

COLLECTIVE NEGOTIATIONS WITH RAIL NETWORK OPERATORS (AA1000425-1) RESPONSE TO FURTHER QUESTIONS RAISED BY THE ACCC

This document sets out the Applicants' response to the questions raised by the ACCC on 13 October 2023.

The information in this document supplements the information provided in the application for authorisation dated 16 June 2023 and the Applicants' subsequent submissions dated 7 August 2023 and 7 September 2023.

In particular, this document sets out further information in relation to some of the public benefits that will arise from the Proposed Conduct, as identified in the application for authorisation.

Question 1

Section 4.4 of the Application states that "the Proposed Conduct has already realised savings relative to undertaking individual negotiations with TfNSW", including reductions in legal expenses, and commercial and management time. Please provide further details regarding the scope and nature of these savings and the associated public benefit, including the points set out below. Where relevant and available, please provide the actual and/or estimated figures from the past 5 years. If you are providing such figures, please explain the basis and any assumptions underlying their calculation.

a. *The collective bargaining procedures undertaken and the ROG members that participated.*

The collective bargaining process has primarily involved:

- the Rail Operators Group (ROG) Committee seeking feedback from each ROG member on key issues relating to the draft Standard Track Access Agreement (STAA) prepared by Transport for New South Wales (TfNSW). The ROG Committee - through a series of Committee meetings and emails- consolidated this feedback (involving 260 identified issues) into a 51-page matrix, and set out the ROG Committee's views in relation to each of those issues. The ROG Committee then identified the 10 issues of primary concern for priority engagement with TfNSW;
- the ROG Committee engaging with TfNSW in relation to the key issues raised by the STAA. This engagement involved both written correspondence in relation to certain issues, and a series of meetings from 2018 to 2023. Some of these meetings were held face-to-face in Sydney, and therefore involved travel for ROG Committee members. Other meetings were held via videoconference, particularly during the COVID period. Each meeting typically generated further correspondence in relation to issues raised during the meeting; and
- the ROG Committee reporting back to ROG members on the progress of discussions with TfNSW on particular issues. This included updating the 51-page matrix, which was made available to ROG members, and a series of verbal and email updates. The timing of any updates depended largely on the level of engagement from TfNSW and the timing of any feedback from TfNSW on key issues.

While all ROG members provided feedback to the ROG Committee in relation to the STAA, a significant majority of the feedback was provided - and the vast majority of the detailed review was undertaken - by the ROG Committee.

The ROG Committee comprises representatives from OneRail, Pacific National, Aurizon and Qube. Other ROG members are Manildra Flour Mills, SCT Logistics, Southern Shorthaul Railroad, Sydney Rail Services, and Swift Logistics (previously Linx Rail).

b. *The costs incurred for such collective bargaining procedures.*

The primary costs incurred in connection with the collective bargaining process set out in paragraph 1(a) above include:

- **Management time of all ROG members in providing feedback to the ROG Committee on key issues raised by the STAA**

The ROG Committee is not able to provide accurate information in relation to the amount (or value) of management time spent by each ROG member in providing feedback to the ROG Committee on the STAA. However, as set out above, a significant majority of the feedback was provided, and the vast majority of the detailed review was undertaken, by the members of the ROG Committee.

The level of active engagement on these issues by the ROG Committee resulted in significant cost savings for other ROG members.

- First, other ROG members did not need to invest the same level of time and internal management resources to engage in detail on all of the issues raised by the draft STAA. They could instead rely on the detailed work undertaken by the ROG Committee. The ROG Committee did not seek to recover any of its management time costs from other ROG members.
- Second, as set out in the application for authorisation, without the collective bargaining process led by the ROG Committee, a number of rail operators (particularly smaller operators) are likely to have accepted the STAA terms on a largely “take-it-or-leave-it” basis. The collective bargaining process therefore enables those operators to receive the benefit of significantly improved terms and conditions at a very small fraction of the cost that they would have needed to incur in order to achieve those improved terms by engaging individually with TfNSW.

