

OFFICIAL



**MASTER INLAND RAIL  
DEVELOPMENT AGREEMENT  
CONTRACT NO 9000-0347**



Strathbogie Shire Council (B2A Tranche  
2)  
("ASSET OWNER")

Inland Rail Pty Ltd  
("IRPL")



The Australian Government is delivering  
Inland Rail through the Australian  
Rail Track Corporation (ARTC), in  
partnership with the private sector.

## Table of Contents

<b>1. Definitions and interpretation .....</b>	<b>3</b>	8.1 ARTC liable to pay costs	16
1.1 Definitions	3	8.2 ARTC approval	16
1.2 Interpretation	5	8.3 Invoice	17
1.3 Governing law	6	8.4 Payment	17
1.4 No bias against drafting party	6	8.5 Expenses	17
1.5 Business Day	6	<b>9. Insurance.....</b>	<b>17</b>
1.6 Commencement	6	<b>10. Confidentiality.....</b>	<b>17</b>
<b>2. The Works.....</b>	<b>6</b>	10.1 General restriction	17
2.1 General Obligations	6	10.2 Exceptions	18
2.2 Approvals and Works Description	7	10.3 Publicity	18
2.3 Carrying out of Project Activities	7	<b>11. Dispute Resolution .....</b>	<b>18</b>
2.4 Parameters for the carrying out of Project Activities	8	11.1 Disputes	18
2.5 Comply with law in carrying out Project Activities	8	11.2 Continuance of performance	19
2.6 Rail Safety National Law	8	<b>12. Termination for convenience.....</b>	<b>19</b>
2.7 Safety	9	<b>13. Notices.....</b>	<b>19</b>
2.8 Emergency Work	9	<b>14. General .....</b>	<b>20</b>
2.9 Monitoring Regime	9	14.1 Entire agreement	20
2.10 Condition Reports	9	14.2 Further acts	20
2.11 Rail Asset	9	14.3 Jurisdiction	20
2.12 Special Conditions	9	14.4 Amendments	20
<b>3. Information and meetings.....</b>	<b>10</b>	14.5 Waiver	20
3.1 Provision of information	10	14.6 Consents	20
3.2 Disclaimer	10	14.7 Agreement does not affect operation of statutes	21
3.3 Operational Meetings	11	14.8 Assignment	21
3.4 Monitoring Meetings	11	14.9 Indemnities	21
<b>4. Design and construction .....</b>	<b>11</b>	14.10 Counterparts	21
4.1 Design Documentation	11	14.11 GST	21
4.2 Construction Environmental Management Plan	11	<b>Schedule 1 – Particulars .....</b>	<b>23</b>
4.3 Road Use and Degradation	12	<b>Schedule 2 – Asset Owner Assets .....</b>	<b>25</b>
4.4 Construction	12	<b>Schedule 3 – Monitoring Regime .....</b>	<b>28</b>
4.5 Asset Owner’s Personnel	12	<b>Schedule 4 – Condition Reports .....</b>	<b>29</b>
<b>5. The Land .....</b>	<b>13</b>	<b>Schedule 5 – Insurance.....</b>	<b>31</b>
5.1 Access to the Land	13	<b>Schedule 6 – Contractor Deed Poll .....</b>	<b>32</b>
5.2 Reinstatement of the Land	13	<b>Schedule 7 – Rail Asset .....</b>	<b>35</b>
5.3 Contamination	13	<b>Schedule 8 - Design Documentation Review .....</b>	<b>36</b>
<b>6. Completion.....</b>	<b>13</b>	<b>Schedule 9 – Special Conditions .....</b>	<b>37</b>
6.1 Process	13	<b>Schedule 10 – Works Description.....</b>	<b>38</b>
6.2 Handover	14	<b>Schedule 11 – Schedule of Rates for Cost.....</b>	<b>42</b>
6.3 Management of the opening of the Project	15	<b>Schedule 12 – Road Use and Degradation.....</b>	<b>43</b>
6.4 Defects Correction Period	15	<b>Schedule 13 – Certificate of Completion Form .....</b>	<b>47</b>
6.5 Appointment of Project Independent Verifier	15	<b>Schedule 14 – Project Independent Verifier Deed Poll .....</b>	<b>48</b>
<b>7. Liability.....</b>	<b>15</b>		
7.1 Liability and indemnity	15		
7.2 Limitation of Liability	16		
7.3 Survival	16		
<b>8. Asset Owner Costs .....</b>	<b>16</b>		

**Date**

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**Parties**

**Strathbogie Shire Council** (ABN 50 882 781 013) of 109A Binney Street, Euroa VIC 3666 (**Asset Owner**).

**Inland Rail Pty Ltd** (ACN 094 819 520) of 11 Sir Donald Bradman Drive, Keswick Terminal, SA 5035 (**IRPL**).

**Recitals**

- A. Asset Owner owns, operates and maintains the Asset.
- B. ARTC intends to design and construct the Works which form part of the Project.
- C. The Works involve the construction of the work described in Schedule 1.
- D. The parties agree to the matters set out in this Agreement.

It is agreed as follows.

**1. Definitions and interpretation**

**1.1 Definitions**

In this Agreement:

**Agreement** means this document, together with all schedules and exhibits to this document.

**Approval** means any consent, approval, authorisation, licence, registration, order, permission or concurrence required by any Law, including those under this Agreement, required for the commencement, execution or completion of the Project Activities and includes the Planning Approval.

**ARTC** means IRPL for the purposes of this Agreement.

**ARTC Contractor** means any contractor engaged by ARTC to carry out the Project Activities.

**Asset** means the infrastructure described in item 1 of Schedule 1.

**Asset Owner Costs** has the meaning given in clause 8.1.

**Business Day** means a day that is not a Saturday, Sunday or any other day that is a public holiday in the capital city of the State or Territory specified in item 7 of Schedule 1, and excludes 27 to 31 December (inclusive).

**Certificate of Completion** means a certificate that is generally in the form set out in Schedule 13.

**Claim** includes any claim, action, demand or proceeding:

- (a) under, arising out of, or in any way in connection with, this Agreement;
- (b) arising out of, or in any way in connection with the Project Activities; or
- (c) otherwise at Law or in equity including:
  - (i) by statute;
  - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
  - (iii) for restitution, including restitution based on unjust enrichment.

**Completion** means the stage when:

- (a) the Returned Works have been completed in accordance with the Works Description except for minor Defects which:
  - (i) do not prevent the Returned Works from being reasonably capable of being used for their intended purpose; and
  - (ii) can be corrected without prejudicing the convenient use of the Returned Works; and

**Consequential Loss** means any:

- (a) loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of any business or loss of business opportunity, loss of contract, loss of goodwill, loss of use or loss of production, loss of value to the Asset, loss of revenue (whether that loss is direct or indirect);
  - (b) indirect or consequential loss, howsoever arising; and
  - (c) failure to realise anticipated savings, reduced costs or other benefits,
- in each case whether present or future, fixed or unascertained, actual or contingent.

**Construction Environmental Management Plan** means the plan so titled to be prepared by ARTC or an ARTC Contractor in respect of the carrying out of the Project Activities (including works in or on the Land) as revised and amended, from time to time, in accordance with clause 4.2.

