



7 December 2012

Mr Martin Jones
General Manager Operations and Logistics
ARTC
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By Email: To: martin.jones@artc.com.au

Dear Mr Jones,

ARTC Discussion Paper – Capacity Loss Review

I refer to ARTC's invitation to provide submissions regarding their Discussion Paper on the Hunter Valley Access Undertaking Capacity Loss Review (Discussion Paper) dated October 2012. Vale appreciates the opportunity to provide this submission as part of the consultation process on the Capacity Loss Review.

Integra Coal Operations Pty Ltd (**ICO**) (a related entity of Vale Australia Pty Ltd (**Vale**)), operates the Integra Coal Mine, as agent for and on behalf of the Integra Coal Joint Venture Participants. As a smaller producer in the HVCC, ICO has to be able to clearly understand the pricing mechanisms that exist in the logistics market so it can make informed decisions on future investment decisions, both at a mine level, and as part of the wider HVCC development.

This consultation process is provided in accordance with section 5.8 of the June 2011 Hunter Valley Access Undertaking (HVAU) to

Commence a review of the policy and processes for identifying and allocating losses of Capacity caused by Access Holders and their Operators and potential incentive mechanisms to minimise such losses where they have a material impact on Capacity or Coal Chain Capacity or the Capacity entitlements of Access Holders, including those processes outlined in clause 11.6 of the Indicative Access Holder Agreement.

The Discussion Paper highlights that the current mechanism was established during the negotiation of the HVAU to address the concern by stakeholders of minimising losses in coal chain capacity occurring due to avoidable events. It is noted that at the time many schemes were proposed but not considered acceptable due to the practicalities of their implementation. ARTC proposed to include this review process under section 5.8 of the HVAU as it was uncertain about the effectiveness of the mechanism and believed an assessment of the mechanism would be appropriate.

Based on the requirement of section 5.8 of the HVAU ARTC has released a Discussion Paper which outlines the current processes and mechanism that has been established under clause 11.6 of the Access Holder Agreement (AHA). The current mechanism provides for the removal of Train Paths for any capacity losses incurred as a result of train cancellations that were directly attributable to an Access Holder. The Discussion Paper provides further data that breaks down the train cancellations for the 2012 year to August. ARTC's analysis of this data concludes that 19% of train cancellations were due to Access Holders and 60% due to Train Operators. The Discussion Paper then goes on to outline the current process that was used to assign the responsibility of these cancellations and provide some limitations with the mechanism. The Discussion Paper also presents possible alternate mechanisms that could be used to measure lost capacity and some of the constraints that would need to be considered if they were adopted.

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Vale is supportive of a review of the mechanism to ensure that it is appropriate and working in a positive way to influence behaviour to minimise losses that have an impact on capacity across the Hunter Valley. Under section 5.8 of the HVAU the review is required to determine if there are particular actions or omissions of Access Holders or their Operators that have a material impact on capacity and any proposal meets the following criteria:

- Would have a demonstrably positive benefits in increasing the Available Capacity and allocating the impact of an event causing a Capacity shortfall to the Access Holder causing the incident; and
- The anticipated benefits of the proposal outweigh the potential detriments of the proposal including the costs associated with the implementation and monitoring; and
- The proposal has the support of the HVCCC and the broad support of the Hunter Valley Coal Chain participants.

Under section 5.8(e) ARTC can decide to not submit a variation application to the ACCC but must set out its reasons for rejecting any proposals developed or submitted.

In its Discussion Paper ARTC has raised many questions to assist in the review of the mechanism and to understand views from stakeholders on the current mechanism and any possible alternative. Vale believes these questions and the issue itself is very complex and believes it will be important for this process to undertake further discussions between stakeholders to develop the details required to reach a final position on a capacity loss mechanism. It is noted that during the previous attempt to find a mechanism it was difficult to find a consensus and therefore Vale hopes this paper is the commencement of a meaningful consultation process to provide a solution to a very complex issue. Vale believes that regardless of the outcome of this consultation and the mechanism that is established there should continue to be a review of the mechanism at least every 2 years to ensure the mechanism remains relevant in an ever changing environment.

Please find below Vale's response to the questions identified in the Discussion Paper.

