



**Asciano Submission to the  
Queensland Competition Authority  
in relation to the Queensland Rail  
2013 Draft Access Undertaking**

May 2013

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## 1 INTRODUCTION

Asciano welcomes the opportunity to make a further submission to the Queensland Competition Authority (QCA) on the Queensland Rail 2013 Draft Access Undertaking. Asciano, via its subsidiary Pacific National, uses the below rail assets of Queensland Rail for intermodal and minerals haulage.

In February 2013, Queensland Rail withdrew its 2012 draft access undertaking (2012 DAU) and submitted a new draft access undertaking (2013 DAU) to the QCA. Asciano recognises that the 2013 DAU submitted by Queensland Rail takes into account some issues raised by stakeholders in their responses to the 2012 DAU.

Asciano has previously made submissions on the Queensland Rail 2012 DAU in July 2012, and September 2012. To the extent that issues raised in these submissions have not been addressed in the 2013 DAU Asciano is seeking that they be considered by the QCA in its 2013 DAU approval process<sup>1</sup>.

The QCA and Queensland Rail undertook a series of consultation sessions on various issues relating to the 2013 DAU in April 2013 which addressed the following areas of interest:

- above rail operational issues;
- Western system coal pricing;
- aspects of the proposed Standard Access Agreement;
- Mount Isa pricing; and
- investment framework matters.

This current submission addresses the areas of interest issues which were the subject of these consultation sessions. Note that Asciano does not operate on the

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<sup>1</sup> Note that these issues included, but are not limited to, concerns with regard to

- the need for additional standard access agreements;
- the need for additional reference tariffs;
- the need for additional cost information and operational information;
- the potential for Queensland Rail vertical integration to impact of operations and pricing and the consequent need for appropriate ring fencing;
- the need for seamless network interfaces;
- and more detailed concerns on the wording and principles in both the proposed undertaking and the proposed standard access agreement. In particular many of these detailed concerns related to the liability, indemnity and risk management regime proposed and the dangerous goods regime proposed.

West Moreton coal system and as such is not making any detailed comment on issues related to West Moreton system coal pricing.

Asciano recognises that at the consultation sessions Queensland Rail took note of the attendee's comments and indicated that they would reconsider their position on a number of matters. Given Queensland Rail have not formally amended the 2013 DAU before the QCA the comments in this Asciano submission are based on the submitted 2013 DAU. Asciano appreciates that certain sections of the 2013 DAU are likely to be reworked by Queensland Rail following the consultation sessions.

Asciano has previously made a submission on the Queensland Rail 2013 DAU in April 2013 which addresses areas of interest not addressed by the sessions outlined above. The April 2013 submission and this submission should be viewed together as Asciano's comments on the Queensland Rail 2013 DAU.

The structure of this submission is largely based on the agendas used in facilitating the series of consultation sessions. This submission is public.

## **2 ASCIANO COMMENTS ON ABOVE RAIL OPERATIONAL MATTERS**

Asciano notes that the Queensland Rail 2013 DAU includes a package of documents which form part of the rules of access including an Operating Requirements Manual (ORM), an Access Application, a Safety and Environment Interface Risk Management Plan, an Operating Plan and Rolling Stock Authorisation documentation. These documents can be altered unilaterally from time to time by Queensland Rail. This is of concern to Asciano. Asciano believes that as a minimum any changes which are made to the documents by Queensland Rail should first go through a formal and meaningful consultation process with stakeholders, including above rail operators. Asciano believes that this process should:

- require Queensland Rail to justify any proposed changes;
- require Queensland Rail to consider comments from stakeholders and if these comments are not incorporated in the Queensland Rail final documents explain why they have not been incorporated; and
- require QCA to approve any proposed changes.

## 2.1 Comments on the Draft Access Undertaking Sections Relating to the Operating Requirements Manual

Part 4 of the 2013 DAU relates to the ORM. Section 4.2.3 a) of the 2013 DAU outlines instances where the ORM dispute resolution clause does not apply. Asciano has concerns that the exceptions identified in 4.2.3 a) are too broad. In particular:

- under 4.2.3 a) i) any issue relating to safety is exempt. Asciano believes this exemption should be qualified to allow an exemption only for urgent safety issues; and
- under 4.2.3 a) iii) any issue relating to Queensland Rail implementing a change to assets, facilities, infrastructure, processes and procedures used for the purposes of a train management system is exempt. Asciano believes that this exemption is far too broad and should be removed.