While the work undertaken by ROG Committee members to identify key issues is likely to have involved some duplication (e.g. Committee members individually identifying similar issues), the ROG Committee considers that they were able to achieve significant cost savings in working collectively to identify potential solutions.

- **Management time of ROG Committee members in collating and preparing views on all identified issues, prioritising issues, engaging with TfNSW and TAHE, responding to issues raised in meetings with TfNSW and TAHE, and reporting back to ROG members**

The ROG Committee has not kept precise records of the time spent by each Committee member in undertaking these tasks. However, they each invested significant time in:

- collating the 51-page matrix (comprising 260 identified issues), and setting out the ROG Committee’s views on each of those issues;
- preparing for, attending and (for face-to-face meetings) travelling to approximately 28 meetings with TfNSW between 2018 and 2023 to discuss the STAA (as well as attending additional meetings with TfNSW in relation to rollingstock network initiatives and the Standard Working Timetable (SWTT) review;¹ and
- internal discussions to determine next steps after each meeting with TfNSW, and reporting back to members.

This time was not incurred by other ROG members, and the ROG Committee did not seek to recover the costs associated with this time commitment from other ROG members.

- **Management time of TfNSW and TAHE in engaging with the ROG Committee in relation to the issues raised**

¹ The SWTT review is a proposal by TfNSW and Sydney Trains to change the Operations Protocol (an attachment to the access agreement) and to transfer some aspects of timetable development responsibility to Sydney Trains.

TfNSW and Transport Asset Holding Entity of New South Wales (TAHE) have devoted significant management time over the past 5 years to engage with the ROG Committee and to consider the issues raised in relation to the STAA.

The ROG Committee understands that both TfNSW and TAHE support the application for authorisation as they recognise that engaging with the ROG Committee (rather than engaging separately with all rail operators) has resulted in significant efficiencies and cost-savings, and has also assisted in promoting better outcomes for all industry participants.

- **Legal costs incurred by the ROG Committee in obtaining ACCC authorisation and advice on the draft STAA**

Since 2018, the ROG Committee has incurred external legal costs of approximately [REDACTED].

These external legal fees have been shared across ROG members in the following proportions (reflecting a distinction between large, medium and small operators):

[REDACTED]

- c. *The individual costs incurred in the course of negotiations (noting that contracting parties may incur two levels of costs during collective bargaining, if they both form their own views / seek advice, and participate in collective discussions).*

Please see the response to Question 1(a) above.

In addition, the ROG Committee anticipates that:

- ROG members have each incurred modest internal management and review costs each of the 9 times that TfNSW has extended existing access agreements for the Metropolitan Rail Network (MRN) and Country Regional Network (CRN) since 2018; and
- individual ROG members may devote senior management time (and likely incur legal review costs) prior to executing any final form STAA.

- d. *The overall cost savings for each member of the ROG.*

The ROG Committee is not able to provide accurate information in relation to the likely cost savings for each ROG member. However, as set out above, the collective bargaining process is likely to have involved material cost savings, particularly for ROG members who are not represented on the ROG Committee (e.g. Manildra Flour Mills, SCT Logistics, Southern Shorthaul Railroad, Sydney Rail Services and Swift Logistics).

The vast majority of the work undertaken in reviewing the STAA - and all of the work in engaging with TfNSW and TAHE - has been, and continues to be, undertaken by the members of the ROG Committee. As a result, other ROG members do not need to invest the same level of time and internal management resources to engage in detail on all of the issues raised by the draft STAA.

The ROG Committee also considers that Committee members have been able to achieve material cost savings by working collaboratively to prioritise issues and identify solutions (compared to the costs they would have each incurred if they undertook this work separately).

In addition, all external legal fees have been, and will continue to be, defrayed across the entire ROG membership (with large and medium operators paying a greater share than smaller operators).

As a result, the ROG Committee considers that all operators will benefit from materially improved terms and conditions at a lower cost than they would have needed to incur to achieve those improved terms by engaging individually with TfNSW.

