

22 May 2024

By-Email

Mr Matthew Schroder
General Manager
Infrastructure and Transport – Access and Pricing Branch
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Your Ref

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MELBOURNE
SYDNEY

Dear Mr Schroder

Proposed extension to ARTC's 2008 Interstate Access Undertaking

As you know, we act for Port of Portland Pty Limited, which made a submission dated 23 February 2024 regarding the proposed 2024 Interstate Access Undertaking (IAU) by Australian Rail Track Corporation (ARTC).

We refer to the ACCC's consultation letter to stakeholders dated 7 May 2024 regarding ARTC's application to extend the current 2008 IAU by 6 months until 31 December 2024. We understand the purpose of the proposed extension is to allow sufficient time for consultation on issues raised by stakeholders regarding the proposed 2024 IAU.

Our client maintains that the Maroona to Portland rail line (**Line**) should be covered by the proposed 2024 IAU, and that the status of the Line should be addressed as part of the current consultation process and the ACCC's consideration of the proposed 2024 IAU.

Since our client made its submission, ARTC has given its response dated 18 March 2024 to the ACCC's Information Request 1. The map referred to in section 7 of that response indicates that, at least in ARTC's view, the Line is not currently covered by any regulatory regime. As explained in our client's submission, this is contrary to clause 20 of ARTC's lease of the Line from Public Transport Victoria (**Lease**) and demonstrates the need for the Line to be covered by the proposed 2024 IAU.

There is no apparent reason why the Line is not covered by the proposed 2024 IAU. The express inclusion of the Line in the proposed 2024 IAU would be a simple amendment.

Our client does not, however, object to the proposed extension of the 2008 IAU to the extent that that extension is necessary to ensure proper consideration of all of the issues raised by stakeholders regarding the proposed 2024 IAU.

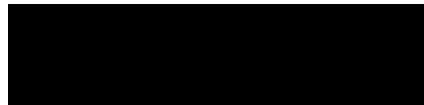
Our client welcomes the recent budget announcement by the Federal Government of funding to upgrade the Line. The Line should still, however, be covered by the proposed 2024 IAU, even once the Line is upgraded. This is for a number of reasons, including:

- so that users of the Line enjoy the same protections and benefits as the users of other ARTC rail lines that are covered by the IAU;
- so that the Line is covered by an appropriate regulatory regime, as it should be under clause 20 of the Lease;
- so that ARTC is required, under the IAU, to maintain the Line properly and prevent the Line from deteriorating again to its present poor condition;

- to put the Line on equal footing with the Wolseley-Geelong Line, which leads to the Port of Geelong and is covered by the IAU, and so avoid a distortion of competition resulting from that line being treated differently to the Line; and
- to help address issues relating to the fragmentation and inefficiency of the rail network, which was raised by a number of stakeholders in their submissions on the proposed 2024 IAU.

Please do not hesitate to contact us if you have any queries.

Yours sincerely
Arnold Bloch Leibler



Partner