More broadly Asciano believes that changes to the ORM should be subject to QCA approval. As the QCA has to approve the initial ORM it seems that a consistent approach requires the QCA to approve subsequent changes to the manual. Allowing Queensland Rail to unilaterally alter a document approved by the regulator seems to undermine the intent of the regulatory process. Asciano strongly supports an approach which has the QCA approving subsequent changes to the ORM and believes that such an approach will minimise the need for the 2013 DAU to specifically address issues regarding ORM dispute resolution.

Section 4.2.4 of the 2013 DAU provides that an access agreement may provide that Queensland Rail has no liability (including liability resulting from negligence) resulting from amending the ORM (including implementing an amendment or acting in accordance with an amendment). This is unacceptable to Asciano; Asciano's consistent position throughout this regulatory consultation process has been that liabilities should be borne by whichever party is best able to control the risk. Liability for any incident involving negligence should be borne by whichever party's negligence resulted in the incident. Asciano believes that the Queensland Rail approach to indemnifying itself from any impact of amending the ORM (regardless of Queensland Rail negligence) continues to shift risk from the party which can best manage and control the risk. Queensland Rail should bear the risk of the consequences of amending its own document.

This negligence carve-out should be removed from section 4.2.4 of the 2013 DAU.

## **2.2 Comments on the Operating Requirements Manual**

Asciano has both general and detailed concerns with the ORM as proposed by Queensland Rail. Asciano's greatest concern is the concern outlined above that the ORM may be altered unilaterally from time to time by Queensland Rail from time to time with minimal input from impacted parties. Asciano believes that its proposal outlined above would substantially reduce this concern.

In addition to the concern above there are numerous other issues of detail which need to be addressed in the ORM. These issues are outlined in Attachment 1: Issues of Detail to be Addressed in Queensland Rail's Operating Requirements Manual.

## **2.3 Comments on the Network Management Principles**

Asciano has a concern with the 2013 DAU Schedule B Network Management Principles. In particular Schedule B 1.1 g) ii) allows the Master Train Plan to be amended without consultation when the amendment is to accommodate an operational constraint, an operational constraint includes temporary or permanent speed restrictions, load restrictions and possessions. Asciano believes that in instances where the Master Train Plan is being amended to accommodate operational constraints then operators must be consulted as the operational restrictions may impact on both the operational and commercial viability of the operator's operations.

Similarly Schedule B 1.2 f) ii) of Schedule B now allows the Daily Train Plan to be amended following consultation. Previously the wording required both consultation and agreement. Asciano believes that the previous wording should be reinstated.

In addition to the issue above Asciano strongly believes that the Queensland Rail Network Management Principles and Aurizon Network Management Principles should be aligned in order to ensure smooth operations across network interfaces.

## **2.4 Comments on Other Queensland Rail Documents**

The Queensland Rail 2013 DAU document package contains several other documents including an Access Application, a Safety and Environment Interface Risk Management Plan, an Operating Plan and Rolling Stock Authorisation documentation.

Asciano's main concern is that these Queensland Rail documents and Aurizon network documents relating to similar concepts are aligned in order to ensure smooth operations across network interfaces. Thus Asciano is seeking that these documents (and the Schedule B Network Management Principles) remain consistent with Aurizon Network operations and documentation.

Asciano has no strong view as to whether these documents should be included in the formal access undertaking or not. To the extent that these documents are included in the formal access undertaking then changes to these documents should be subject to QCA approval. As the QCA would have to approve the initial documents it seems that a consistent approach requires the QCA to approve subsequent changes to the documents.

### **3 ASCIANO COMMENTS ON STANDARD ACCESS AGREEMENTS**

#### **3.1 Comments on the Development of Standard Access Agreements**

Asciano's view is that commercial negotiation with a monopoly service provider on the details of an agreement requires the commercial negotiation to be guided by the existence of, at a minimum, an indicative access agreement which has been reviewed in a regulatory process. Asciano believes that several other Standard Form Access Agreements should be included in the 2013 DAU, including, for example an intermodal or general freight agreement for the north coast line (Brisbane to Cairns).

