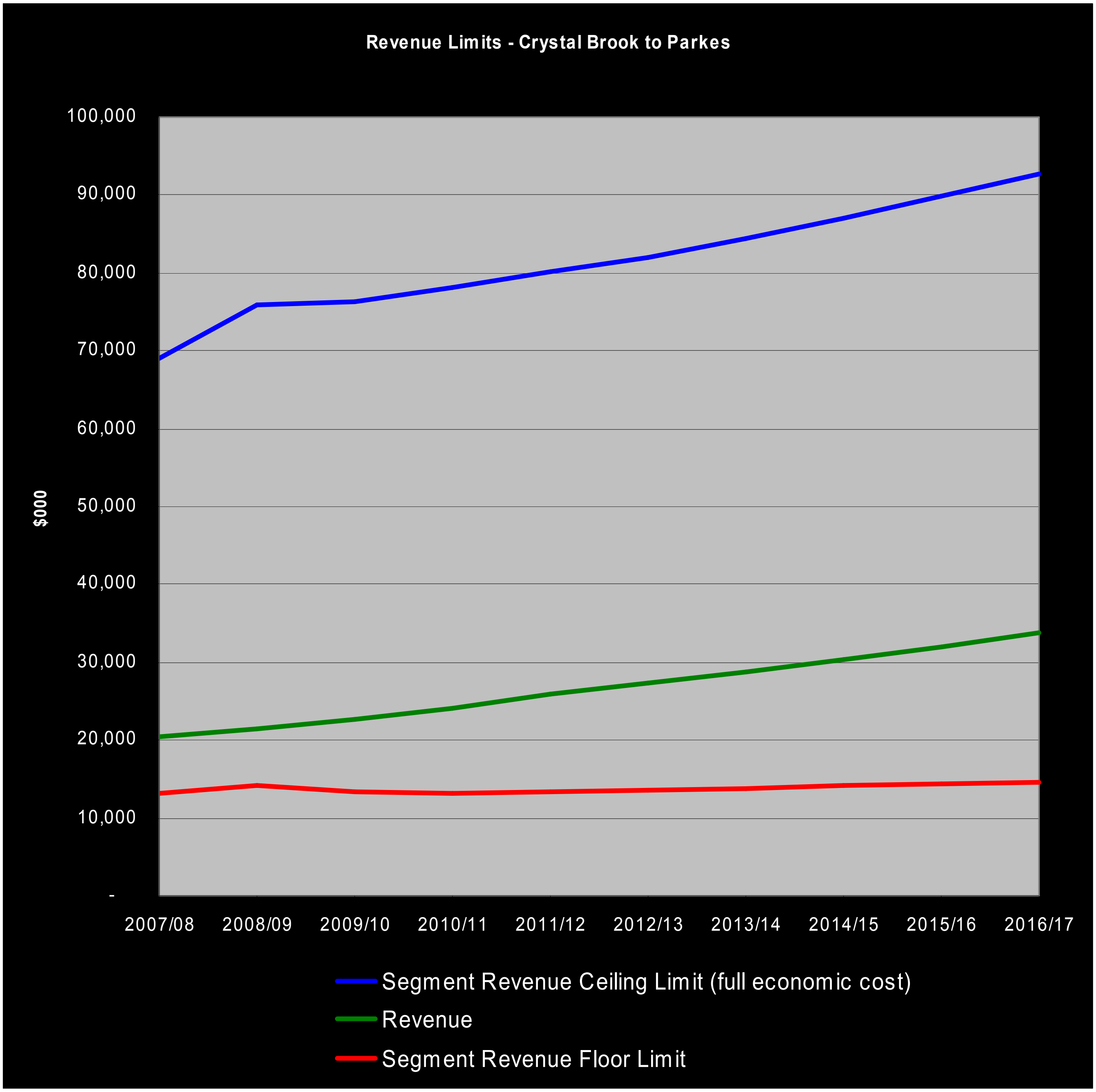
FLOOR AND CEILING REVENUE LIMIT FORECASTS AND COMPARISON WITH ARTC REVENUE FOR EACH SEGMENT OVER THE TERM OF THE UNDERTAKING