**Contamination** means the presence in, on or under land or any other aspect of the Environment of a substance, gas, chemical, liquid or other matter (whether occurring naturally or otherwise) which is:

- (a) at a concentration above the concentration at which the substance, gas, chemical, liquid or other matter (whether occurring naturally or otherwise) is normally present in, on or under land or any other aspect of the Environment in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment; or
- (b) toxic, flammable or otherwise capable of causing harm to humans or damage to the Environment including asbestos, toluene, polychlorine biphenyls, lead based paints, glues, solvents, cleaning agents, paints and water treatment chemicals.

**Defect** means any defect or other non-conformance in the Returned Works.

**Defects Correction Period** means the period of 12 months from the date that the Returned Works are handed back to Asset Owner in accordance with clause 6.3

**Design Documentation** means the design documentation to be prepared by ARTC or an ARTC Contractor in relation to the Returned Works.

**Environment** means components of the earth, including:

- (a) land, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter and any living organism;
- (d) human-made or modified structures and areas; and
- (e) interacting natural ecosystems that include components referred to in paragraphs (a) to (c) of this definition.

**Government Agency** includes a department of State, statutory or public authority, instrumentality, corporation, body or person whether Commonwealth, State, territorial or local.

**GST** means any tax imposed under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Interface Matters** has the meaning given in clause 3.3(a).

**Insurances** has the meaning given in clause 9.

**Land** means any land on which ARTC is located and any other land to which ARTC is given a right of access by Asset Owner.

**Land Access Arrangement** means a separate lease, licence, permit, agreement or other undertaking between ARTC and Asset Owner or a third party granting ARTC access to land in connection with the Project Activities.

**Law** means:

- (a) any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, State, territorial or local;
- (b) the common law;
- (c) any Approval (including any condition or requirement under an Approval); and
- (d) any requirements of any Government Agency.

**Loss** includes:

- (a) any cost, expense, loss, damage or liability whether direct, indirect or consequential (including Consequential Loss or pure economic loss), present or future, fixed or unascertained, actual or contingent; and
- (b) without being limited by paragraph (a) and only to the extent not prohibited by Law, any fine or penalty.

**Planning Approval** means the planning approval referred to in item 3 of Schedule 1.

**Project** means the project described in item 4 of Schedule 1.

**Project Activities** means all things and tasks which ARTC is, or may be, required to carry out or do under this Agreement to comply with ARTC's obligations under this Agreement, including designing and constructing the Works.

**Project Independent Verifier** means the person identified in item 14 of Schedule 1.

**Rail Safety National Law** means, where the relevant State or Territory identified in item 7 of Schedule 1 is:

- (a) New South Wales, the *Rail Safety National Law (NSW)* as defined in the *Rail Safety (Adoption of National Law) Act 2012* (NSW);
- (b) Queensland, the *Rail Safety National Law (Queensland) Act 2017* (Qld); or
- (c) Victoria, the *Rail Safety National Law (Victoria)* as defined in the *Rail Safety National Law Application Act 2013* (Vic).

**Returned Works** means the physical parts of the Works which ARTC or an ARTC Contractor must complete and hand over to, and which will become the property of, Asset Owner upon Completion, as described in the Schedule 2 and section 10.3 of Schedule 10

**Senior Representative** means in respect of a party to this Agreement the person named in item 5 of Schedule 1 or such other person (or delegate) notified in writing by the applicable party to the other parties.

**WHS Legislation:**

- (a) means the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth); and
- (b) where any other applicable legislation in the State in which the Project is located imposes work health and safety obligations in respect of the Works, also includes this legislation.

**Works** means the physical works described in item 6 of Schedule 1, which ARTC or an ARTC Contractor will plan, design, construct, commission and complete in accordance with the Works Description, and includes the Returned Works.

**Works Description** means the Works Description which appears in Schedule 10 to this Agreement, which must be updated in accordance with this Agreement.

## 1.2 Interpretation

In this Agreement, headings are for convenience only and do not affect interpretation, and unless the context indicates a contrary intention:

- (a) the expression "person" includes an individual, the estate of an individual, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (b) the words "includes" in any form is not a word of limitation;
- (c) a reference to any party includes that party's executors, administrators, successors, and permitted assigns, including any person taking by way of novation;
- (d) a reference to any document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by laws, regulations, rules and other statutory instruments (however described) issued under it;
- (f) references to parties, clauses, schedules, exhibits and annexures are references to parties, clauses, schedules, exhibits and annexures to or of this Agreement and a reference to this Agreement includes any schedule, exhibit or annexure to this Agreement;
- (g) words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;
- (h) where a word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (i) a reference to a day, month, quarter or year is a reference to a calendar day, a calendar month, a calendar quarter or a calendar year respectively;
- (j) a reference to "\$" or "dollar" is to Australian currency; and
- (k) a reference to any thing is a reference to the whole or any part of it and a reference to a group of persons is a reference to all of them collectively, to any 2 or more of them collectively and to each of them individually.

## 1.3 Governing law

This Agreement is to be governed by, and will be construed according to, the laws of the State or Territory specified in item 7 of Schedule 1.

## 1.4 No bias against drafting party

In the interpretation of this Agreement, no rule of construction applies to the disadvantage of one party on the basis that that party put forward or drafted this Agreement or any provision in it.

## 1.5 Business Day

If the day on or by which any thing is to be done under this Agreement is not a Business Day, that thing must be done:

- (a) if it involves a payment other than a payment which is due on demand, on the preceding Business Day; and
- (b) in all other cases, no later than the next Business Day.

## 1.6 Commencement

The rights and obligations of the parties under this Agreement commence on the date of this Agreement.

## 2. The Works

### 2.1 General Obligations

- (a) The parties acknowledge that ARTC is carrying out the Project and that the Project will have a number of significant interfaces with, and will impact upon, Asset Owner, the Assets and the Land.
- (b) To give effect to this the parties have agreed to assist, and co-operate with, each other party, as well as any ARTC Contractor, in relation to any matters affecting:
  - (i) the Project; and
  - (ii) the spirit and intent of this Agreement.
- (c) Each party acknowledges that ARTC is required to meet strict contractual timing obligations in relation to the provision of information and notices to each ARTC Contractor and agrees to:
  - (i) carry out its obligations under this Agreement in a reasonably expeditious manner; and
  - (ii) provide all reasonable assistance to ARTC necessary to ensure that it can comply with such obligations.

### 2.2 Approvals and Works Description

- (a) ARTC and ARTC Contractors are responsible for obtaining all Approvals.
- (b) Asset Owner will promptly, at the cost of ARTC, provide all reasonable assistance in connection with obtaining Approvals upon a written request from ARTC.
- (c) ARTC will consult with other parties on the details of the Project which affect the other parties, the Assets and the Land and as part of this will seek to agree upon all aspects of these matters for the purpose of enabling ARTC to progress the process of obtaining all Approvals.
- (d) Asset Owner acknowledges that ARTC will obtain Planning Approval for the Project under the relevant Law. Without limiting its other obligations under this Agreement and Asset Owner must:
  - (i) cooperate with ARTC in relation to the planning process; and
  - (ii) if Asset Owner has any comments or objections arising from the planning process raise those comments or objections with ARTC prior to making any submission or comment to any relevant Government Agency and co-operate in good faith with ARTC to endeavour to resolve those comments or objections without the need for submission to any relevant Government Agency.
- (e) The parties acknowledge that the current scope of the Project insofar as it relates to Asset Owner, the Asset, the Land, and any Returned Works is as set out in the Works Description.
- (f) The parties must work together co-operatively to review and update the Works Description as the planning and design process for the Project progresses.
- (g) The parties will negotiate in good faith to finalise the Works Description so that it sets out the finally agreed position between them in relation to all aspects of the Project insofar as it relates to Asset Owner, the Asset or the Returned Works.
- (h) Asset Owner acknowledges that it may not insist upon the Works Description requiring that any Returned Works:
  - (i) have an increased functionality or performance capability compared to the Asset; or
  - (ii) be designed and constructed to any standard or requirement which is higher than the applicable standard or requirement under any relevant requirement of Law or any mandatory applicable Australian code.