Question 2

The Application also states that “similar cost savings will likely apply to future negotiations with other RNOs”. Please provide details of costs incurred in previous separate negotiations with these RNOs by the various applicants, along with estimates of these future expected transaction cost savings, as they would apply to the negotiations in respect of each RNO’s network.

The ROG Committee is not able to provide accurate information in relation to the costs incurred (including management time spent) by each ROG member in any previous individual negotiations with the owner/operators of each of the VicTrack network, PTA network, Queensland rail network, Tarcoola to Darwin network, and interstate rail network. It is therefore not possible to estimate with any degree of accuracy the likely cost savings that will be achieved by collectively bargaining with each of these Rail Network Operators (RNOs).

However, the ROG Committee anticipates that collective bargaining with the owner/operators of each of those networks will result in similar categories of cost savings to those set out in the response to Question 1 above. In particular:

- Given the detailed work and leadership by the ROG Committee, other ROG members will not need to invest the same level of time and internal management resources to engage on all of the issues raised by the draft access arrangements. They will also not need to invest time and effort to undertake separate negotiations with the RNO and/or engage with the relevant regulator.
- Given the legal advice obtained by the ROG Committee, ROG members are less likely to incur separate external legal fees in reviewing any draft access agreements (at least until the access agreements are in final form, and ROG members are then likely to require senior management and legal sign-off before executing any agreement). Any external legal fees will also continue to be defrayed across the entire ROG membership, with large and medium operators paying a greater share than smaller operators.

As a result, ROG members will be able to benefit from improved terms and conditions at a lower cost than they would have needed to incur in order to achieve those improved terms through individual negotiations.

More fundamentally, the collective negotiation process will enable **all** rail operators to obtain the benefit of improved terms. As set out in the application for authorisation, most rail operators do not have the resources needed to engage individually with RNOs on the wide range of issues raised in any access negotiation. Most likely, smaller and less well-resourced operators would “settle” for the position put forward by the RNO. Based on past experience, this position would then be used by the RNO as a template for future negotiations, citing the need for consistency across all operators. The result is that all rail operators would likely need to settle for sub-optimal commercial agreements with no impetus for RNOs to focus on delivering improvements and greater operational efficiencies.

This is a material public benefit.

The ROG Committee considers that a collective bargaining process will also result in material cost savings and efficiencies for the owner/operators of the VicTrack network, PTA network, Queensland rail network, Tarcoola to Darwin network and interstate rail network, if they choose to participate in that process. This is consistent with the stated experience of both TfNSW and TAHE over the past 5 years, and their submissions to the ACCC.

Question 3

In the response to submissions and questions dated 7 August 2023, the Applicants state that the only requirement of membership of the ROG is that members pay their respective share of the ROG’s costs. Please provide details as to those costs over the past 5 years and any expected changes in the future.

The only costs paid by ROG members over the past 5 years are their respective share of external legal costs, being approximately:

- **[REDACTED]**

Each ROG member’s proportionate share is set out in the response to Question 1(b) above. It is possible that these proportions will be different for any collective negotiations in respect of different networks, as these proportions will largely depend on which rail operators choose to participate in the collective negotiation process for each network.

The precise amount of any legal costs in future years will also depend on the timing of negotiations with RNOs. If there are negotiations with multiple RNOs in any year, then legal costs associated with those negotiations are likely to be higher. However, conversely:

- if the ACCC grants authorisation for a period of 10 years (covering collective negotiations with the owner/operators of each of the VicTrack network, PTA network, Queensland rail network, Tarcoola to Darwin network, and interstate rail network), the ROG will not incur further “authorisation-related” legal fees for a number of years. This comprises a material proportion of the legal fees incurred in 2018 and 2023; and
- while there are likely to be legal issues that are unique to the rail regulatory environment in each State and Territory, the ROG Committee anticipates that there are likely to be fewer “new” issues that require external legal advice, given the work that it has already undertaken in relation to the TfNSW and TAHE networks.

As a result, the ROG Committee does not anticipate any material increase in the cost of participation in the ROG.