1. *Should the incentive mechanism be based on train cancellations or some other measure (Some possible measures are discussed in section 5)? Should an event that leads to some other remedial action (eg a diversion) also be taken into account – if so how?*

The current mechanism was established to address a concern by stakeholders that an incentive was required to discourage Access Holders from inappropriately consuming capacity. The current mechanism contained under clause 11.6 of the AHA is based on the removal of Train Paths where an Access Holder was found to have caused a loss to the coal chain through causing one or more cancellations. This was considered an appropriate and identifiable measure of the loss of capacity and if in the reasonable opinion of the HVCCC, any impact on capacity was caused by these cancellations then ARTC will remove Path Usages from the Access Holder to reflect the loss of capacity. The determination of the cause and allocation of responsibility for cancellations is currently carried out by the Live Run Superintendent's Group (LRSG) on a daily basis. The process to identify and allocate responsibility of a train cancellation is currently performed under this group by service providers on a voluntary basis and no participant is compelled to participate in this group or accept the results of any decision.

Vale believes the current mechanism based on train cancellations should be retained as it provides a clear understanding to stakeholders of the measure and how they can influence this measure. Vale believes the major advantage of the current mechanism is the ability to clearly measure the value of the cancellation and for an Access Holder to change future behaviour to mitigate further losses. If a mechanism is unable or difficult to measure it becomes inefficient as it generally requires substantial effort to calculate, the calculations tend to be subjective, and the party affected by the metric is unable to clearly understand how it can change its behaviour to influence future outcomes. Vale believes the ability to clearly measure the impact of any lost capacity improves the efficiency of the mechanism as it generally allows users to make informed decisions and results in less number and frequency of disputes.

Another important aspect of this mechanism is the process of assignment that is conducted by the LRSG. As identified in the Discussion Paper many of the causes of the cancellations are generally readily apparent and the parties most likely to be able to identify this in a quick and efficient manner are the HVCCC with the assistance of the service providers. The current data implies that close to 80% of the cancellations are likely to be resolved at the LRSG with no requirement for the involvement of the producers. Vale believes this is an efficient way to conduct the process as the data suggests that that only 20% of the cancellations require the involvement and information from the producers.

Although Vale believes this mechanism does provide some efficiency it is clear that some modifications to the processes are required as a capacity loss has never been allocated to an Access Holder even though 20% of cancellations have been assigned to an Access Holder. Therefore the system has never been truly tested to ascertain if indeed it would change behaviours. Vale believes that the process needs to be amended to allow Access Holders and Operators to be allocated cancellations that are directly caused by their actions, but this is likely to require an improvement to the governance structure of the LRSG.

Vale believes the other measures proposed by ARTC in the Discussion Paper do not provide this clear ability for an Access Holder to influence the outcome as the mechanisms introduce more complexity. One issue that would affect these mechanisms is the effect of the current system capacity operating well below contracted capacity and as a result measurements of dump slots and transit times are being influenced heavily by the lack of below rail infrastructure. Vale believes that a stakeholder would have very little ability to influence the behaviour of both its Operator and ARTC to try and reduce any potential exposure and therefore the mechanism would fail to provide a positive incentive to stakeholders and fail the original intent of the mechanism which is to discourage inappropriate consumption of capacity. Vale believes it would be inappropriate to adopt this type of mechanism until system capacity reaches alignment with the contractual capacity.

2. If Cancellations are an appropriate measure, does the current approach for Train Operators to volunteer cancellations work effectively? If not, what alternative method for generating cancellations should apply?

Vale believes the most efficient way to operate the Hunter Valley Coal Chain is to operate as per the Train plan. As a result it is appropriate that any capacity loss mechanism should not restrict or be an impediment to activities that provide a positive influence on the efficiency of the system. Vale believes that maintaining the plan is an important component in maintaining system efficiency and increasing available capacity and therefore if a voluntary cancellation or some other activity is used to maintain this position it should not be penalised at either the Train Operator or Access Holder level.

3. Is it appropriate that Train Operators choose which train to cancel? If not, how should cancellations be chosen?

Vale believes that Train Operators, ARTC, and HVCCC should all be involved in the evaluation of options when a decision is made to cancel a train to bring the operations back to plan. As this decision is based on a goal to improve the system efficiency the decision on which train should be cancelled should be made by the HVCCC as the independent coordinator of the Hunter Valley Coal Chain. Vale believes that Train Operators should provide any relevant information to the HVCCC to allow them to make a decision but it is important that these changes are made for the efficiency of the system not biased by commercial considerations.

4. Is the membership of the LRSG appropriate? If not, who should be represented and how?

Under the current mechanism, Vale believes, the membership is appropriate as the data implies that approximately 80% of the cancellations are being resolved at the LRSG. Vale believes that this indicates that the membership appears to be appropriate and does not necessarily require any further member to assist in the efficient operation.