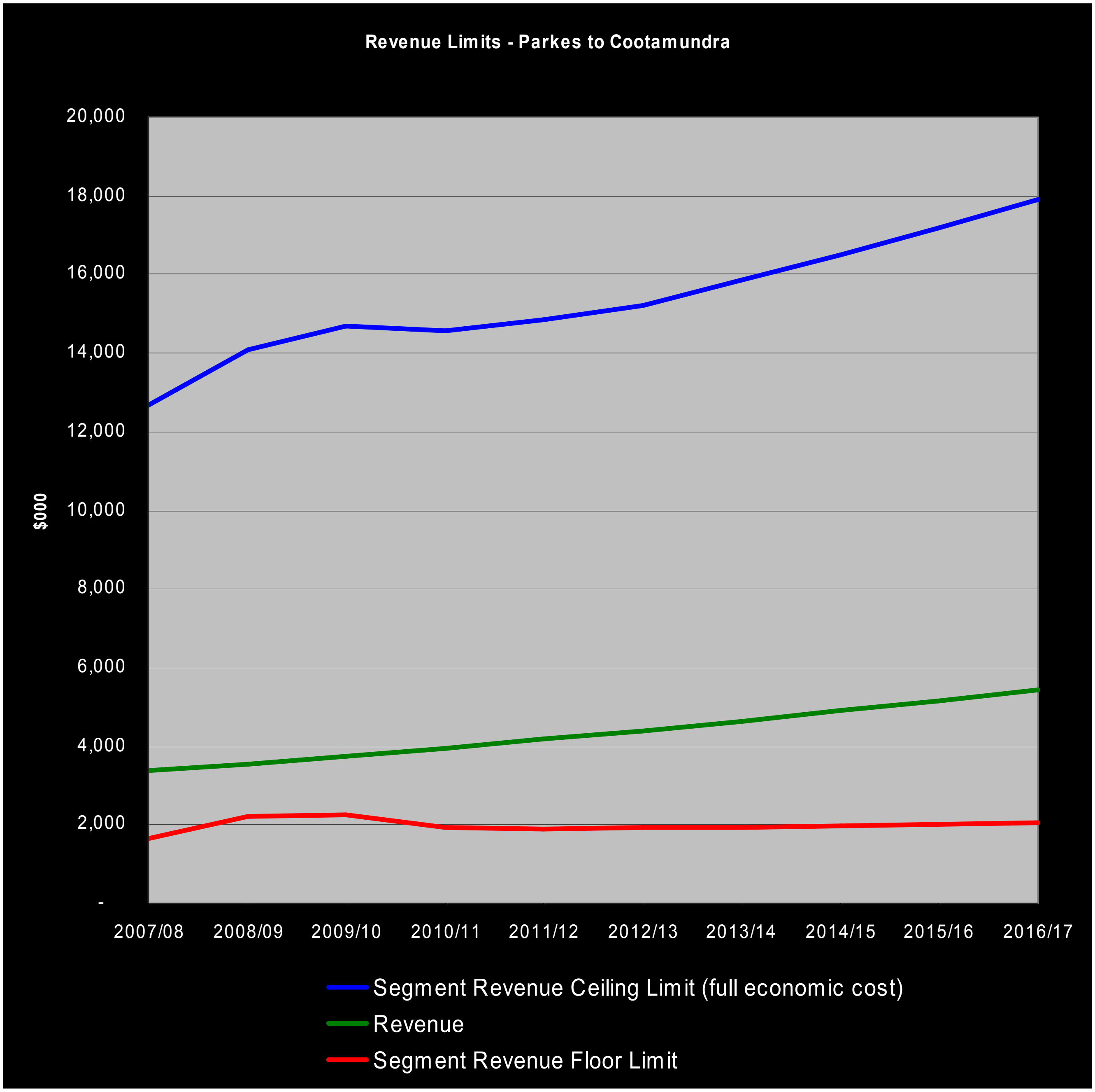


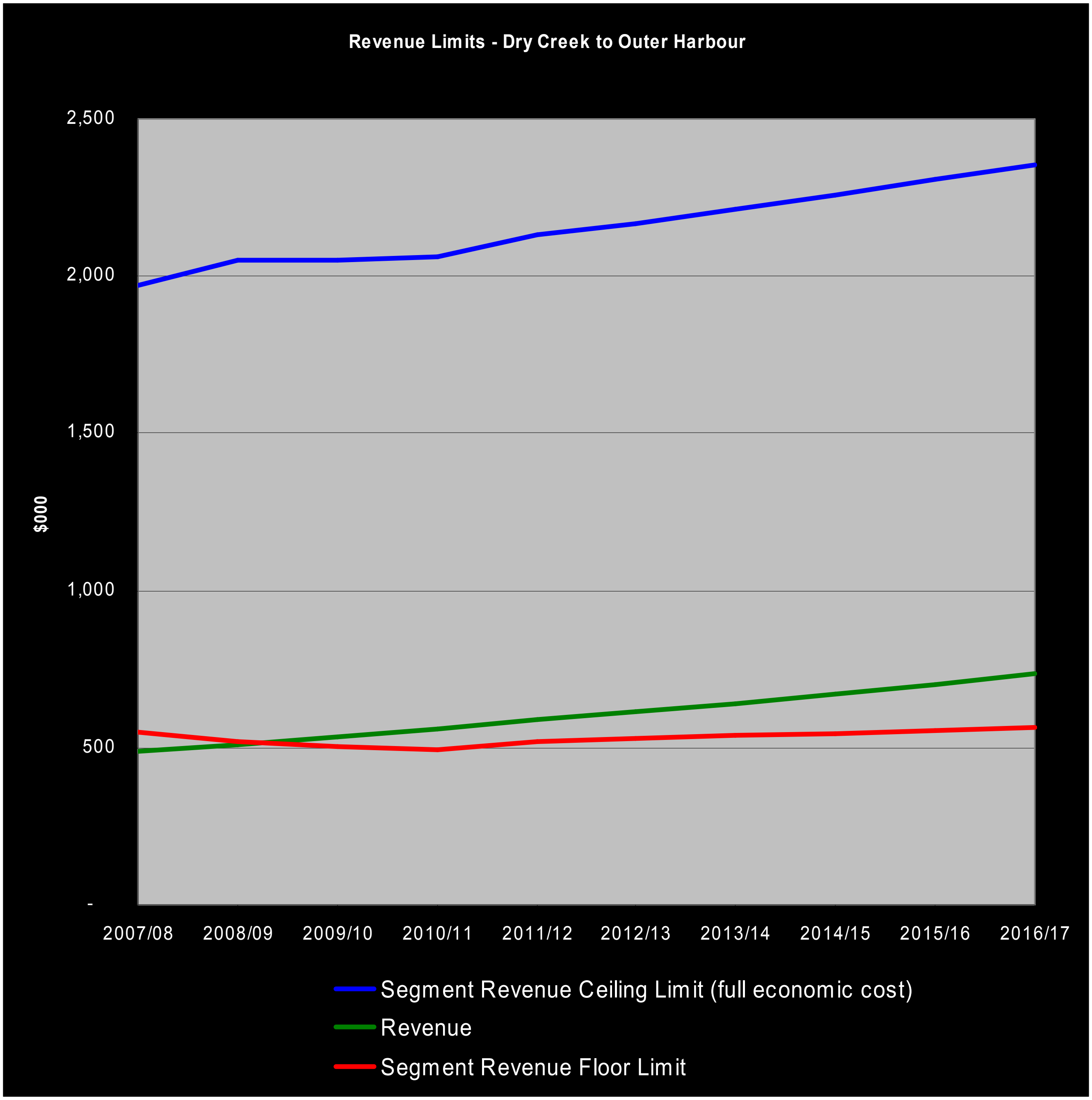

Revenue Limits - Dry Creek to Spencer Street
$000
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
-
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit

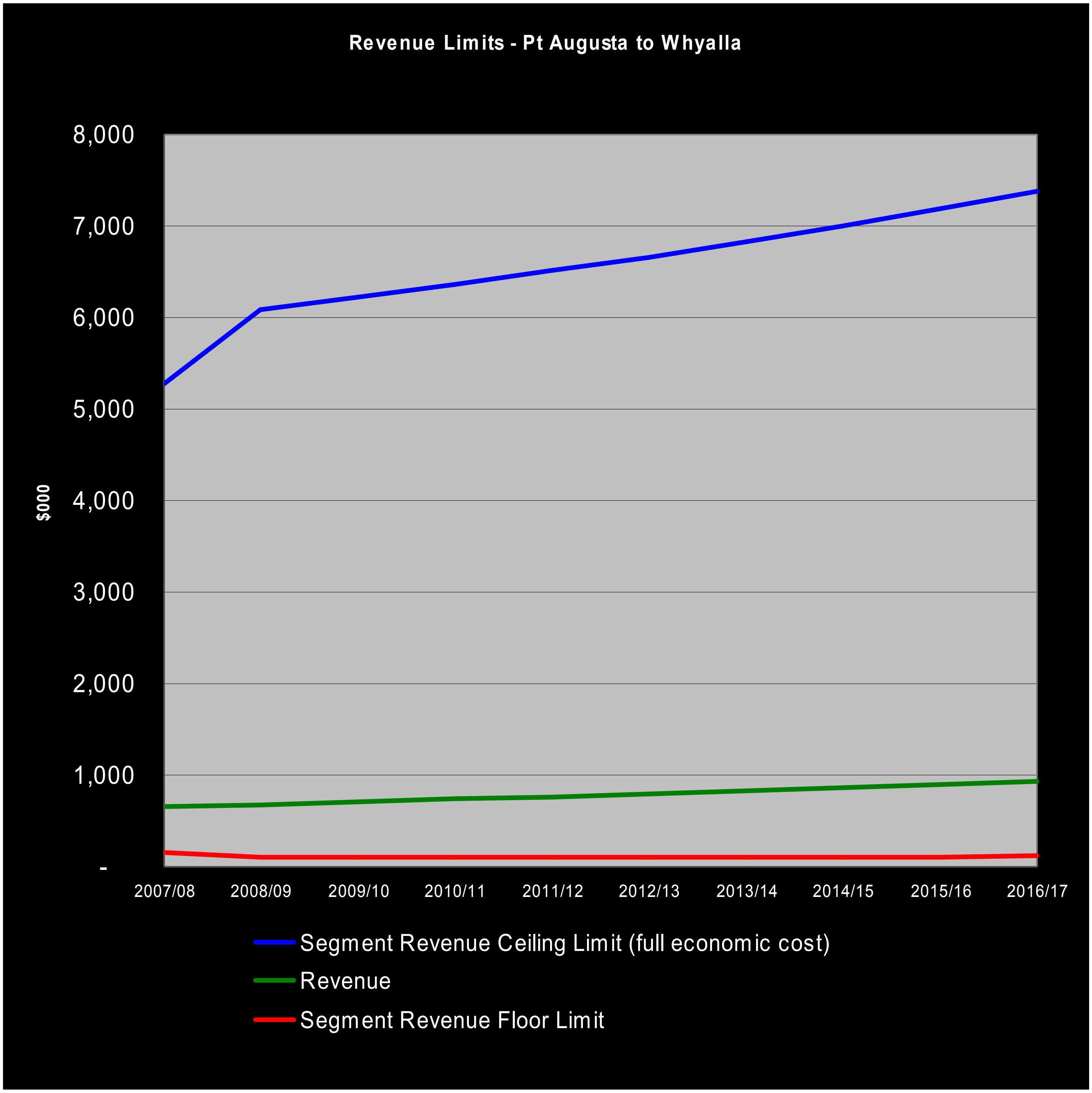

Revenue Limits - Tottenham to Macarthur
$000
180,000
160,000
140,000
120,000
100,000
80,000
60,000
40,000
20,000
-
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit

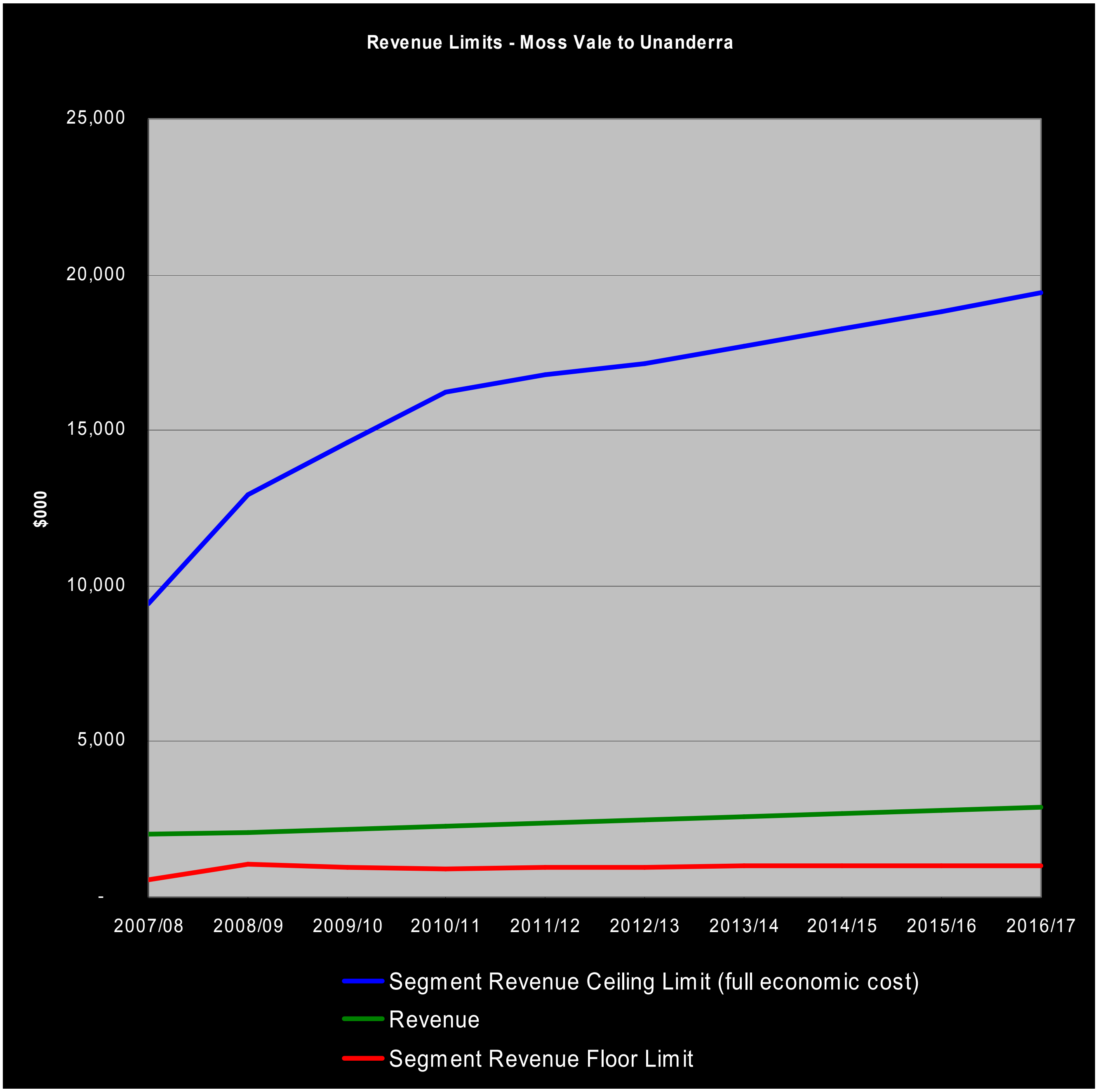

Revenue Limits - Islington to Queensland Border
$000
160,000
140,000
120,000
100,000
80,000
60,000
40,000
20,000
-
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit


Revenue Limits - Crystal Brook to Parkes
$000
100,000
90,000
80,000
70,000
60,000
50,000
40,000
30,000
20,000
10,000
-
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit


Revenue Limits - Parkes to Cootamundra
$000
20,000
18,000
16,000
14,000
12,000
10,000
8,000
6,000
4,000
2,000
-
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit


Revenue Limits - Dry Creek to Outer Harbour
2,500
2,000
1,500
1,000
500
-
$000
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit


Revenue Limits - Pt Augusta to Whyalla
8,000
7,000
6,000
5,000
4,000
3,000
2,000
1,000
-
$000
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit


Revenue Limits - Moss Vale to Unanderra
$000
25,000
20,000
15,000
10,000
5,000
-
2007/08
2008/09
2009/10
2010/11
2011/12
2012/13
2013/14
2014/15
2015/16
2016/17
Segment Revenue Ceiling Limit (full economic cost)
Revenue
Segment Revenue Floor Limit

ATTACHMENT 2

EXCESS NETWORK OCCUPANCY CHARGE EXAMPLE

ADELAIDE – PARKESTON SEGMENT

	Indicative Service	
SECTION run times	Down	Up
KALGOORLIE	15	
PARKESTON (1850)	17	16
GOLDEN RIDGE	25	17
CURTIN	24	24
BLAMEY	17	24
KARONIE	22	16
CHIFLEY	23	18
COONANA	29	23
ZANTHUS	49	25
KITCHENER	18	40
BOONDEROO	24	19
NARETHA	31	23
RAWLINNA	23	31
WILBAN	24	22
HAIG	29	24
NURINA	31	28
LOONGANA	29	31
MUNDRABILLA	33	31
FORREST	20	32
REID	33	21
DEAKIN	30	31
HUGHES	29	30
DENMAN	28	27
COOK	36	30
FISHER	15	36
OMALLEY	18	15
WATSON	21	19
OOLDEA	47	20
BATES	28	48
BARTON	26	28
MUNGALA	25	26
MT CHRISTIE	28	27
WYNBRING	32	26
LYONS	21	31
MALBOOMA	28	20
TARCOOLA	32	29
FERGUSON	33	30
KINGOONYA	24	32
KULTANABY	40	27
WIRRAMINNA	23	39
BURANDO	33	23
PIMBA	30	35
WIRRAPPA	27	24
MCLEAY	24	27
BOOKALOO	26	25
HESSO	17	24
TENT HILL	26	16
SPENCER JCT	9	25
PT AUGUSTA	16	8
STIRLING NORTH	12	13
WINNINOWIE	19	14
MAMBRAY CREEK	14	20
PORT GERMEIN	15	13
PT PIRIE	6	12
COONAMIA	19	10
CRYSTAL BROOK	5	25
ROCKY RIVER	15	5
REDHILL	20	16
SNOWTOWN	18	19
NANTAWARRA	15	16
BOWMANS	15	14
LONG PLAINS	12	16
MALLALA	11	13
TWO WELLS	11	10
BOLIVAR	14	10
DRY CREEK YARD		12
TOTAL SECTION RUN TIME	1509	1481

Determination of the ENOC

Segment Run Time (Ave. Down/Up)	1495	Published Indicative Section run times
Indicative Flagfall Component ($/km)	3.263	Clause 4.6(b) of the undertaking
Segment Length (km)	1992.5	Published ARTC Pricing Schedule
Indicative Segment Flagfall ($)	6501.53	
Flagfall per minute offered	4.349	
Flagfall per hour offered	260.9	
ENOC for each additional hour sought by Access Seeker	**261**	