

OFFICIAL



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10 October 2022

Jonathan Teubner & Jackie Lawrence
ARTC

Dear Jonathan and Jackie

Re: Interstate Access Undertaking

Thank you for your constructive engagement with our Regulated Access – Rail team on the future of the Interstate Access Undertaking (IAU) and our recent guidance paper.

We understand that ARTC is likely to provide notice later this year of its intention to submit a replacement undertaking for the current IAU that is due to expire on 30 June 2023.

With the guidance paper being published in late-July and ARTC's need to consider the paper and engage with its users in drafting an undertaking, we note that ARTC would not yet be in a position to lodge the undertaking with the ACCC.

As you are aware, the process of assessing an undertaking is set out in the legislation as taking up to 180 days, but with 'clock stoppers' it may take as much as 9 months.

While our engagement and ARTC's consultation with its users may result in an expeditious process, there is a risk with the current timing that a final decision on the application may not be made before 9 June 2023. The ACCC must publish its final decision no later than this date, to allow the 21-day timeframe for any application for the Tribunal review of the decision before a new IAU can become operational on 1 July 2023.

The ACCC considers it appropriate for ARTC to consider a short extension of the current IAU that would ensure there is at least 9 months from when it lodges the application for the replacement undertaking and the expiry of the current one. This would ensure that there is no uncertainty for users as to whether the statutory processes will be finalised before the existing IAU expires.

If you have any questions or would like to discuss further, please contact Andrew Hunt or me.

Yours sincerely

A handwritten signature in blue ink that reads "Matthew Schroder".

Matthew Schroder
General Manager
Infrastructure and Transport – Access and Pricing