5. Is the process for the assignment of responsibility for cancellations appropriate? Is there a better way?

Vale believes the procedure outlined in the Discussion Paper is generally appropriate for allocating responsibility for cancellations although there needs to be some adjustments to the process as no losses have currently been allocated and the commencement of any allocations is likely to require changes to the governance of the LRSG.

Vale believes the process should be strengthened to allow the allocation of a cancellation by an Access Holder that is directly caused by them. This is likely to require the removal of the requirement for the HVCCC to determine if they believe there is a capacity loss. Vale believes this change would be important to encourage a change of behaviour by Access Holders when assessing coal availability issues in the planning process.

Based on the data provided in the Discussion Paper Vale believes that a process needs to be established to assignment of train cancellations to the Train Operator if they are the directly causing the cancellation. For clarity this should not include the intentional cancellations identified in question 2. The data suggests that a substantial amount of the cancellations are currently occurring due to Operator failures that Vale believes should not be directly apportioned to Access Holders but rather allocated to the Operator which potentially affects their ability to satisfy the requirements of their customers. Vale believes that allocating any loss from cancellations caused by an Operator directly to an Access Holder will not assist in the efficient change in behaviour that is required by the Operator to reduce the number of cancellations. Vale believes the most efficient way to influence a change of behaviour to reduce Train Operator cancellations would be to allocate these losses to the Operator. Vale understands that a governance structure would need to be established to allow this process to occur under the LRSG, but as 60% of the cancellations are assigned to the Operators it is worth investigating this option.

Vale believes the introduction of these changes would also require a strengthening of the dispute mechanism. Under the current process if an Access Holder refuses to accept the responsibility the cancellation defaults to the Train Operator. If changes are made to the assignment process as outlined above than this default situation would not be considered appropriate and the unilateral refusal by an Access Holder would need to be removed. Vale believes that a dispute mechanism needs to be retained to allow an Access Holder the opportunity to provide further information on the facts of a cancellation to outline why they believe they are not directly responsible. The process could then involve a submission of these facts to the HVCCC who would then have the authority to determine the allocation of the responsibility of the cancellation. The time allowed to provide any additional information to the HVCCC should be restricted to maintain the efficiency of the process and once a decision is made by the HVCCC it should be considered final.

6. Is the current informal approach appropriate, either under a continuation of the existing process or some new process appropriate? If not, what alternative should be adopted?

The current informal approach has never been challenged or operated under an environment where commercial impacts have not been allocated to a party in the Hunter Valley Coal Chain. Vale believes for the mechanism to change behaviours it needs to allocate the losses directly attributable to the party responsible. This approach is likely to have commercial impacts and is likely to change the behaviours of the members of the LRSG. Vale believes the members are likely to introduce commercial bias to the decisions and therefore a clear governance structure should be established for the LRSG to ensure it maintains a focus on achieving and outcome that improves the efficiency of the coal chain by assessing any cancellations in good faith.

7. Is the current process sufficiently timely to be effective both from the perspective of the sanction being sufficiently proximate to the cause and also not so quick as to cause the Access Holder unintended consequences?

Vale believes the current process is conducted in a timely manner for the assignment of the responsibility for the cancellations. Vale supports an approach that ensures there is a time limit on the investigation and allocation of responsibility of a cancellation. This is important to maintain the efficiency of the process and avoid issues being outstanding for long periods. Similarly any introduction of an amended dispute process should also be time restricted which Vale believes will ensure maintains efficiency.

Although it has not occurred to date, Vale believes the allocation of any lost capacity and removal of Train Paths should be assessed and processed on a monthly basis to match the allocation period of the majority of the Access Holders. This does raise some concerns that an Access Holder is likely to have already established their shipping and railing requirements for that month and any loss of Train Paths could have an impact on their immediate operations. Vale believes that the process for the removal of

Train Paths should allow the flexibility for Access Holders to accept the allocation in either month +1 or month +2.

8. Is it appropriate that a Train Operator must seek consent from an Access Holder for the assignment of responsibility to that Access Holder? If not, is some other mechanism suggested?