Asciano believes that the existence of the West Moreton Coal Standard Access Agreement provides a useful access agreement template. Asciano believes that Queensland Rail should identify sections in this Standard Access Agreement which are coal specific and those sections which are not coal specific would form the basis of a more general Standard Access Agreement. Queensland Rail should then be required to explain any variation between this Standard Access Agreement and any other agreements (for example agreements on the north coast line or Mt Isa Line) where the variation is to the benefit of Queensland Rail.

Asciano recognises that within the consultation session Queensland Rail took note of stakeholder's comments relating to the development of a Standard Access Agreement. To the extent that such an agreement is further developed issues to be addressed via the broader access agreement principles may be minimised.

### 3.2 Comments on the Access Agreement Principles (Schedule C)

Asciano notes that the introduction of a more general Standard Access Agreement may change the content of the 2013 DAU Schedule C Access Agreement Principles.

As currently drafted Asciano has several concerns with these Access Agreement Principles, including both dangerous goods clauses and noise mitigation clauses.

Section 8 of the Access Agreement Principles now states that an access holder can carry dangerous goods with Queensland Rail's permission. The access holder has to demonstrate that the carriage of the dangerous goods is permitted by relevant laws and codes and that the access holder has any authorisations required. The access holder must notify Queensland Rail of the details of the dangerous goods and have an emergency plan which includes procedures for responding to the dangerous goods.

Section 11 of the Access Agreement Principles now states that the access holder must indemnify Queensland Rail against all claims relating to the transportation of dangerous goods whether or not caused or contributed to by Queensland Rail (including negligence) but excluding any part of the claim that would have arisen regardless of whether dangerous goods were being transported.

Asciano remains concerned that the Queensland Rail approach to indemnifying itself from any impact from dangerous goods (regardless of Queensland Rail negligence) continues to shift risk from the party which can best manage and control the risk. Queensland Rail should bear the risk for incidents involving dangerous goods where Queensland Rail infrastructure is responsible for the incident. Asciano's position has consistently been that the liabilities associated with the carriage of these goods should be borne by whichever party is best able to control the risk (and hence the cost of managing the risk). The liability for any incident involving dangerous goods should be borne by whichever party's negligence resulted in the incident.

Asciano believes that the approach outlined in the Access Agreement Principles 11) a) iv) where in relation to a Mixed Goods Train liability may be split between the "non-dangerous goods component" and the "dangerous goods component" of any incident is problematic as it may result in definitional and delineation issues depending on the nature of the incident.

In addition Asciano has a concern that a Unit Train which is carrying a good defined as a dangerous good (for example a mineral concentrate) could be involved in an incident where damage occurs but none of the damage is due to the “dangerous good component” of the haulage task. In this instance the same principle that applies to the Mixed Goods Train should be applied to the Unit Train. Queensland Rail should clarify the approach to be used for a Unit Train in these circumstances.

Section 9 of the Access Agreement Principles requires an operator to pay a contribution of any expenses related to noise mitigation, as reasonably determined by Queensland Rail. Asciano believes that:

- noise mitigation should only be undertaken when relevant noise levels are breached;
- train operators should only be required to pay expenses related to noise mitigation when it is demonstrable that the train operation issues, rather than below rail issues, are responsible for noise. In addition if train operations are responsible for noise and more than one operator uses the track then further investigations should be conducted to determine whether a specific operator should bear the cost; and
- the expenses related to noise mitigation, as determined by Queensland Rail, should be able to be tested by an operator and should be agreed in advance with an operator before they are incurred. For example Queensland Rail should be willing to provide in advance any tender documents and quotes to support any expenses which they seek to recover and any Queensland Rail internal costs should be benchmarked to ensure that these costs are efficient. Queensland Rail should not be able to determine these expenses without scrutiny. In the event that there is a dispute relating to such expenses the access agreement dispute mechanism should apply.

### **3.3 Comments on Liability and Risk Allocation**

The Asciano submission of July 2012 identified numerous issues with the Queensland Rail approach to indemnity, liability and risk allocation in the Standard Access Agreement.

Asciano recognises that Queensland Rail have removed the caps on liability but the Queensland Rail approach to indemnity, liability and risk allocation remains one sided and essentially shifts risk from Queensland Rail to the operator.