Question 4

Attachment 1 to the 7 August 2023 response provides an overview of the different regulatory regimes that apply to each RNO’s networks. Please explain for each network whether the differing public and private ownership, and regulatory regimes, will impact the nature and extent of the Applicants’ claimed likely public benefits and detriments.

The ROG Committee considers that, for networks where there is greater regulatory oversight (e.g. the Queensland Rail network and ARTC interstate network), the price and non-price terms are likely to be more reasonable when compared with the terms offered on networks where there is less regulatory oversight. However, even where there is a higher degree of regulatory oversight, the ROG Committee considers that the collective bargaining process is likely to result in:

- better and more-focused information being provided to both the RNO and regulator (as ROG members will be able to workshop key issues and potential solutions); and
- a more efficient process for access seekers, the RNO and the regulator (with the ROG Committee prioritising key issues, and the RNO and regulator being able to focus discussions with a single industry point of contact, rather than multiple individual access seekers).

These are significant public benefits.

In situations where the network is publicly owned (e.g. the MRN and CRN network, VicTrack network, PTA network, Queensland rail network, and interstate rail network), any cost savings and efficiencies for the RNO will also involve cost savings for taxpayers. In the case of ARTC, cost savings may enable an increased dividend payable to the Commonwealth as sole shareholder.

Question 5

Section 5.1 of the Application states that only those Applicants that require or seek access to a particular RNO’s network will be involved in collective negotiations with that RNO. For each RNO’s network, please list the rail operators that are currently expected to be participants in the collective negotiations.

The ROG Committee has not, to date, sought expressions of interest in relation to which rail operators may wish to be involved - either as a ROG member or ROG Committee member - in collective negotiations with the owner/operators of each of the VicTrack network, PTA network, Queensland rail network, Tarcoola to Darwin network, and interstate rail network (or future inland rail network).

Participation will be open to any rail operator that wishes to be involved in the collective negotiations.

The table below sets out which rail operators are currently accredited and have access rights in relation to each network.

Network	Accredited operators
TfNSW MRN and CRN network	Aurizon Swift Logistics One Rail Pacific National Manildra Flour Mills Qube Southern Shorthaul Railroad Sydney Rail Services
VicTrack network	Aurizon Swift Logistics One Rail Pacific National Manildra Flour Mills Qube Southern Shorthaul Railroad Sydney Rail Services
PTA network	Aurizon One Rail Pacific National Qube Southern Shorthaul Railroad Sydney Rail Services
Queensland Rail's network	Aurizon One Rail Pacific National Qube Southern Shorthaul Railroad Sydney Rail Services
Aurizon Tarcoola to Darwin network	Aurizon One Rail Pacific National Qube Southern Shorthaul Railroad Sydney Rail Services
ARTC Interstate Rail Network:	Aurizon Swift Logistics One Rail Pacific National Manildra Flour Mills Qube Southern Shorthaul Railroad Sydney Rail Services

*Source: Office of the National Safety Regulator
<https://www.onrsr.com.au/publications/national-rail-safety-register>*

Question 6

In relation to Schedule 5 of the Application, please provide further information on:

- a. *the ring-fencing arrangements that have been put in place by Aurizon, including any applicable underlying documents*

Aurizon has implemented ring-fencing arrangements which apply in circumstances where it is both an “above rail” operator and “below rail” track manager (i.e. in South Australia and in respect of the Tarcoola-Darwin network). These ring-fencing arrangements are consistent with the legislative requirements set out in:

- Clause 12A(5) of the schedules to the *AustralAsia Railway (Third Party Access) Act 1999 (SA)* and *AustralAsia Railway (Third Party Act 1999 (NT)*, which sets out obligations in relation to the protection and treatment of confidential information, including an obligation to maintain a policy to ensure confidential information is not used for an unauthorised purpose or by an unauthorised person, and
- Section 33A(7) of the *Railways (Operations and Access) Act 1997 (SA)*, which requires an operator to develop and maintain a policy to ensure that confidential information obtained by the operator is not disclosed or used except as authorised by this section.

