



AUSTRALIAN RAIL TRACK CORPORATION LTD

Ref No:

15 February 2009

Mr. Aaron Murray
Program Manager - Transport
Independent Pricing and Regulatory Tribunal
PO Box Q290,
QVB Post Office NSW 1230

Additional Information sought by the NSW Minerals Council in relation to IPART consultation on Hunter Valley Rate of Return and remaining mine life

Dear Aaron

I refer to the email correspondence to ARTC on 20 January seeking additional information in relation to IPART's consultation on the Hunter Valley Rate of Return and remaining mine life review, specifically referring to a request that IPART make available certain additional information from ARTC, as sought by the NSW Minerals Council (NSWMC). The NSWMC has sought additional information in relation to forecast export and domestic coal railings, investment expenditure, coal chain capacity and access prices in relation to 3 Hunter Valley segments and for each of the 5 regulatory years. The NSWMC has also sought to confirm that ARTC no longer is seeking to proceed with a proposal to vary the existing Rate of Return in the Hunter Valley on an interim basis until approval of the Rate of Return following this review.

ARTC has considered the NSWMC request (through IPART) in relation to what it considers as being reasonable disclosure of information that might be relevant to IPART's review. ARTC is cautious about information being made available that might be construed by certain parties as being commercially sensitive, that may not be

relevant to the review (serving only to complicate the issue) or even diverting the focus of the review to extraneous matters.

ARTC understands the intent of the review to be to enable a fair and reasonable assessment of an appropriate rate of return for ARTC over the next 5 years (normally focusing on ARTC's cost of capital and risk exposure in the Hunter Valley), and an appropriate estimate of remaining life (normally focussing on identified and prospect Hunter Valley coal mine resources and forecast production levels).

Firstly, ARTC makes the following general comments in relation to the request for additional information.

- The detail sought by the NSWMC is at a level that is substantially greater than that presented to the industry (and presumably considered adequate for consultation by IPART) in the two previous reviews of rate of Rate of Return and remaining mine life in 1999 and 2004.
- The remaining mine life study provided by ARTC to IPART as largely based on forecasts of demand and production provided by the Hunter Valley coal producers to the Hunter Valley Coal Chain Logistics Team (HVCCLT) and then provided to ARTC for the purposes of developing the Hunter Valley investment strategy. It is ARTC's understanding that the type of information provided to ARTC is commercially sensitive. In respect of this, ARTC has sought to make available in the information to be made public, mine specific information relating to estimates coal reserves (which can generally be obtained from other sources) and the remaining mine life determined for each mine, determined in accordance with the methodologies and assumptions proposed in the report provided. ARTC is cautious about making available information at a detailed level.
- As has been past practice, and in accordance with the NSW Rail Access Undertaking (NSWRAU), ARTC has only proposed a single Rate of Return and remaining mine life for the Hunter Valley Coal Network. As such, ARTC does not see the relevance of providing the information sought by the NSWMC as it specifically relates to the proposed segments of the network, being:
 - Newcastle Port Terminals to Muswellbrook
 - Muswellbrook to Ulan
 - Muswellbrook to the Gap (Werris Creek)

IPART would be aware that ARTC is currently consulting with stakeholders in relation to its Hunter Valley Coal Network Access Undertaking. In its Undertaking, ARTC has proposed different treatment in relation to rate of return and remaining mine life with respects to these specific segments. ARTC suggests it may be possible that the NSWMC is confusing the granularity proposed in ARTC's Undertaking with this particular review.

- As the Rate of Return and remaining mine life approved by IPART are intended to apply from 1 July 2009, the relevant regulatory period for the purpose of this review should be 2009/10 to 2013/14 (five years), not 2008/09 to 2013/14 as indicated by the NSWMC.

In light of the general comments, and in relation to the NSWMC's specific requests for additional information, ARTC makes the following comments and proposals:

- **Total export coal railings and total domestic coal railings (in Mtpa).**

Despite ARTC's concerns in relation to previous practice and commercial sensitivity above, ARTC recognises that the study provided to IPART proposes improvements to the methodology for determining remaining mine life, requiring the use of specific forecasts in relation to mine production levels over the regulatory period. ARTC cannot, in respect of likely commercial sensitivities, allow mine specific forecasts to be published, but is willing to provide for publishing by IPART the forecasted level of production for the Hunter Valley coal network for the regulatory period that has been assumed in the proposed remaining mine life calculation.

It should be noted that industry and investment forecasts are normally presented in terms of calendar years. Whilst this does not exactly match the regulatory period, ARTC considers presenting data on a calendar basis is reasonable given that the aim of the exercise is merely to estimate remaining mine life in the longer term. ARTC proposes to provide the graph at Attachment 1, showing domestic and export volume assumptions at Newcastle and Muswellbrook during the regulatory period, for IPART to publish to address the NSWMC request.