Asciano is remains concerned that clauses 10.1, 11.2 and 11.4 have not been amended to apportion risk and liability to the party best able to manage the risk. For example clause 11.2 excludes liability or limits liability to \$1 for certain liabilities. The exclusions and limitations of liability apply to Queensland Rail only. Asciano believe that to the extent that liability exclusion is required and then agreed then it should be reciprocal.

More generally Asciano continues to have concerns that an efficient liability and risk management regime should be based on the principle that the party that is best able to manage the risk should bear the risk (that is the party that can control the cost of managing the risk bears the risk). This approach to establishing an efficient liability and risk management regime is not evident in the 2013 DAU.

#### **3.4 Comments on Queensland Rail's Commitment to Maintain the Network**

Section 5.1 A) of the 2013 DAU proposed Standard Access Agreement is that Queensland Rail will maintain the network in a condition that the operator can operate train services in accordance with its agreement. There is no obligation to maintain the network to an objective standard and the access agreement is likely to provide Queensland Rail with an ability to impose constraints and undertake works without operator agreement<sup>2</sup>. As such the commitment to maintain the network in accordance with the access agreement is a weak commitment at best.

An the current (i.e. 2008) Access Undertaking Queensland Rail is obliged to maintain the network such that the network is consistent with Rollingstock Interface Standards and the operator can operate services in accordance with their scheduled times. Asciano believes that this wording is preferable to the proposed wording and should be reinstated.

Asciano believes that the Access Undertaking should include specific commitments to maintain the network; these commitments should not be devolved into individual

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<sup>2</sup> The proposed Standard Access Agreement allows Queensland Rail to impose Operational Constraints and perform Rail Infrastructure Operations at any time without operator consent and without any liability for any disruption. Asciano believes that it is unlikely that for any non-standard access agreement Queensland Rail would willingly diverge from this position.

network user's access agreements. The Access Undertaking should explicitly address the quality of the access to be provided by Queensland Rail. (This does not preclude an individual access agreement containing more detail about service quality, particularly service quality specific to the haulage task being contracted).

Asciano believes that the Standard Access Agreement should contemplate some level of objective standard of track quality and track maintenance. (As an example ARTC access agreements may include key performance indicators relating to train reliability, train quality, track quality and path availability).

Asciano believes that the reporting performance provides information to both parties and allows a more informed discussion to occur in relation to both operational performance and contractual obligations for both parties. At this time Asciano is not proposing to link financial penalties or incentives to such reporting.

### **3.1 Comments on Definition of Queensland Rail Cause**

Asciano has a concern with the definition of Queensland Rail Cause in the Standard Access Agreement. This definition has now added wording which includes a derailment of any train caused solely by an act or omission of Queensland Rail. Using this amended definition read in conjunction with section 11.6 e) in the Standard Access Agreement this seems to imply that an operator cannot make a claim against Queensland Rail if Queensland Rail has caused the derailment of a train. Asciano believes the original wording should be reinstated.

## **4 ASCIANO COMMENTS ON QUEENSLAND RAIL PRICING**

The QCA and Queensland Rail consultation session focussed on Mount Isa pricing but Asciano believes that many of the issues that were raised both in this session and raised below could apply more broadly to Queensland Rail pricing approaches.

The comments on pricing below apply to Queensland Rail Mount Isa line pricing, but also apply to Queensland Rail access pricing more broadly.

### **4.1 Comments on Queensland Rail's Pricing approach**

Queensland Rail's approach to pricing on all lines except the West Moreton coal system is a "negotiate and arbitrate" pricing model. Asciano's experience of the "negotiate and arbitrate" access model with other rail infrastructure owners in

Australia is that this model is often problematic due to a lack of cost information, which places access seekers at a disadvantage in negotiating access prices with the access provider, as only the access provider has detailed knowledge of their costs.

In this approach the negotiated (or arbitrated) price has to be between the floor price and the ceiling price but these floor and ceiling prices are often not well defined. To the extent that an access seeker has knowledge of the floor price and the ceiling price this knowledge is sourced from information provided by Queensland Rail.