Vale believes it is important that any cancellation that is assigned to an Access Holder must seek their consent for the responsibility. As Vale has outlined earlier in this submission it believes the most efficient and timely way to determine the assignment of responsibility for a cancellation is through the LRSG that does not include the Access Holders as many of the causes of the cancellations will be readily apparent without the need for involvement of the Access Holder. However, once responsibility has been assigned to the Access Holder it is important that an Access Holder has the right to assess this assignment as it ultimately incurs the commercial impact. Vale believes that it is therefore appropriate for the Access Holder to be given the opportunity to review the facts of the cancellation and be provided with an opportunity to dispute the assignment if the Access Holder believes the facts are incorrect or there are other circumstances that contributed to the cancellation.

9. Is it appropriate that an Access Holder can unilaterally refuse to accept the assignment responsibility? If not, what alternative mechanism should apply, noting the issue of representation or lack thereof?

Vale does not believe there should be a unilateral refusal to accept an assignment as this will not provide the desired outcome of the proposed mechanism that would assign responsibility to both an Access Holder and Train Operator. An ability to unilaterally refuse the assignment will render any mechanism worthless as there would be no compulsion for an Access Holder to accept any responsibility for their actions and therefore no change in the behaviour required to stop a reoccurrence in the future. Vale believes that it is important to remove this unilateral refusal option but this must be considered in the context of an appropriate dispute mechanism as has previously suggested in this submission.

10. If an alternative mechanism is proposed, what will be the consequences on the timing to provide an outcome?

Vale believes the unilateral refusal option should be removed which potentially could increase the number of cancellations that are subject to dispute. Therefore, Vale believes it is important that a clear dispute process is established that allows for an opportunity to assess the disputed facts but is bound by time to ensure a timely resolution. Vale believes it would be appropriate and also aid in the timely resolution for this dispute to be resolved by the HVCCC with no further ability to dispute.

11. Is there value in retaining a mechanism that applies to less than 20% of the cancellations?

The initial reason for the creation of this mechanism was to discourage Access Holders from inappropriately consuming capacity. Vale believes this concern still remains and would continue even if it applies to less than 20% of the cancellations. Vale believes this mechanism is important to encourage the continuation of appropriate behaviour that reduces potential capacity losses in the coal chain. Vale would hope that if this mechanism is successful then the percentage of cancellations should decline. Vale believes any mechanism that is established should continue to be subject to a review process to ensure that it remains relevant and continues to encourage the appropriate behaviour to efficiently utilise capacity.

12. Is it desirable that the mechanism should apply responsibility to the Access Holder even where the Access Holder is not directly responsible for the loss of capacity?

Vale believes that a mechanism is only efficient if the Access Holder can clearly understand the impact their decisions have on the mechanism. Vale does not believe that a mechanism that assigns responsibility to an Access Holder for cancellations that it is not directly responsible for leads to efficient outcomes. Vale believes that assignment of responsibility must be to the party that is directly responsible if you wish to achieve a change of behaviour that will reduce the possibility of this occurrence in the future.

13. If a broader assignment is made to Access Holders, what sort of mechanism should apply, noting that the current mechanism is unlikely to be effective and the issues raised

about the unilateral assignment of responsibility earlier? Who should make the decision as to which Access Holder should bear the sanction? Should there be an appeal mechanism?

Vale does not believe it is efficient to move to a broader assignment that does not provide a direct link between the assignment of the responsibility and the action that caused the loss.

14. If a mechanism that allocates all losses to Access Holders is desirable, are there any Access Holder or Train Operator losses that should be excluded?

Vale believes this question highlights the concern that we have with a broader assignment. Generally an approach that allocates all losses produces an inefficient mechanism that either requires a determination of whether a loss should be applied or a loss is applied that the Access Holder has little or no influence over. These approaches are likely to lead to behaviours that often do not improve efficiency in the coal chain but rather create an opportunity to avoid the assignment of the capacity loss. The data presented in the Discussion Paper indicates that a significant amount of cancellations are caused by Locomotive and wagon failures. Vale believes these issues are difficult to allocate to an Access Holder and are unlikely to generate a change in behaviour by the Access Holder as their ability to influence this outcome is limited and will not generally improve the efficiency of the coal chain. Vale would prefer to see these type of cancellations assigned to the Operator which would create a commercial impact for them. Vale believes this is appropriate as they are the party that has the direct responsibility for these cancellations and this is the party that must change behaviour on train services if the efficiency of the coal chain is to improve.

15. Is the AHA the most appropriate vehicle for dealing with the loss of coal chain capacity in light of Terminal Loss allocation mechanisms? If not, what alternative vehicle should be used (if any)?