A copy of Aurizon’s policy is set out in **Attachment 1**.

- b. *the circumstances in which Aurizon’s management structure could change and, in that event, how Aurizon would then participate in negotiations*

Aurizon is not able to provide further information in relation to the circumstances in which its management structure may change in the future.

Section 4 of the “*Rail operators group - Competition Law Protocol - Collective negotiation of track access agreements*” (Schedule 5 of the application for authorisation) is intended to reflect that, for so long as Aurizon owns the Tarcoola to Darwin rail network (or is vertically integrated in respect of any other rail network), it will:

- implement appropriate ring-fencing arrangements (see Question 6(a) above); and
- absent itself from any participation in the ROG or any ROG Committee in respect of negotiations concerning that network.

- c. *any monitoring or enforcement measures undertaken in respect of the information protocol during the past 5 years, including any reported breaches of the protocol*

ROG members, including ROG Committee members, are responsible for monitoring their own compliance with the current information protocol.

Over the past 5 years, there have been no reported breaches of the protocol, and no enforcement action taken in relation to any breach.

- d. *the monitoring and enforcement measures that will apply to ensure compliance with the protocol in the future*

Monitoring compliance with the protocol will continue to be the responsibility of individual members.

As set out in Section 5 of the protocol:

“Participants must ensure that all communications (including emails and verbal discussions) comply with this Protocol.

Any meeting between participants should follow these rules:

- Agree and circulate an agenda in advance of each meeting. Ensure the content of each agenda does not include anything that could contravene the Key principles set out in this Protocol. Avoid “any other business” agenda items.*
- Ensure all participants understand ahead of the meeting that any competitively sensitive matters must be subject to legal review before any commitment/agreement can be given.*
- Read and minute the below ‘competition health warning’ at any meetings or conference calls:*

Attendees at this meeting shall not enter into any discussion, activity or conduct that may infringe, on their part or on the part of other participants, any applicable competition laws. For example, participants shall not discuss,

communicate or exchange any commercially sensitive information, including information relating to actual or individual prices, marketing and advertising strategy or costs and revenues.

For any new attendees - please note that participating in these discussions is subject to you having read and understood the ROG Competition Law Protocol. If you have not done so yet, please do so now.

- (d) Keep accurate minutes of all meetings, including details of attendees.*
- (e) If something comes up during a meeting that could risk contravening any competition laws, attendees must:*
 - Object immediately, and ask for the discussion to be stopped.*
 - Ensure the minutes record that the discussion stopped.*
 - Raise concerns about anything that occurs in a meeting with each Participants' respective legal counsel immediately afterwards."*

Further questions

If the ACCC requires further information or would like to discuss this response, the ROG would be pleased to assist.



CONFIDENTIALITY POLICY – TARCOOLA TO DARWIN & SA RAILWAYS

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DOCUMENT REVIEW AND APPROVAL DETAILS

APPROVAL

Prepared by: Aurizon Bulk Central Access Manager and Legal Counsel
 Approved by: General Manager Aurizon Bulk Central

REVISION HISTORY

Version	Issued	Details	Author	Approved by:
1.0	10/4/2023	<ul style="list-style-type: none"> • First policy update for Aurizon Bulk Central & Aurizon Bulk Central Network. • Includes confidential information flow chart 	Christina Krantz Bec Matthews	Matthew Jones
2.0	6/6/2023	<ul style="list-style-type: none"> • General updates to all sections and removal of Sec 1.2 access seeker/respondent definition 	Patrese McVeigh Tristan Barns	Matthew Jones
3.0	26/10/2023	<ul style="list-style-type: none"> • Entity description updates, and other minor edits. 	Bec Matthews	Matthew Jones

TABLE OF CONTENTS

1. CONFIDENTIALITY POLICY	4
1.1. What is Confidential Information?	4
1.2. Using Confidential Information	5
1.3. Disclosing Confidential Information	5
1.4. Who is an Unauthorised Person?	5
SCHEDULE 1: DEFINED TERMS	7
ATTACHMENT A: FLOWCHART	8

