



AUSTRALIAN RAIL TRACK CORPORATION LTD

20 February 2014

Mr Matthew Schroder
General Manager, Fuel, Transport & Prices Oversight
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

By email: matthew.schroder@accg.gov.au

Dear Mr Schroder

Variation of Hunter Valley Coal Network Access Undertaking (HVAU) to incorporate the Gap to Turrawan Segments – withdrawal of variation application

ARTC refers to ARTC's application to vary the HVAU submitted to the ACCC for consideration on 28 June 2013 to incorporate the Gap to Turrawan Segments for coverage under the HVAU (**Proposed Variation**).

ARTC has worked with the ACCC and stakeholders to address commercial and drafting issues raised by the ACCC in its consideration of the Proposed Variation. These issues have been raised by the ACCC in its formal information request issued on 3 September 2013, other informal requests for information and a position paper issued on 12 December 2013 (**Position Paper**). In the Position Paper, the ACCC indicated that under Part IIIA of the Competition and Consumer Act 2010 (Cth) (**the Act**), it was required to make a decision by 14 March 2014, having regard to known 'clock-stoppers'. The ACCC also indicated, in the Position Paper, that it is unlikely to consider the Proposed Variation as acceptable.

To date, ARTC has proposed a number of amendments to the ACCC in order to address issues raised, however there remain some issues outstanding that require further consultation with the ACCC and stakeholders before finalisation.

Given this, ARTC formally withdraws the Proposed Variation under section 44ZZA(7)(a) of the Act.

In seeking to address the remaining concerns of the ACCC and industry stakeholder in relation to the Proposed Variation, ARTC proposes to continue consultation with the ACCC and



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stakeholders with the intention to revise the Proposed Variation and resubmit a revised Proposed Variation in the near future.

Please do not hesitate to contact Kylie Gallasch on [REDACTED] or Gavin Carney on [REDACTED] if you have any queries in relation to the above.

Yours sincerely

Simon Ormsby
Executive General Manager
Strategy & Growth