### 2.3 Carrying out of Project Activities

- (a) ARTC must carry out the Project Activities in accordance with the requirements of this Agreement.

- (b) ARTC must coordinate all activities associated with the carrying out of the Project Activities and minimise any interference with the operation and use of the Asset arising out of or in connection with the Project Activities.
- (c) Asset Owner must not hinder or impede the implementation of the Project Activities other than:
  - (i) to the extent necessary to exercise its rights under any Land Access Arrangements to which it is a party or Schedule 3;
  - (ii) to the extent necessary to respond to an emergency, traffic incident or other matter affecting public health or safety; and
  - (iii) to the extent necessary to comply with all Law.
- (d) ARTC must ensure that the Project Activities do not prevent Asset Owner from complying with its obligations under Law (except to the extent that this is a consequence of the Project Activities being carried out in accordance with this Agreement).
- (e) This clause 2.3(e) applies where so stated in item 8 of Schedule 1.  
ARTC must procure from any ARTC Contractor a deed poll in a form substantially similar to the form of Schedule 6 and provide this to Asset Owner within 30 Business Days of the date of the contract it has entered into with that ARTC Contractor.

## 2.4 Parameters for the carrying out of Project Activities

- (a) Without limiting ARTC's other obligations under this Agreement, in undertaking the Project Activities, ARTC must:
  - (i) ensure the Project Activities do not cause any traffic adjustment or impact on the Asset other than as anticipated by the Construction Environmental Management Plan; and
  - (ii) ensure that it and any ARTC Contractor liaise with Asset Owner in relation to the carrying out of the Project Activities.
- (b) If any loss or damage occurs to any part of the Asset from or arising out of the Project Activities, ARTC must:
  - (i) take immediate steps to clear any debris and begin initial repair work;
  - (ii) promptly consult with Asset Owner and carry out such steps as are necessary to ensure the prompt repair or replacement of the loss or damage so that there is minimal disruption to the use of the Asset;
  - (iii) manage all repair and replacement activities so as to minimise the impact on the Asset; and
  - (iv) keep Asset Owner fully informed of the progress of the repair and replacement activities.

## 2.5 Comply with law in carrying out Project Activities

Without limiting ARTC's other obligations under this Agreement, ARTC must comply with all Laws in performing its obligations under this Agreement and in carrying out the Project Activities.

## 2.6 Rail Safety National Law

- (a) Terms used in this clause 2.6 which have a defined meaning in the Rail Safety National Law will have the same meaning in this clause 2.6 as they have in the Rail Safety National Law.
- (b) If Asset Owner is a road manager of a public road and the Works involve risks to safety described in either section 107(1) or section 107(2) of the Rail Safety National Law:
  - (i) ARTC, in its capacity as a rail infrastructure manager; and
  - (ii) Asset Owner, in its capacity as the road manager of a public road,must comply with their respective obligations prescribed by section 107 of the Rail Safety National Law.



- (c) To the extent clause 2.6(b) requires ARTC and Asset Owner to seek to enter into an interface agreement:
  - (i) where there is an existing interface agreement between ARTC and Asset Owner, the existing interface agreement will be amended so that the requirements of section 107 of the Rail Safety National Law are satisfied; or
  - (ii) where there is no existing interface agreement between ARTC and Asset Owner, ARTC and Asset Owner will enter into a new interface agreement in accordance with the requirements of section 107 of the Rail Safety National Law.

## 2.7 Safety

- (a) Subject to clause 2.6, ARTC acknowledges and agrees that ARTC is solely responsible for all work, health, and safety matters as between the parties to this Agreement in connection with the Project Activities, including appointing any "principal contractor" (within the meaning of the WHS Legislation).
- (b) Asset Owner must provide ARTC such assistance (including through the provision of information) as is reasonably required by ARTC, at ARTC's cost, to enable ARTC to comply with its obligations as a person commissioning a construction project under the WHS Legislation, including information in its possession or control relating to hazards and risks to health and safety at or in the vicinity of the Project.
- (c) Asset Owner personnel attending site will need to have completed ARTC Site Induction and ARTC Contractor's induction training. The cost of Asset Owner attendance at such training will be paid for by ARTC up to a maximum of 5 participants. Additionally, Asset Owner personnel attending sites within the rail corridor will need to have satisfied the competencies required to obtain a Rail Industry Worker Card.
- (d) Asset Owner must, upon request by ARTC, attend workshops with ARTC and/ or any ARTC Contractor (or such other invitees of ARTC) relating to 'Safety in Design' in respect of the Returned Works. Asset Owner will arrange for relevant and suitable personnel of Asset Owner to attend any such workshops.
- (e) ARTC will provide at least 5 Business Days prior notice of a workshop described in clause 2.7(d) to Asset Owner and any such workshop must be held on a Business Day during normal business hours and the parties must work together to agree a mutually convenient day, time and location on a day and at a venue which the Asset Owner has confirmed are convenient to it.

## 2.8 Emergency Work

In the case of an emergency, traffic incident or other matter affecting the health or safety of workers or the public which arises out of or is in connection with the Project Activities, ARTC must, and Asset Owner may, undertake all actions necessary to manage the emergency, traffic incident or other matter affecting the health or safety of workers or the public notwithstanding the fact that the scope, manner and timing of those actions have not been notified to the other party.

## 2.9 Monitoring Regime

Where so stated in item 9 of Schedule 1 the provisions in Schedule 3 apply.

## 2.10 Condition Reports

Where so stated in item 10 of Schedule 1 the provisions in Schedule 4 apply.

## 2.11 Rail Asset

Where so stated in item 11 of Schedule 1 the provisions in Schedule 7 apply.

## 2.12 Special Conditions

The conditions in Schedule 9 (if any) will apply as if set out in full in this Agreement.