Asciano believes that in order to have a meaningful negotiation under a “negotiate and arbitrate” pricing model the access provider must supply a defined level of cost information which has been scrutinised by an independent party such as the QCA. (This information should include floor and ceiling prices). Asciano notes that the 2013 DAU sections 2.1.3 and 2.6.2 require Queensland Rail to provide some information to access seekers but these sections should be substantially strengthened and expanded to ensure that defined and consistent price information is provided by Queensland Rail such that negotiations can take place in an environment where both parties have similar cost information.

Asciano accepts that the impact of market factors, notably the presence of competitive alternatives such as road transport, needs to be taken into account in any a “negotiate and arbitrate” pricing model.

Asciano believes that there is scope for other reference tariffs to be included in the Access Undertaking, including an intermodal tariff for the north coast line. Under a reference tariff approach negotiation around rates for particular hauls will still occur but a regulatory approved reference tariff overcomes the cost information issues (as outlined in the section below).

Asciano is not supporting an application of reference tariffs across the Queensland Rail network but Asciano believes that on routes where major users of these routes seek reference tariffs such tariffs should be implemented. Thus on the Mount Isa line Asciano believes that the issue of reference tariffs is an issue for the major users of the line.

## 4.2 Comments on Cost Information Provision by Queensland Rail

As noted above the “negotiate and arbitrate” model is problematic due to a lack of cost information, which places access seekers at a disadvantage in negotiating prices, as only the access provider has detailed knowledge of their costs.

The issue of the asymmetry in cost information between Queensland Rail and access seekers may be partially addressed by Queensland Rail providing a consistent series of cost information (including floor and ceiling price) to the QCA on an ongoing basis, where such costs are allocated according to the QCA approved cost allocation manual. This information can then be provided to access seekers and access users as required. Such an approach will allow a degree of cost certainty and consistency and allow a more even handed price negotiation.

Asciano recognises that within the consultation session Queensland Rail took note of stakeholder’s comments relating to the provision of cost information and indicated that additional cost information would be available. Asciano believes that such cost information should be made available for all major Queensland Rail lines rather than just the Mt Isa line.

Asciano believes that the provision of costs should include information on

- actual and efficient capital expenditure;
- asset value;
- asset life;
- depreciation;
- cost of capital;
- efficient and actual operating and maintenance costs.

This information above should be provided for line sections relevant to the service being negotiated. The provision of such information will go some of the way to addressing the cost information asymmetry which frustrates current pricing negotiations.

In relation to considering the issue of efficient levels of operating cost and capital expenditure Asciano believes that industry benchmarking of costing is a reasonable approach to assess the efficiency and prudence of capital and operating expenditure.

In addition to cost information Asciano also believes that a level of service quality information should also be provided. Asciano believes that there should be a trade off between cost and service quality. The provision of service quality information should assist in assessing the level of service obtained for a given cost.

## **5 ASCIANO COMMENTS ON THE INVESTMENT FRAMEWORK**

### **5.1 Comments on Queensland Rail's Investment Framework Proposal**

The investment framework as currently proposed places only very limited obligations on Queensland Rail to invest. Asciano believes that there should at least be an obligation on Queensland Rail to invest to ensure that at a minimum contracted services can be maintained and / or to invest where a user funding agreement is in place.

The 2013 DAU investment framework section 1.4.1 a) iv) indicates that Queensland Rail should bear no cost or risk in relation to constructing, owning, operating or managing the extension. Asciano believes that requirement that Queensland Rail bear no risk is too broad and the requirement should be limited to Queensland rail bear no costs of constructing the extension.

Queensland Rail's investment framework largely relates to the funding of extensions. Asciano's concern is that the definition of extension is very broad as it includes enhancement, expansion, augmentation, duplication and replacement of the Network. (Asciano recognises that this definition reflects the Act). This broad definition provides the potential for access seekers and users to pay for the same capital through both an extension funding agreement and through tariffs. Section 1.4.1 a) of the 2013 DAU seems somewhat narrower identifying an extension as being necessary to provide additional capacity. Asciano is seeking that definition of extension and the types of arrangements contemplated under section 1.4 of the 2013 DAU be further clarified to minimise any potential for "double dipping" or for potential conflict as to what types of activities are or are not funded under section 1.4.