The AHA is appropriate for dealing with any losses directly attributable to the Access Holder. This will ensure that any mechanism that is established is applied in a consistent manner across all Access Holders. As Vale would like to see the cancellation mechanism apply to a Train Operator as well, this is likely to require a change in the OSA as well as the establishment of a governance structure for the LRSG to allow this process to work efficiently. Vale would propose this group be governed under the HVCCC with the guiding principle to act in good faith when assigning cancellations to improve coal chain efficiency.

16. What role should ARTC play in identifying the responsible parties, determining the sanction and implementing the sanction? If ARTC is not to play one or more of these roles, who should perform the role?

Vale believes the identification and assignment of responsibility should be retained within the LRSG but under as new governance structure. Vale would expect this group to then advise ARTC of any sanction that needs to be applied to an Access Holder through the AHA or the Train Operator through the OSA.

17. If the AHA is used for an enhanced mechanism:

- i) Who should allocate responsibility for capacity losses and how?*
- ii) What level of discretion should ARTC have to apply the recommendation of another body*
- iii) What mechanism should be in place to resolve disputes, noting that ARTC may have limited ability to resolve the initial assignment of responsibility?*

Once the LRSG has determined the assignment of the responsibility it should inform ARTC who would be required to pass on this responsibility and sanction to the Access Holder or Train Operator. Vale believes this allocation would occur on a monthly basis and that the assignment of the responsibility notice from the LRSG would be final and after any dispute process.

Vale believes the dispute process should be established as part of the governance structure of the LRSG. This process would involve the LRSG advising the Access Holder of the assignment and allowing them time to accept or dispute responsibility. Any dispute of responsibility would be presented to the HVCCC for a final determination and recommendation to the LRSG. Once all assignments are final for the month the LRSG would advise ARTC of the allocations that are required to be made for Access Holders or Train Operators.

18. What other arrangements are required to give effect to the proposed mechanism apart from the AHA and how would this be achieved?

Vale believes that changes to the OSA would be required to allow ARTC to allocate the capacity losses caused by the Train Operator cancellations. A governance structure would also be required to allow the LRSO to be effective under an environment where commercial impacts are being determined. Vale believes this group should be established under the HVCCC with the involvement and recognition by all the members. The structure should allow the ability for the LRSO to assign responsibility of cancellations to ARTC, to pass onto Access Holders via the AHA and Train Operators via the OSA.

19. Is the removal of Train Paths from an Access Holder's Capacity Entitlement the most appropriate sanction, or is there some better incentive, bearing in mind that it would need to be applied through the AHA if it is to apply to the Access Holder?

Removal of a Train Path provides a clear link between the cancellation and the capacity loss. This assists in the understanding of the mechanism and the sanction that will be applied. Vale believes this link improves transparency which allows the Access Holders to clearly understand the impact of their decisions which should improve the efficiency of the coal chain.

20. Would it be appropriate to attempt to make any removed Train Paths available to parties negatively affected by the event? If so, how might this be achieved in practice?

Vale believes that attempting to consider which, if any, parties have been negatively impacted by the cancellation would increase the complexity of the mechanism and potentially affect the timely response that is required. Vale believes this is not a desirable activity that should be pursued in the development of the processes for the operation of this mechanism.

21. Is the current cap on the number of Train Paths to remove appropriate? If not, what cap, if any, should apply, and why?

Vale believes the cap on the Train Paths is appropriate as the data in Figure 5 of the Discussion Paper indicates that this covers 92% of the historical events assessed.

22. How should the concept of materiality be applied? For example, should it apply only to a certain measure of losses from each event, or should losses be considered cumulatively over a period (eg a week or a month). If so, what level should be considered sufficiently material to trigger the imposition of a sanction?

Vale believes that if the responsibility of a cancellation is allocated this should trigger an allocation of a sanction up to the established cap. This allocation of a capacity loss should be accumulated throughout the month and at the end of the month allocated to the relevant party. The monthly period is aligned with the capacity allocation period that is applicable to the majority of Access Holders.

23. In proposing any mechanism, respondents should identify any benefits or disadvantages in relation to consistency with the mechanisms of the Terminal Operators in terms of timing and alignment of the change in capacity that results.

The mechanisms established to manage capacity loss are generally going to be different between the Terminal Operators and ARTC as different components are measured and important to reflect the different operations. There is also a physical constraint to the issue of alignment of mechanisms due to the different timing of the activities as raiing of the coal will generally occur 2 to 5 days prior the loading operation at the port. Vale believes any approach to align a mechanism for capacity loss should be administered by the HVCCC rather than the individual contracts relating to the rail and port operations. Vale believes this is a future state that could improve the overall alignment and efficiency of the coal chain.