## 3. Information and meetings

### 3.1 Provision of information

- (a) Subject to clause 3.1(b):
- (i) Asset Owner will promptly provide to ARTC from time to time, upon written request from ARTC, any information in its possession or control relating to design, construction, engineering, operation, maintenance, or technical matters in respect of the Asset or which is otherwise reasonably required by ARTC for the purposes of the Works or Project Activities; and
  - (ii) ARTC will provide to Asset Owner from time to time, upon written request from Asset Owner any information which is reasonably required by Asset Owner relating to design and construction of the Returned Works which is required by Asset Owner for the purposes of this Agreement.
- (b) The parties do not have to provide to each other under clause 3.1(a) any information:
- (i) the disclosure of which would cause a party to breach an obligation of confidentiality owed by Asset Owner to a third party;
  - (ii) which a party considers (acting reasonably) is commercially sensitive to the party; or
  - (iii) the disclosure of which is not permitted by Law.
- (c) Each party will and will procure that each person to whom any information provided under clause 3.1(a) is provided will, treat the information received as confidential.
- (d) If required by the party, providing the information, prior to disclosure of that information to any third party, the receiving party must procure that each person to whom the information is to be disclosed executes a confidentiality agreement in favour of party providing the information (on the terms reasonably required by party providing the information) that it will keep the information confidential in accordance with that agreement.
- (e) Nothing in clause 3.1(c) or 3.1(d) applies if the party receiving (or that has received) the information under clause 3.1(a) requests the party providing (or that has provided) the information to consent to the information's external disclosure and the latter party gives that consent in writing. A party whose consent is requested must not unreasonably withhold that consent. **The parties agree that withholding consent based on:**
- (i) the confidential nature of Commonwealth project, commercial sensitivity or confidential obligations to a third party; or
  - (ii) information being such information which will be released by ARTC to the public in due course,
- will not be unreasonable. The Asset Owner agrees that no detailed design documentation may be disclosed.
- (f) Each party acknowledges that this Agreement does not confer on any party any rights of ownership in any information provided under this Agreement (including under clause 3.1) and, without limiting clause 3.1(g), all intellectual property rights (including copyright) in such information remain unaffected by this Agreement.
- (g) Each party that receives information under this Agreement (including under clause 3.1) is granted a licence by the party providing the information to use that information for the purpose of complying with its obligations under this Agreement and:
- (i) in the case of ARTC, for any purpose associated with the Project: and
  - (ii) in the case of Asset Owner, for the operation and maintenance of the Returned Works.

- (h) The licence granted under clause 3.1(g) will be a non-exclusive, irrevocable and royalty free licence to use (including to sublicense others to use) the information for the purposes set out in clause 3.1(g).

### 3.2 Disclaimer

- (a) The parties acknowledge that they have not:
  - (i) made any representation;
  - (ii) given any information or advice; or
  - (iii) given any warranty,of any kind in respect of any information supplied or made available by them under or in connection with this Agreement.
- (b) Each party acknowledges and agrees, that they will not be liable to each other for or in connection with matters in respect of which it has reviewed documents, provided information or given comments or consent under or in connection with this Agreement.
- (c) The parties waive any Claim they may have against each other in respect of any matter referred to in clauses 3.2(a) or 3.2(b).

### 3.3 Operational Meetings

- (a) Asset Owner will be invited to attend meetings between ARTC and any ARTC Contractor, for any part of such meeting during which any issues relating to the Project Activities relevant to the Asset or safety matters in respect of the Asset are discussed (Interface Matters).
- (b) Asset Owner will arrange, at the request of ARTC, for its Senior Representative to attend any such meetings (to which ARTC may invite attendees) to discuss any issues relating to Interface Matters.
- (c) ARTC will provide at least 5 Business Days prior notice of any such meeting to Asset Owner and any such meeting must be held on a Business Day during normal business hours and the parties must work together to agree a mutually convenient day, time and location on a day and at a venue which the Asset Owner has confirmed are convenient to it.

### 3.4 Monitoring Meetings

- (a) ARTC will arrange for meetings to be held monthly (or such other period as agreed by the parties) on and from commencement of the Project Activities between Senior Representatives of Asset Owner, ARTC and the relevant member or members of any ARTC Contractor to review the progress, monitoring and management of Interface Matters and to discuss and resolve any matters of concern in relation to or arising out of those matters including any breach of this Agreement by any party or matters of concern (including in relation to public health and safety, workplace health and safety, emergencies, property damage or traffic management).
- (b) Any party to this Agreement may request a meeting of Senior Representatives and the relevant member or members of the ARTC Contractor (following reasonable notice) to deal with any matters of material concern to a party.
- (c) Each party will use reasonable endeavours to ensure that its Senior Representative attend any such meetings under this clause or, if that person is not available, a person who has equivalent power and authority to make decisions in relation to the relevant matter attends such meetings.
- (d) ARTC must take all reasonable steps to ensure that the relevant member or members of any ARTC Contractor attend any such meetings if so requested.
- (e) ARTC will attend, and will procure that a relevant member of any ARTC Contractor will attend, any meeting about, or that part of any meeting about, the performance of the Project Activities required by Asset Owner provided that Asset Owner provides at least 5 Business Days prior notice of any such meeting.

## 4. Design and construction

### 4.1 Design Documentation

The provisions in Schedule 8 apply where so stated in item 12 of Schedule 1.

### 4.2 Construction Environmental Management Plan

- (a) Prior to commencement of construction of the Works, ARTC will provide to Asset Owner extracts of the Construction Environmental Management Plan for each stage of construction (in a self-contained package which is, where reasonable to do so, capable of interpretation without reference to other material):
- (i) detailing the proposed work methods for the Project Activities; and
  - (ii) detailing the proposed management of the impact of the Project Activities on the capacity and performance of the use of the Asset,
- to the extent only that they relate to the Project Activities.
- (b) If the Construction Environmental Management Plan requires other material for interpretation and it is not reasonable to provide it in a self-contained package, then ARTC must provide such material to Asset Owner at the same time as it provides the extracts of the relevant plan.
- (c) Subject to clause 4.2(d):
- (i) Asset Owner may, within 15 Business Days of receipt of such extracts, provide to ARTC its written comments on the extract Construction Environmental Management Plan;
  - (ii) if Asset Owner does not make any comments within 15 Business Days it will be deemed to have accepted the Construction Environmental Management Plan;
  - (iii) ARTC will ensure that the Construction Environmental Management Plan is amended to take account the comments provided by Asset Owner pursuant to clause 4.2(c)(i) and the amended plan will then be deemed to be accepted by Asset Owner; and
  - (iv) ARTC will ensure that any ARTC Contractor complies with the Construction Environmental Management Plan which is deemed to be approved by Asset Owner.
- (d) Asset Owner acknowledges and agrees that it is only entitled to make comments under clause 4.2(c) on the extract of the Construction Environmental Management Plan provided pursuant to clause 4.2(a) to the extent that it does not comply with the Works Description.
- (e) If any Construction Environmental Management Plan in respect of which Asset Owner is entitled to comment is amended after it has been deemed to have been approved by Asset Owner in accordance with this clause 4.2:
- (i) ARTC must provide a copy of the relevant amended Construction Environmental Management Plan; and
  - (ii) ARTC and Asset Owner acknowledge and agree that clauses 4.2(c) and 4.2(d) will reapply.

### 4.3 Road Use and Degradation

The parties acknowledge and agree that ARTC and each ARTC Contractor will use local roads owned and controlled by Asset Owner in accordance with Schedule 12 and this agreement.

### 4.4 Construction

ARTC will ensure that each ARTC Contractor carries out the Returned Works:

- (a) in accordance with the Design Documentation and the Works Description and in a manner which minimises any damage to or interference with the Asset; and
- (b) in accordance with this Agreement.