### **5.2 Comments on Funding Principles and Agreements**

Asciano believes that the user funding principles should provide greater protections to users by ensuring that both legitimate business interests of both the user and Queensland rail are protected.

Asciano believes that the funding principles and funding agreements should address the issue of residual value. That is, an extension may physically outlive its relevant funding agreement or related access agreement. In this instance the extension may continue to have value. In this instance the original funder of the asset should continue to receive a return while ever the asset is being utilised.

Section 1.4.2 f) ii) of the 2013 DAU relates to efficiency and prudent practice in relation to the construction of an extension. Asciano believes that Queensland rail should provide additional detail around the procurement of construction and the transparency of efficient and prudent practices.

## **6 OTHER ISSUES**

Asciano has brief comments on several other issues in the 2013 DAU.

### **6.1 Service Standards**

Asciano recognises that that to some extent there is a trade off between pricing and service quality. However at the current time Asciano sees that Queensland Rail is increasing prices but there is no commensurate increase in service standards. Asciano believes that in the longer term there needs to be a more direct connection between the services delivered and the prices charged.

### **6.2 Objects Clause**

In the Asciano submission of April 2013 Asciano raised several concerns regarding the 2013 DAU Preamble. Asciano believes that this preamble could be deleted and replaced with an objects clause which outlines the objective of the Access undertaking.

### **6.3 Connection Agreements**

Section 2.6.2 b) of the 2013 DAU indicates that Queensland Rail may negotiate a separate connection agreement. Asciano is seeking that further detail and prescription be put around this clause. At a minimum such agreements should be subject to dispute resolution mechanism in the Access Undertaking and should be subject to a set of principles (the principles relating to extensions in section 1.4.2 of the 2013 DAU may act as a reasonable template for such a set of principles).

## **7 CONCLUSION**

Asciano remains concerned with elements of the Queensland Rail 2013 DAU, including issues with:

- the ability of Queensland Rail to unilaterally amend the ORM with no scrutiny by operators or regulators;
- the details of the ORM as outlined in Attachment 1;
- the proposed approach to managing liabilities, indemnities and risks;
- the proposed approach to managing the risks associated with dangerous goods regime;
- the proposed approach to addressing noise mitigation issues;
- the apparent reduction in the obligation to maintain the rail network;
- the lack of a broader range of reference tariffs and standard access agreements provided by Queensland Rail;
- the lack of cost information provided by Queensland Rail; and
- the proposed approach to extensions and user funding agreements.

In addition Asciano remains concerned that issues previously raised by Asciano have not been addressed. These issues have been outlined in detail in previous submissions by Asciano and include the need to ensure a level of vertical integration for Queensland Rail.

## **ATTACHMENT 1 ISSUES OF DETAIL TO BE ADDRESSED IN QUEENSLAND RAIL'S OPERATING REQUIREMENTS MANUAL**

Asciano has numerous comments on the content of Queensland Rail's ORM. These comments are outlined in this attachment. These comments include both general comments on issues which recur throughout the document and issues which relate to specific sections of the manual.

### **General Comments**

Throughout the ORM there are various references to "relevant" standards and regulations. Asciano believes the manual should identify the actual regulations and standards that are considered "relevant" while allowing some scope for additional standards and regulations to be considered.

Throughout the manual there are numerous places where Queensland Rail has a right to provide directions to operators. These directions should be qualified by requiring them to be "reasonable" directions. For example:

- 4.2 a) – insert "reasonable" directions
- 4.2 b) i) - insert "reasonably" assist
- 4.2 c) – insert "reasonably" necessary

In the manual numerous terms are placed in quotation marks (for example "accredited" in 6.3 b) ii)). These terms in quotation marks should be defined or reworded such that the quotation marks are not required.

### **Specific Comments**

Comments on Asciano issues with specific sections and clauses of the ORM are outlined below:

Section 2 – the interface risk approach outlined in Section 2 should be explicit about how residual risk is managed. Asciano believes that the party best able to manage the risk should manage the risk.

Sections 2.1iii) and iv) – these requirements for monitoring, competence, complaint handling, audit, inspection and review should be even handed and open for both operator and access provider.

Section 2.2 ii) B) – the obligation for the operator to provide information on products transported should be limited to the type of information required on a manifest.