- **Total expenditure on new investment projects (in \$Mpa) and the resultant total rail access capacity (in Mtpa of deliverable Coal Chain tonnes)**

ARTC proposes to provide the table at Attachment 2, showing projects currently identified and proposed for completion over the next 5 years as part of its 2008-10 Hunter Valley corridor investment strategy, for IPART to publish to address the NSWMC request. This strategy is still undergoing final internal review for ARTC Board approval and ARTC expects to publish the strategy for industry comment in the near future. ARTC is not proposing to make available for publishing cost estimates for these projects as part of this review. Firstly, ARTC is yet to finalise and internally approve cost estimates for these projects and, secondly, ARTC asserts that the cost of projects is not relevant to an assessment of Rate of Return and remaining mine life. ARTC's strategy merely proposes a suite of projects intended to deliver rail capacity needed to underpin deliverable coal chain throughput needed to meet industry forecasts of demand. The cost of these projects is unlikely to affect industry demand for coal exports or the need to deliver the required level of capacity.

IN any event, ARTC will publicly make available cost estimates as normal when the 2008-18 strategy is released.

It is important to note that the delivery of these proposed projects will be subject to ongoing consultation and endorsement by stakeholders as prescribed in the NSWRAU. This point should be emphasised in any publication of this information.

In relation to estimates of Coal Chain Capacity, and having regard to ARTC's earlier comments in relation to providing details at a segment level, ARTC proposes that the graph provided at Figure 3 of the report already provided to IPART and published, adequately responds to the NSWMC request.

- **An estimate of the impact on average access charges of the Rate of Return and remaining mine life changes (in \$/tonne)**

As stated earlier, ARTC understands the intent of the review to be to enable a fair and reasonable assessment of an appropriate rate of return for ARTC over the next 5 years (normally focusing on ARTC's cost of capital and risk exposure in the Hunter Valley), and an appropriate estimate of remaining mine life (normally focussing on identified and prospect Hunter Valley coal mine resources and forecast production levels).

ARTC does not consider that consideration of the impact of any regulatory review and decision may have on access pricing as relevant to that review or decision.

Such consideration may, in fact, lead to inappropriate or inefficient outcomes where the objectives of economic regulation may be influenced by other objectives.

Any impact on access pricing going forward is not only a function of Rate of Return and remaining mine life, but also, and probably more importantly, a function of changes to the Regulatory Asset Base, specifically where new investments are included in the Regulatory Asset Base. Given the quantum of the expected investment program in the Hunter Valley, ARTC considers that this, together with volume take up of resulting capacity enhancements, will be a more significant driver of future access pricing than Rate of Return and remaining mine life.

To this end, the NSWRAU and current industry practice provides for substantial consultation to be undertaken, both at a strategic and project level, in relation to any investment, and a process for stakeholders to endorse that investment prior to delivery. The regulated process requires that the project costs, benefits and impacts be made available to stakeholders. At that time, stakeholders have an opportunity to provide input to, and endorse, an investment in the prevailing circumstances, including the regulated Rate of Return and remaining mine life and consideration of any impact on access prices.

ARTC considers that this is a more appropriate forum for consideration of, and influence of, access prices, by stakeholders than a regulatory review of rate of return and mine life.

- **Confirmation that ARTC no longer wishes to pursue a variation of the Rate of Return to apply from 1 July 2008.**

ARTC wishes to advise IPART that it no longer wishes to pursue a variation of the Rate of Return to apply from 1 July 2008. ARTC has chosen this course of action because:

- recent changes in global and national economic circumstances;
- it felt that seeking such a review by IPART at the same time as this review, and during ARTC's consultation with industry on its new undertaking, would create significant confusion and distraction for the industry.

Should you have any questions in relation to this letter could you please contact me

on 0882174314, sormsby@artc.com.au or Glenn Edwards, 0882174292, gedwards@artc.com.au.