## 4.5 Asset Owner's Personnel

- (a) Asset Owner must ensure that the individuals nominated by Asset Owner and listed in item 16 of Schedule 1 in the positions specified in item 16 of Schedule 1 are used to review and make comments on the Design Documentation.
- (b) Asset Owner must:
  - (i) subject to clause 4.5(b)(ii), not replace the individuals referred to in clause 4.5(a) without ARTC's prior written approval, which will not be unreasonably withheld; and
  - (ii) if any of the individuals referred to in clause 4.5(a) dies, becomes unable to continue in their positions due to illness or resigns from the employment of Asset Owner, replace them with personnel of at least equivalent experience, ability, knowledge, and expertise approved by ARTC.

## 5. The Land

### 5.1 Access to the Land

- (a) This clause 5 only applies to the extent that ARTC is given access to the Land by Asset Owner.
- (b) If ARTC has entered into any Land Access Arrangements, ARTC must comply with its obligations under the Land Access Arrangements.

### 5.2 Reinstatement of the Land

- (a) Subject to any contrary obligations in any Land Access Arrangements, after ARTC no longer requires access to the Land, ARTC must ensure that the Land is reinstated at least to the condition existing at the time it was first provided with access to the Land.
- (b) Subject to any contrary obligations in any Land Access Arrangements and without limiting the generality of clause 5.3, ARTC must:
  - (i) at its cost, ensure that the Land, is reinstated by an ARTC Contractor as soon as reasonably practicable at least to the condition existing at the time of commencing any Project Activities; and
  - (ii) in addition to its obligations under clause 2.10 (if any), arrange joint condition inspections of the Land by Asset Owner and ARTC (with any ARTC Contractor entitled to attend as observers if they so request) for the purpose of establishing the condition of the Land:
    - A. immediately prior to the first commencement of the Project Activities;
    - B. following the date of construction completion of the Works; and
    - C. otherwise at a mutually agreed inspection frequency.

### 5.3 Contamination

- (a) If ARTC or an ARTC Contractor causes, contributes to or uncovers any Contamination in, on or under the Land, ARTC must, or must procure the ARTC Contractor to:
  - (i) immediately notify any relevant Government Agency as required by Law;
  - (ii) promptly notify Asset Owner;
  - (iii) comply with all relevant obligations under any Land Access Arrangements.
- (b) Where ARTC or an ARTC Contractor gives a notice under clause 5.3(a) in circumstances where the Contamination was caused by ARTC or an ARTC Contractor, ARTC must, or must procure the ARTC Contractor to:
  - (i) as soon as reasonably practicable, dispose of, or otherwise deal with, such Contamination in accordance with Law; and

- (ii) remediate the contaminated Land to the standard required by Law, to the extent to which:
  - A. the Land is in any way degraded by the Contamination caused by ARTC or an ARTC Contractor; or
  - B. the Contamination is of such a nature that a Government Agency could issue a notice under Law requiring it to be remediated.

## 6. Completion

### 6.1 Process

- (a) Asset Owner acknowledges and agrees that, when either ARTC or an ARTC Contractor considers that the Returned Works have achieved Completion:
  - (i) ARTC will notify Asset Owner in writing that the Returned Works have achieved Completion; and
  - (ii) Asset Owner must:
    - A. jointly inspect the Returned Works with any ARTC Contractor and ARTC at a mutually convenient time within 10 Business Days of receiving the notice in accordance with clause 6.1(a)(i); and
    - B. ensure that appropriately qualified staff are available to carry out the inspection within such period of time; and
- (b) Within 5 Business Days of inspecting the relevant Returned Works pursuant to clause 6.1(a)(ii), Asset Owner must give a notice to ARTC stating:
  - (i) that Asset Owner is satisfied that the Returned Works have achieved Completion; or
  - (ii) if the relevant Returned Works have not achieved Completion, the items which it believes remain to be completed.
- (c) If Asset Owner has given a notice under clause 6.1(b)(i), ARTC will issue a Certificate of Completion for the Returned Works (**Certificate of Completion – Schedule 13**).
- (d) If Asset Owner has:
  - (i) given a notice under clause 6.1(b)(ii);
  - (ii) not given a notice within the timeframe required by clause 6.1(b)(i),then ARTC:
  - (iii) if there are items which remain to be completed, will cause any relevant ARTC Contractor to attend to the items which remain to be completed; or
  - (iv) if ARTC or an ARTC Contractor considers that the Returned Works have achieved Completion (and there are no items which remain to be completed), may request that the Project Independent Verifier jointly inspects the Returned Works with Asset Owner, any ARTC Contractor and ARTC at a mutually convenient time within 5 Business Days of receiving ARTC's request.
- (e) Within 10 Business Days of inspecting the relevant Returned Works pursuant to clause 6.1(d)(iv), the Project Independent Verifier must provide a notice to ARTC and the Asset Owner stating:
  - (i) that the Project Independent Verifier is satisfied that the Returned Works have achieved Completion; or
  - (ii) if the relevant Returned Works have not achieved Completion, the items which it believes remain to be completed.
- (f) If the Project Independent Verifier has issued:
  - (i) a notice under clause 6.1(e)(i), ARTC will issue a Certificate of Completion for the Returned Works; or

- (ii) a notice under clause 6.1(e)(ii), ARTC will cause any relevant ARTC Contractor to attend to the items which remain to be completed.
- (g) Any determination of the Project Independent Verifier will, in the absence of manifest error, be final and binding upon the parties to this Agreement.

## 6.2 Handover

- (a) Once ARTC issues a Certificate of Completion for the Returned Works, then:
  - (i) within 5 Business Days, ARTC Contractor will advise the date upon which the Returned Works will be handed over to Asset Owner; and
  - (ii) the date advised in accordance with clause 6.1(d)(i) must be no earlier than the date, which is 5 Business Days, and no later than the date that is 15 Business Days, after the date on which the ARTC issues the Certificate of Completion for the Returned Works.
- (b) Ownership of the Returned Works will vest in Asset Owner upon handover in accordance with clause 6.2(a).

## 6.3 Management of the opening of the Project

This clause 6.3 applies to the extent any part of the Works is on, or passes over, the Asset.

ARTC must notify Asset Owner 20 Business Days prior to the commissioning of the Works with a view to Asset Owner and ARTC implementing appropriate procedures in respect of the commissioning and operation of the Works.

## 6.4 Defects Correction Period

- (a) Asset Owner acknowledges that the Returned Works are subject to a Defects Correction Period.
- (b) If at any time during the Defects Correction Period Asset Owner identifies a Defect in the Returned Works, it may give a notice requiring ARTC to rectify the Defect.
- (c) If there is a Defect in the Returned Works and Asset Owner gives ARTC a notice under clause 6.4(b), ARTC must in respect of any Defect for which it is given a notice under clause 6.4(b) rectify or procure an ARTC Contractor to rectify the Defect.
- (d) ARTC will provide Asset Owner with the documents specified in item 2 of Schedule 1 before the end of the Defects Correction Period for the Returned Works.