Section 2.2 ii) D) - the obligation for the operator to provide information on the location of waterways is not appropriate. The access provider should have a much better understanding of the location of waterways on the route.

Section 2.2 ii) D) - the obligation for the operator to provide information on the anticipated environmental impact of their proposed activities should be further clarified. Besides statements referring to a certain level of noise and emissions any further impact on the environment may presuppose an incident or other unexpected occurrence.

Section 2.2 ii) G) - the obligation for the operator to provide “any information in relation to anything referred to in section 4” (i.e. emergency and incident response) seems too broad. This point should be narrowed to a more specific request for information.

Section 2.3 b) - this section is too broadly worded. Noise from a train may contribute to a noise level exceeding relevant standards however the issue to be addressed should be whether the noise level from the train is the primary cause of the relevant standard being exceeded (for example the cause may be track geometry or another below rail issue).

Section 2.3 g) B) - the obligation for the operator to conduct baseline monitoring is not appropriate. Baseline monitoring should be done by the access provider to ensure that all operators are considered in an even handed manner and to avoid duplication of multiple (and probably inconsistent) baseline studies. Furthermore baseline studies should be restricted to areas where noise complaints have been lodged.

Section 2.3 a) (second a) on page 6) – if Queensland Rail has relevant baseline data they must provide the data if requested. If Queensland Rail has the option of not providing the data then they will only provide data which reflects positively on Queensland Rail. More generally the scope of any baseline study should be agreed by the access providers and all impacted operators.

Section 3.6 b) - the obligation for the operator to provide Queensland Rail with the details of any operator’s staff who may enter the rail corridor is too broad. The

contact list should be limited to the responsible management of the operator and the management of any major contractors to the operator.

Section 4 – This section addresses incident and emergency response. The section refers to an operator's emergency management plan. There should be requirements on Queensland Rail to have similar plans and discuss these plans with operators to ensure that the plans of both parties are aligned.

Section 4.1b) iv) – the requirement for notification to the authorities should clarify which party undertakes this action or refer to a document where this is outlined in more detail.

Section 4.1b) v) – the method to clean up the site should clarify which party undertakes this action or refer to a document where this is outlined in more detail.

Section 4.1b) vi) – the obligation for the operator to keep a central register of all incidents seems inappropriate. The access provider is in the best position to keep a central register.

Section 4.3 – assistance provided in investigations should be reciprocal. That is to the extent the operator is required to assist Queensland Rail, Queensland Rail should be required to assist the operator.

Section 6.2 a) i) – Asciano queries whether providing after hours contact details for an operators controller is necessary if there is a 24 hour control centre.

Section 6.2.2 – Asciano queries the appropriateness of the whole of section 6.2.2 as it seems to focus on instructing the operator how they should manage their crewing.

Section 6.2.2 b) – the requirement that a crew can only request relief from the operator's controller should be qualified by allowing the request to be broader in the event of an emergency or some other unexpected incident.

Section 6.2.2 e) – in the event that the operator's controller and the operators train crew cannot contact each other Queensland Rail should be obliged to relay a message.

Section 6.2.4 – in the event that any of the documents at the web addresses listed in this section change then Queensland Rail should be obliged to notify the operator of the change, even if only to inform them that the documents on the website have changed.

Section 6.5 - in the event that the document at the web address listed in this section changes then Queensland Rail should be obliged to notify the operator of the change, even if only to inform them that the documents on the website have changed.

Section 6.6 - in the event that the document at the web address listed in this section changes then Queensland Rail should be obliged to notify the operator of the change, even if only to inform them that the documents on the website have changed.

Section 7.2.2 – Asciano understands that the weekly notices referred to in this section are quite broad. Asciano believes that a more targeted notice may be applicable. To this end Asciano queries why sections 7.2.2 a) and b) are included in the document.

Section 7.3 a) – this obligation must be reciprocal. Queensland Rail must notify the operator of relevant staff details.

Sections 7.4 c) i and ii) – these sections should be reciprocal between the operator and access provider. They should read “... the Operator’s Train Services and Queensland Rail’s network to ...” and “... the Operator’s Trains and Queensland Rail’s network”.

Section 7.5 – Asciano notes that these maps continue to include Aurizon network assets and network assets south of Brisbane which Asciano believes is managed by ARTC.