Vale does see benefit in the ability to have the same allocation period which the sanction may be applied and believes that ARTC should move towards an option to allocate a sanction over either month +1 or month +2 as this would be of benefit to not only provide flexibility for the Access Holder but also align with the process that has been established at PWCS.

24. Respondents are encouraged to develop their own alternatives, or if they endorse one of the options in this section, to provide such additional input as they feel appropriate to develop the concept into a scheme that could be practically implemented.

Vale has highlighted above that it would support a continuation of the current approach but with a greater governance structure and control by the HVCCC through the LRSG. This process provides clarity to stakeholders on the calculation but also the potential impact for their decisions. Vale feels that it is also important to introduce a process that provides incentive for not only the Access Holder controlled cancellations but also the Train Operator controlled cancellations to be assigned through the AHA and OSA respectively. Vale believes this is the most efficient way to seek to change behaviour of both the Access Holder and the Train Operator to improve their performance and ultimately increase the available capacity of the coal chain. Vale believes that a mechanism that passes on all cancellation losses to the Access Holder will constrain the effectiveness as the link between the cause and a change of behaviour will be lost in some circumstances or will result in inefficient behaviours.

Vale believes this is a complex issue and does not believe providing a detailed response here will find a final solution. Vale proposes that these answers and those from other stakeholders be considered by ARTC and then further consultation be undertaken to reach a solution that provides for the efficient use of the coal chain capacity.

25. Who should allocate UFs to Access Holders?

Vale believes the identification and assignment of any Unit of Forfeit should be determined by a body that is coordinated by the HVCCC as the independent body for the coal chain. The HVCCC would then be responsible for advising ARTC the sanctions that are required to be taken for the Access Holders and Train Operators under the AHA and OSA respectively.

26. Should a cap apply to the mechanism? If so, what value should the cap have, or how should it be determined?

Vale does support a cap to any mechanism that is created. The issue of a cap has been subject to debate in the establishment of the capacity loss mechanism being developed at PWCS. A cap needs to apply and be appropriate for the different sizes of the Access Holders that operate on the system. A large cap may be suitable for a large Access Holder but is likely to have a detrimental effect on a small Access Holders viability. The current cap on the cancellations mechanism is at 2 trains which given the data that has been presented appears to be appropriate. The setting of a cap without historical data to assist in the understanding can lead to unintended consequences and therefore where possible a cap should be set on the lower end of the scale until data becomes available to fully assess the potential impacts the cap may have on Access Holders and the coal chain capacity.

27. Should the mechanism be subject to an appeal process? If so, is a different appeals mechanism required from the current dispute resolution process in the AHA, who would be the adjudicator and how would the process work?

Vale believes the mechanism should include and be run by the HVCCC as the independent coal chain coordinator. The coal chain coordinator has been established to oversee and coordinate the capacity of the coal chain. Therefore, Vale believes that a dispute process should be established but any adjudication of the responsibility of the capacity loss should rest with an appeal to the HVCCC as the final determination of any capacity loss.

28. In formulating their proposal, respondents are encouraged to consider how their proposal might be tailored to expedite acceptance by other stakeholders and the ACCC.

The existing process has already been accepted by the ACCC in the original approval of the HVAU. Vale believes that the amendments outlined would only require minor adjustments to the HVAU, AHA, and OSA. The significant changes would relate to the establishment of a governance structure under the HVCCC to control the operation of the LRSG.

Conclusion

As part of the HVAU there is a requirement for ARTC to conduct a review of the capacity loss mechanism. Vale is supportive of the existing mechanism but believes that a new governance structure, developed under the HVCCC, should be established for the determination and assignment of responsibility of cancellations to not only Access Holders but also the Train Operator. The data provided by ARTC suggests this would cover approximately 80% of the cancellation that are currently occurring in the Hunter Valley today. Vale is concerned that other alternatives would have limited impact at this time as there is a significant misalignment between the system capacity and the contractual capacity.

Vale would welcome the opportunity and requests ARTC to consider further consultation on this issue with all stakeholders to provide their assessment of the submissions provided and the approach moving forward to find a final position for the capacity loss review.

For further information regarding this advice please contact myself on (07) 3136 0911.

Yours sincerely



Bob Skuza

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Vale Australia Pty Ltd