Yours sincerely



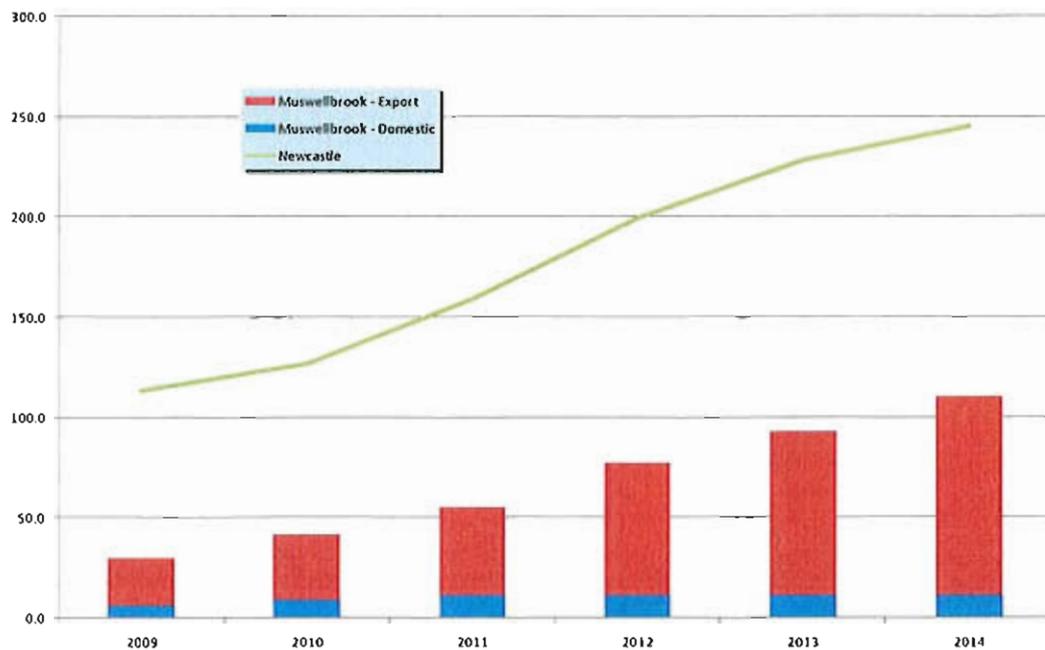
Simon Ormsby
General Manager Commercial

Attachment 1 - IPART 2009 HUNTER VALLEY RATE OF RETURN AND MINE LIFE REVIEW – ADDITIONAL INFORMATION PROVIDED BY ARTC – 2008 PRODUCER VOLUME FORECASTS

Attachment 2 – IPART 2009 HUNTER VALLEY RATE OF RETURN AND MINE LIFE REVIEW – ADDITIONAL INFORMATION PROVIDED BY ARTC - ARTC 2008-18 HUNTER VALLEY INVESTMENT STRATEGY PROPOSED PROJECTS 2009-2014 (as at January 2009)

IPART 2009 HUNTER VALLEY RATE OF RETURN AND MINE LIFE REVIEW – ADDITIONAL INFORMATION PROVIDED BY ARTC

2008 Producer Volume Forecasts



Domestic coal volume from the Hunter Valley through Newcastle is considered relatively insignificant and is not separately identified for strategic planning.

IPART 2009 HUNTER VALLEY RATE OF RETURN AND MINE LIFE REVIEW – ADDITIONAL INFORMATION PROVIDED BY ARTC

ARTC 2008-18 HUNTER VALLEY INVESTMENT STRATEGY

PROPOSED PROJECTS 2009-2014¹ (as at January 2009)

Newcastle – Muswellbrook

1. Bi-directional signalling – Maitland to Branxton
2. Newdell Junction upgrade
3. Minimbah Bank 3rd road – 8 minute headway
4. St. Heliers – Muswellbrook duplication
5. Drayton Junction upgrade
6. Nundah Bank 3rd road – 8 minute headway
7. Minimbah – Maitland 3rd road
8. Camberwell – Whittingham 3rd road

Muswellbrook – Ulan

1. Aerosol Valley (372 km) loop
2. Worondi (345 km) loop
3. Radio Hut (318 km) loop
4. Muswellbrook – Bengalla duplication
5. Wilpinjong (422 km) loop
6. 404 km loop
7. Bengalla – Mangoola duplication
8. 390 km loop
9. 337 km loop
10. 353 km loop
11. 378 km loop

Muswellbrook – Werris Creek (The Gap)

1. Braefield passing loop
2. Boggabri passing loop
3. Quipolly passing loop

¹ Projects are proposed to be completed in the 2009-14 calendar year period

4. Parkville loop extension
5. Murrurundi loop extension
6. Scone reconfiguration
7. Werris Creek Bypass
8. Quirindi passing loop
9. New Liverpool Range alignment
10. Wingen passing loop
11. Muswellbrook – Koolbury duplication
12. Scone – Parkville duplication
13. Muswellbrook Junction grade separation
14. Koolbury – Aberdeen duplication
15. Parkville – Wingen duplication
16. Togar – Scone duplication
17. Quirindi – Werris Creek duplication
18. Willow Creek – Braefield duplication

Werris Creek (The Gap) – Narrabri (RIC)

1. Emerald Hill – Narrabri CTC
2. Watermark passing loop
3. South Gunnedah loop
4. 504 km loop