## 6.5 Appointment of Project Independent Verifier

- (a) ARTC will engage the Project Independent Verifier to perform the functions required under clause 6.1(e), and in doing so must:
  - (i) engage the Project Independent Verifier on terms that require the Project Independent Verifier to act independently and not as an agent of ARTC, the relevant ARTC Contractor or Asset Owner; and
  - (ii) procure that the Project Independent Verifier provides Asset Owner with a deed poll in the form of Schedule 14.
- (b) ARTC will pay the fees, costs and expenses of the Project Independent Verifier for the services and functions performed by the Project Independent Verifier in accordance with this Agreement.
- (c) Asset Owner acknowledges that the Project Independent Verifier may also be the Project Independent Verifier (or be performing an otherwise similar function) in respect of other projects for the Inland Rail Program.

## 7. Liability

### 7.1 Liability and indemnity

- (a) Subject to clauses 7.1(b) and 7.2, ARTC must indemnify Asset Owner from and against any Claim or Loss suffered or incurred by Asset Owner in respect of:
- (i) any injury to, or death of, persons; and
  - (ii) the loss of (whether total or partial) or destruction or damage to, any real or personal property of any person (including Asset Owner),
- caused by, arising out of or in any way in connection with any negligent act or omission by ARTC (including any wilful misconduct of ARTC) or any breach of this Agreement by ARTC.
- (b) Any amount claimed by Asset Owner pursuant to the indemnity in this clause 7.1 will be reduced proportionally to the extent the Loss or Claim arises from a negligent act or omission of Asset Owner or one of its employees, agents or contractors or a breach of this Agreement by Asset Owner.

### 7.2 Limitation of Liability

- (a) Subject to clause 7.2(b), ARTC's total aggregate liability in respect of any Claim or Loss suffered or incurred by Asset Owner arising out of or in any way in connection with this Agreement, the Works, or the Project Activities, is limited to the amount that ARTC recovers in respect of any Claim or Loss under a policy of insurance that ARTC is required to effect and maintain under this Agreement.
- (b) Clause 7.2(a) does not limit ARTC's liability under clause 8.
- (c) The ARTC Contractor will enter into a deed poll in a form substantially similar to the form of Schedule 6 in accordance with the provisions of clause 2.3(e), in terms of which the Asset Owner is indemnified in respect of any Claim or Loss suffered or incurred by Asset Owner arising out of or in any way in connection with this Agreement, the Works or the Project Activities subject to the limitation set out in the deed poll.

### 7.3 Survival

This clause 7 shall survive the termination or expiry of this Agreement for any reason.

## 8. Asset Owner Costs

### 8.1 ARTC liable to pay costs

Where approved in accordance with clause 8.2, ARTC must pay Asset Owner's reasonable direct and actual costs incurred:

- (a) in performing its obligations under this Agreement; and
- (b) for the use of Asset Owner's internal resources and external consultancy costs for reviewing Design Documentation,

in each case up to but not exceeding the budget approved under clause 8.2 (**Asset Owner Costs**).

### 8.2 ARTC approval

The parties agree that ARTC will not be liable to pay Asset Owner for any of the Asset Owner Costs referred to in clause 8.1, unless:

- (a) in the case of the costs relating to the use of Asset Owner's internal resources:
  - (i) ARTC and Asset Owner have agreed upon the stages of design review for which ARTC will pay Asset Owner for the use of Asset Owner's internal resources; and



- (ii) Asset Owner has prepared a budget and monthly forecast for this design review using the applicable hourly and daily rates set out in Item 13 of Schedule 1 and ARTC has approved this budget and monthly forecast; and
- (b) in the case of the external consultancy costs, ARTC has (in its absolute discretion) agreed in writing that it is necessary for Asset Owner to directly engage external resources to supplement its internal resources to review the Design Documentation (rather than ARTC engage those resources on behalf of Asset Owner) and ARTC has approved:
  - (i) the scope of the work for which it is prepared to reimburse Asset Owner for the use of these external resources;
  - (ii) the hourly and daily rates that are to be paid; and
  - (iii) the budget for this scope of work.

### 8.3 Invoice

- (a) Invoices for the Asset Owner Costs will be sent by Asset Owner to ARTC at not less than four weekly intervals and must only include amounts for which Asset Owner is entitled to claim payment pursuant to clauses 8.1 and 8.2.
- (b) Asset Owner must provide ARTC with each invoice:
  - (i) itemised particulars of the Asset Owner Costs;
  - (ii) a certificate from Asset Owner that the Asset Owner Costs incurred are true and accurate; and
  - (iii) a forecast of the Asset Owner Costs likely to be incurred in the following month.

### 8.4 Payment

- (a) ARTC must pay that part of the amount of each invoice for the Asset Owner Costs which ARTC does not dispute are payable, within 30 days from the date of the invoice.
- (b) If an amount is disputed by ARTC, it will pay the undisputed amount in accordance with clause 8.4(a) and will notify Asset Owner in accordance with clause 11 of the disputed amount. The dispute will be a dispute for the purposes of clause 11 and clause 11 will apply.

### 8.5 Expenses

ARTC must pay Asset Owner its reasonable legal costs and expenses in connection with negotiating, preparing and executing this Agreement, up to a maximum of \$15,000 (excluding GST).

## 9. Insurance

- (a) ARTC must take out, or it must ensure that the ARTC Contractor takes out, all appropriate insurances in connection with the Works as set out in Schedule 5 (**Insurances**).
- (b) Prior to commencement of the Project Activities, ARTC must provide evidence that the Insurances are in full force and effect and in accordance with the requirements in Schedule 5.
- (c) ARTC must ensure:
  - (i) the Insurances remain in existence for the period specified in Schedule 5 (Insurances); and
  - (ii) that such Insurances are not materially amended or varied in any manner which would prejudice the position of Asset Owner as an insured.

## 10. Confidentiality

### 10.1 General restriction

Subject to clause 10.2, neither Asset Owner nor ARTC will, at any time, without the consent of the other party, divulge or suffer or permit its servants, consultants or agents to divulge to any person (other than to an ARTC Contractor or any other contractor engaged by ARTC in respect of the Works and their officers, employees, consultants, advisers and agents who require such reports, studies, information and data to enable them properly to carry out their duties):

- (a) any contract entered into by ARTC relating to the Works (other than this Agreement)
- (b) any information relating to the negotiations concerning this Agreement;
- (c) any information provided by one party to the other under or in connection with this Agreement; or
- (d) any information which may have come to a party's knowledge in the course of such negotiations or otherwise concerning the dealings, transactions, contracts, commercial or financial arrangements or affairs of the other parties.

### 10.2 Exceptions

The restrictions imposed by clause 10.1 will not apply to the disclosure of any information:

- (a) which is now or hereafter comes into the public domain (other than as a result of a breach of clause 10.1) or which is obtainable with no more than reasonable diligence from sources other than the parties;
- (b) which is required to be disclosed by law or the Listing Rules of the Australian Stock Exchange Limited (if applicable);
- (c) which in the case of ARTC, is required to be made to its shareholding Ministers and any persons within their relevant Departments provided that the recipients of the information shall not disclose the information, except as permitted by this Agreement;
- (d) which, in the case of the Asset Owner, is required to be made to the Councillors for the purpose of approving this Agreement or any action taken hereunder, provided that the recipients of the information shall not disclose the information, except as permitted by this Agreement;
- (e) to a court, arbitrator or administrative tribunal in the course of proceedings before it or him to which the disclosing party is a party or to an expert in the course of any determination by him to which the disclosing party is a party; or
- (f) which, in the reasonable opinion of the applicable party, is required to be disclosed to:
  - (i) any actual or prospective investor in or lender to (or assignee or novatee of a lender to) the party;
  - (ii) any insurer in respect of the Works or any insurer of the Asset; or
  - (iii) any of applicable party's officers, employees, professional advisers, auditors and consultants.
- (g) Before disclosing any information as required under subclause 10.2(b), the Asset Owner must take reasonable steps to the extent permitted by law or regulation to notify ARTC and to give ARTC opportunity to defend the requirement for the disclosure or to minimise the effect of the disclosure.