1. CONFIDENTIALITY POLICY

Aurizon Holdings Limited (**Aurizon**)'s businesses include:

- Aurizon Bulk Central Network (**ABCN**), the below rail business which operates the Tarcoola to Darwin Railway (**TDR**) infrastructure. ABCN is the Access Provider for users of the TDR;
- Aurizon Bulk Central (**ABC**), the above rail business which operates rail services for the haulage of bulk commodities, containerised consumer goods, general cargo, bulk liquids and project cargo, and is an Access Holder in relation to the TDR and the South Australia Intra-State Rail; ABC is the Access Provider for users of the South Australia Intra-State Rail; and
- various other above rail haulage services in other parts of Australia, which do not involve access to the TDR or the South Australia Intra-State Rail.

ABCN & ABC may also provide below rail services to third party Access Seekers and Access Holders, who may compete with ABCN & ABC to provide services to rail freight customers.

In accordance with its obligations under clause 12A(5) of the schedules to the *AustralAsia Railway (Third Party Access) Act 1999 (SA)* and *AustralAsia Railway (Third Party Act 1999 (NT) (Code)* and section 33A(7) of the *Railways (Operations and Access) Act 1997 (SA) (Act)*, this policy is designed to assist staff in managing Confidential Information when dealing with material that relates to the Tarcoola to Darwin Rail and/or South Australia Intra-State Rail.

1.1. What is Confidential Information?

Information will be Confidential Information for the purposes of this policy if it:

- could affect the competitive position of an Access Seeker, Access Holder or a Respondent; or
- is commercially valuable or sensitive for some other reason.

The following (non-exhaustive) categories of non-public information constitute Confidential Information:

- competitively sensitive information about an Access Seeker, Access Holder or a Respondent that could impact that party's ability to compete in a market, including information about pricing, train paths, potential customers of above rail services, or volume requirements;
- information about Access Negotiations, Access Agreements or Access Disputes;
- information about Access Proposals, including the existence of an Access Proposal and the identity or contact details of the Access Seeker;
- information that discloses valuable intellectual property of an Access Seeker, Access Holder or a Respondent; and
- security information relating to the assets comprising the TDR, the staff operating and managing the TDR, and Access Seekers, Access Holders or Respondents.

Any information relating to an Access Proposal, Access Negotiation or Access Dispute that is labelled or otherwise identified as confidential or competitively sensitive, by or on behalf of the disclosing party, will be treated by Aurizon and its related entities as Confidential Information.

Information will not be Confidential Information where it:

- is already in or becomes part of the public domain, other than through a disclosure by Aurizon or its related entities that is not permitted under this Confidentiality Policy; or
- has been sufficiently aggregated and anonymised so that it is not possible to deduce the identity of any individual potential Access Seeker or Respondent or the demand indications expressed by each access seeker or respondent.

1.2. Using Confidential Information

Confidential Information may be accessed for the purpose of ABC or ABCN below rail providing access to Access Seekers, and dealing with Access Holders and Respondents, in accordance with the Access Regimes and this Confidentiality Policy.

Confidential Information must not be used for the purpose of securing an advantage for yourself or for some other person who is in competition with the Access Seeker, Access Holder, Respondent or person who provided the information.

1.3. Disclosing Confidential Information

Confidential Information may only be disclosed by ABC or ABCN below rail if the disclosure is:

- reasonably required for the purposes of the Access Regimes, including a disclosure to the Essential Services Commission of South Australia;
- made with the consent of the person who provided the information;
- required or allowed by law, including the Access Regimes; or
- required by a court or tribunal constituted by law.

Regardless of the above, a person must not (unless authorised by the person who supplied the information):

- use (or attempt to use) the Confidential Information for a purpose which is not authorised or contemplated by the Access Regimes; or
- disclose the Confidential Information to an Unauthorised Person.

