



4 July 2013

Mr Jeremy Threlfall  
Assistant Director Rail  
Economic Regulation Authority  
Level 4, Albert Facey House  
469-489 Wellington Street  
PERTH WA 6000

**By Email**

Dear Jeremy

**Submission on the Pilbara Infrastructure Application under Section 10, Schedule 4 of the Railways (Access) Code**

Atlas Iron Limited (**Atlas Iron**) welcomes the opportunity to make a submission to the Western Australian Economic Regulation Authority (**ERA**) on the application by The Pilbara Infrastructure Pty Ltd (**TPI**) under section 10, Schedule 4 of the *Railways (Access) Code 2000 (WA)* (**Access Code**).

Atlas Iron supports the premise that the ERA should consider the impact of the application for Access by Brockman Mining Limited (**Brockman**) to the Chichester Rail Line on the current commercial discussions occurring between Fortescue Metals Group and Atlas Iron and any other junior miners.

Atlas Iron is currently in discussions with Fortescue Metals Group in respect of haulage on (including access to) the Chichester Rail Line to accommodate delivery of Atlas Iron's Horizon 1 and Horizon 2 mine developments.

As such, Atlas Iron believes that applications for access under the Access Code may have implications to Atlas Iron obtaining commercially negotiated haulage (including access) on the Chichester Rail Line in respect of the current and on-going commercial discussions.

In considering the section 10 application, the ERA must take into account the public interest. One of the key principles of access regulation is the primacy of commercially negotiated contracts. In its recent Draft Report into the National Access Regime (Part IIIA of the *Competition and Consumer Act 2010 (Cth)*), the Productivity Commission stated that '[p]rimacy should continue to be given to negotiation between service providers and access seekers, underpinned by a credible threat of regulated access in certain cases.' This principle is entrenched in the Access Code where it recognises that access agreements may be made outside of the access regime. Atlas Iron is concerned that the applications under the Access Code may lead to a situation where commercially negotiated access is compromised.

**Atlas Iron Limited** ABN 63 110 396 168



Yours sincerely

Mark Hancock  
Executive Director - Commercial  
Atlas Iron Ltd

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