### 10.3 Publicity

- (a) Subject to clause 10.3(c), Asset Owner shall not issue any information, publication, document, or article for publication concerning the Project Activities in any media without prior written approval of ARTC and only in a manner approved by ARTC.

- (b) Subject to clause 10.3(c), if Asset Owner receives a direct request from the media for comment in respect of any aspect of the Project Activities, Asset Owner must promptly provide details of such request to ARTC.
- (c) Asset Owner may provide information to the public in relation to closures of the Asset or other traffic adjustments as a result of the Project Activities in a timely manner and by such methods as it considers appropriate and ARTC must not provide any such information to the public without prior consultation with Asset Owner.

## 11. Dispute Resolution

### 11.1 Disputes

- (a) This clause 11 applies to any dispute or difference arising between the parties in relation to:
  - (i) this Agreement or its interpretation;
  - (ii) any right or liability under this Agreement; or
  - (iii) any act or omission by a party under or arising out of or in connection with this Agreement, the Works, or the Project Activities, whether before or after its termination,(each a **Dispute**).
- (b) A party claiming that a Dispute has arisen shall notify the other party in writing, specifying the details of the Dispute, including:
  - (i) particulars of the party's reasons for being dissatisfied;
  - (ii) the position which the party believes is correct; and
  - (iii) the value of the amount in Dispute (if relevant).
- (c) Disputes that may arise between the parties are to be resolved at the lowest possible level within the management structure of each party, and escalated in accordance with the following escalation procedure:
  - (i) each party must refer the Dispute to the relevant managers at each party responsible for the matter in Dispute and use its best efforts by undertaking genuine and good faith negotiations with a view to resolving the Dispute within 14 days following the notification of the Dispute or such longer period as agreed between the parties;
  - (ii) in the event that the managers fail to resolve the Dispute within 14 days, the parties should refer the Dispute to the Senior Representatives for consideration and to undertake further genuine and good faith negotiations with a view to resolving the Dispute within 14 days following the referral or such longer period as agreed between the parties; and
  - (iii) in the event that the Senior Representatives fail to resolve the Dispute within 14 days, then the parties should refer the Dispute to their Chief Executive Officer.

### 11.2 Continuance of performance

Despite the existence of a Dispute, the parties will continue to perform their respective obligations under this Agreement.

## 12. Termination for convenience

- (a) Without prejudice to any of ARTC's other rights under this Agreement, ARTC may at any time for its sole convenience, and for any reason, by written notice to Asset Owner terminate this Agreement effective from the time stated in ARTC's notice or if no such time is stated, at the time the notice is given to Asset Owner.
- (b) If ARTC terminates this Agreement under this clause 12, ARTC must within the required time (or, if no time is specified, within a reasonable time):

- (i) comply with any relevant obligations in any Land Access Arrangements;
- (ii) comply with clauses 4.3, 5.3 and Schedule 4 (and section 4 of Schedule 4 will apply as if Completion had occurred);
- (iii) without limiting its obligations under clause 12(b)(ii):
  - A. reinstate those Assets in relation to which any of the Works has been commenced to at least the condition existing at the commencement of this Agreement; and
  - B. make safe the Returned Works and the land used or disturbed by ARTC in the course of the Returned Works; and
- (iv) pay Asset Owner any amounts which would otherwise have been payable under clause 8 had the Agreement not been terminated.

## 13. Notices

- (a) Any notice, demand, consent, approval, claim or communication (**Notice**) to be given or served under or arising out of a provision of this Contract must be in writing and may be delivered by hand or sent by prepaid post or by mail, through Aconex in a manner which fully complies with the Inland Rail Program Aconex User Guide, as the case may be, to the relevant address or mail address:
  - (i) stated in item 14 of Schedule 1; or
  - (ii) last notified in writing to the party giving the Notice,
  - (iii) for the party to whom or upon which the Notice is to be given or served.
- (b) For the avoidance of doubt, a Notice sent by mail is not a valid Notice for the purpose of this Contract unless the Notice has been sent by Aconex in the manner referred to in clause 13(a).
- (c) A notice delivered or sent in accordance with clause 13(a) will be deemed to have been given and received:
  - (i) if delivered, upon receipt; and
  - (ii) if posted, 3 days after posting.

## 14. General

### 14.1 Entire agreement

This Agreement represents the entire agreement between the parties in respect of its subject matter and supersedes all prior agreements, representations, warranties, promises, statements, negotiations, and letters in respect of its subject matter.

### 14.2 Further acts

Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by Law or reasonably requested by any other party to give effect to this Agreement.

### 14.3 Jurisdiction

- (a) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of State or Territory specified in item 7 of Schedule 1, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating in any way to this Agreement.
- (b) Each party irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, where that venue falls within clause 14.3(a).

#### 14.4 Amendments

This Agreement may only be varied by a document signed by or on behalf of each of the parties.

#### 14.5 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by Law or under this Agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by Law or under this Agreement.
- (b) Except as expressly provided in this Agreement, any waiver or consent given by any party under this Agreement will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this Agreement will operate as a waiver of another breach of that term or of a breach of any other term of this Agreement.

#### 14.6 Consents

Any consent or approval referred to in, or required under, this Agreement may be given or withheld, or may be subject to any conditions as the relevant party (in its absolute discretion) thinks fit, unless this Agreement expressly provides otherwise.

#### 14.7 Agreement does not affect operation of statutes

- (a) The parties acknowledge and agree that nothing in this Agreement will in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of a party to this Agreement in the exercise of any of its functions and powers pursuant to any Law. The rights and powers conferred by this Agreement upon a party are in addition to the statutory rights and powers of that party.
- (b) To the extent of any inconsistency between this clause 14.7 and any other provision of this Agreement, this clause prevails.

#### 14.8 Assignment

- (a) A party must not assign or transfer its interest under this Agreement without the prior consent of the other parties.
- (b) A party (the **Consenting Party**) must not withhold its consent to an Assignment of the other party's interest under this Agreement if the other party (the **Assignor**) first makes an application to the Consenting Party for consent and the Assignor demonstrates to the Consenting Party's reasonable satisfaction that the proposed assignee is a respectable, responsible and solvent person who is capable of performing all of the obligations in this Agreement to be performed on the part of the Assignor.

#### 14.9 Indemnities

- (a) Any indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion, or expiration of this Agreement.
- (b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this Agreement.
- (c) A party must pay on demand any amount it must pay under any indemnity in this Agreement.

## 14.10 Counterparts

This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart.