1.4. Who is an Unauthorised Person?

An Unauthorised Person is a person who is directly involved, on behalf of Aurizon, in the promotion or marketing of freight services or passenger services but does not include a person whose involvement is limited to:

- strategic decision making;
- performing general supervisory or executive functions; or
- providing technical, administrative, accounting, service or other support functions.

Examples of an Unauthorised Person include, but are not limited to, the following categories. If you are unsure whether you or someone else might be an Unauthorised Person, please contact our Access Manager or the Aurizon legal team before disclosing or receiving Confidential Information.

- ABC's Commercial Managers and Head of Supply Chain Development and their reports; and

-
- other personnel (including personnel of Aurizon entities other than ABC or ABCN) who are directly involved in the negotiation of contracts for above-rail freight or passenger services using the TDR.

Examples of a person who is **not** an Unauthorised Person within the Bulk Central business include:

- GM Bulk Central;
- Business Improvement and Access Manager (below-rail);
- the finance team; or
- the legal team,

unless such person is directly involved in the negotiation of contracts for above-rail freight or passenger services using the TDR.

It is important to remember that the examples provided above are for guidance. There may be other circumstances in which a person will be an Unauthorised Person. If you are unsure if you can access confidential information, please refer to *the Disclosing Confidential Information Internally* flowchart for further guidance or contact ABC / ABCN's Access Manager or the Aurizon Legal team for specific advice.

SCHEDULE 1**DEFINED TERMS**

For the purposes of this Confidentiality Policy, the following terms have the prescribed meanings:

ABC / ABCN Representatives means employees or contractors of the ABC/ABCN business who are not involved, either directly or indirectly, in the promotion or marketing of freight services or passenger services anywhere in Australia.

Access Agreement means an agreement for access to a Railway Infrastructure Service entered into between ABC/ABCN and an Access Seeker as a result of a successful Access Negotiation or as a result of an access award by an arbitrator in an Access Dispute.

Access Dispute means a dispute in respect of access to a Railway Infrastructure Service.

Access Holder means a person who has a right of access to railway infrastructure facilities and includes the Access Provider if or when the access provider is providing a freight service or a passenger service by means of the railway.

Access Negotiation means a negotiation for access to a Railway Infrastructure Service.

Access Proposal is a written proposal put to the Access Provider by the Access Seeker setting out the nature and extent of the required access or variation, and any other information relevant to formulating a response to the access proposal, including information relevant to determining the price to be charged for access or on account of the variation (as the case may be). An Access Proposal may include:

- a new proposal seeking access to a Railway Infrastructure Service; or
- a proposal to vary an existing access agreement for access to Railway Infrastructure Service in a significant way or to a significant extent.

Access Provider, in relation to a Railway Infrastructure Service, means the person who provides or is in a position to provide the Railway Infrastructure Service.

Access Regimes means either or both the Code and the Act.

Access Seeker is a person who wants access to a Railway Infrastructure Service, or who wants to vary an access contract in a significant way or to a significant extent.

Act means the *Railways (Operations and Access) Act 1997 (SA)*.

Code means the AustralAsia Railway (Third Party Access) Code.

Confidential Information means information of the kind described in section 1.1.

Railway Infrastructure Service means the service of providing, or providing and operating, railway infrastructure facilities for the purpose of providing a freight service or a passenger service by means of the TDR or the South Australia Intra-State Rail.

Respondent has the meaning given in clause 10(6) of the Code or clause 31(4) of the Act.

South Australia Intra-State Rail means the South Australian intra-state railway infrastructure facilities owned and operated by Aurizon and regulated subject to the Act.

ATTACHMENT A -Flow Chart
Disclosing Confidential Information Internally – Flow Chart
Confidential Information Flow Chart
Disclosing Confidential Information Internally

This flowchart is to assist staff in assessing if a person may access, view or disclose confidential information captured by the Tarcoola Darwin Rail and/or South Australia Intra-State Rail access regime. This flowchart assumes the information is subject to confidentiality and that Aurizon has not received permission from the owner of the confidential information to freely disclose the information.

As a general rule, confidential information should not be accessed or shared unless there is a valid and justifiable reason.