## 14.11 GST

- (a) Notwithstanding any other provision of this Agreement, any amount payable for a supply made under this Agreement which is calculated by reference to a cost, expense or other amount (including GST) paid or incurred by a party will be reduced by an amount equal to any input tax credits to which that party is entitled to in respect of that cost, expense or other amount. Each of the parties will be assumed to be entitled to full input tax credits unless they provide evidence to the other parties to the contrary.
- (b) If GST becomes payable on any supply made by a party (**Supplier**) under this Agreement:
- (i) unless indicated otherwise, any amount payable under any other provision of this Agreement for that supply (**Agreed Amount**) is exclusive of GST;
  - (ii) to the extent that the consideration for the supply is not expressed as an amount of money, the value of the non-monetary consideration is to be treated as inclusive of GST; and
  - (iii) an additional amount will be payable by the party providing consideration for that supply (**Recipient**), equal to the amount of GST payable on that supply as calculated by the Supplier in accordance with the GST law and payable at the same time and in the same manner as for the Agreed Amount,

provided that the Recipient will not be required to pay an additional amount until the Supplier has provided a tax invoice (or equivalent documentation which complies with the GST law) to the Recipient in respect of that supply.

- (c) If, for any reason, the GST payable by the Supplier in respect of a supply it makes under this Agreement (incorporating any increasing adjustments or decreasing adjustments relating to that supply) varies from the additional amount it receives from the Recipient under clause 14.11(b) in respect of that supply, the Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). Where an adjustment event occurs in relation to a supply, the Supplier will issue an adjustment note to the Recipient in respect of that supply within 10 Business Days after becoming aware of that adjustment event occurring.
- (d) If the Recipient is dissatisfied with any calculation to be made by the Supplier under this clause, the Recipient may, at its own expense and after notifying the Supplier accordingly, refer the matter to an independent expert nominated by the President of the Institute of Chartered Accountants for expert determination, which will be final and binding on all parties (absent manifest error). The expert will act as an expert and not as an arbitrator and will take into account the terms of this Agreement, the matters required to be taken into account by the Supplier under this clause and any other matter considered by the expert to be relevant to the determination. The parties must release the expert from any liability in acting as an expert, except in the case of fraud on the part of the expert.
- (e) The right of the Supplier to recover any additional amount in respect of GST under this clause is subject to the issuing of the relevant tax invoice or adjustment note to the Recipient within 4 years of the Supplier's liability to pay that GST arising.
- (f) The parties must use their best endeavours to determine the mutually acceptable GST inclusive market value of any non-monetary consideration provided for supplies made under this Agreement to be included in tax invoices to be issued to the Recipient of the relevant supply.

#### 14.12 Survival

- (a) Any clause which is expressly provided to survive termination or expiry of this agreement, or any clause which by its nature is intended to survive termination or expiry of this agreement, shall survive such expiry or termination.

## Schedule 1 – Particulars

1.	<b>Asset (clause 1.1)</b>	Asset Owner assets impacted by the Project are listed in Schedule 2
2.	<b>Documents to be provided to Asset Owner (clause 6.3)</b>	A copy of 'as built' drawings in a format agreed at Item 18 of Schedule 1
3.	<b>Planning Approval (clause 1.1)</b>	"Inland Rail - Beveridge to Albury Incorporated Document (GC 157) and any additional relevant planning approvals that are required to support the delivery of the Inland Rail Project in Victoria"
4.	<b>Project (clause 1.1)</b>	Tottenham to Albury (T2A Tranche 2) of the Inland Rail Program. (Project)
5.	<b>Senior Representatives (clause 1.1)</b>	<b>Asset Owner:</b> John Harvey Director Sustainable Infrastructure  <b>ARTC:</b> Christian Rogers – Senior Project Manager Phone: 0400 513 179 Email: CRogers@ARTC.com.au
6.	<b>Works (clause 1.1)</b>	Works are described in Schedule 10.
7.	<b>Relevant State or Territory (clause 1.1, 1.3 and clause 14.3)</b>	VIC
8.	<b>Does clause 2.3(e) apply (clause 2.3(e))</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Contractor Deed Poll
9.	<b>Does Schedule 3 apply (clause 2.9)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Monitoring Regime
10.	<b>Does Schedule 4 apply (clause 2.10)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Condition Reports
11.	<b>Does Schedule 7 apply (clause 2.11)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Rail Asset
12.	<b>Does Schedule 8 apply (clause 4.1)</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Design Document Review
13.	<b>Rates for costs payable by ARTC (clause 8)</b>	Refer to Schedule 11
14.	<b>Project Independent Verifier (clause 1.1)</b>	The Independent Verifier as advised by ARTC.



15.	<b>Service of notices (clause 13)</b>	<p><b>Asset Owner Representative:</b></p> <p>(a) John Harvey – Director Sustainable Infrastructure by hand or prepaid post PO Box 177, Euroa, 3666</p> <p>(b) by mail through Aconex</p> <p>All transmittals must be sent to the ARTC Representative via the Asset Owner document controller assigned to the Project as notified by Asset Owner to ARTC from time to time.</p> <p><b>ARTC Representative:</b></p> <p>Christian Rogers – Senior Project Manager</p> <p>(a) by hand or prepaid post ARTC Level 16 180 Ann Street Brisbane QLD 4000</p> <p>(b) by mail through Aconex</p> <p>All transmittals must be sent to the Asset Owner Representative via the ARTC document controller assigned to the Project as notified by ARTC to Asset Owner from time to time.</p>	
16.	<b>Asset Owner’s Personnel (clause 4.5(a))</b>	<b>ROLE</b>	<b>NAME</b>
		<Insert details>	<Insert details>
17.	<b>Design Documentation Standard (Schedule 8)</b>	Refer to Schedule 10	
18.	<b>Format of Design Documentation (Schedule 8)</b>	<b>DESIGN DOCUMENTATION</b>	<b>“AS BUILT” DESIGN DOCUMENTATION</b>
		PDF	CAD; ACDC of all Returned Works

## Schedule 2 – Asset Owner Assets

This schedule documents all assets owned by Strathbogie Shire Council that will be impacted by the delivery of the T2A project as part of the Inland Rail program.

These assets are represented in the tables below grouped by “Asset Type”. Details of Returned Works post construction are shown in Schedule 10.3 – Returned Works.

**Road Works**

DESCRIPTION	LOCATION	WORKS REQUIRED	REFERENCE DRAWINGS
Railway St connection onto Anderson St Bridge	Between Railway St and Anderson St	Bridge/road connection to be removed	Drawings to be provided once the design is further developed
Council Car Park	Adjacent platform off Railway St	To be incorporated into the station precinct parking/vehicle access design including tie-in to Railway St	Drawings to be provided once the design is further developed
Elliot St termination	South of Scott St	With a new underpass constructed, the southern Elliot St connection to Scott St will not be able to be retained. This section of Elliot St will be terminated in a dead end with turn-around facility	Drawings to be provided once the design is further developed
Detour route during Anderson Street Construction	Proposed detour route via Brock St/Birkett St	Upgrade of Council roads to accommodate detour traffic during construction of Anderson Street. Exact road/s to be confirmed during further design phases.	Drawings to be provided once the design is further developed

**Utilities – Details of Utilities impacted by the works will be developed through design phases**

UTILITY SPECIFIC ID	TYPE	CHAINAGE (KM)	UTILITY DESCRIPTION	TREATMENT	NEW UTILITY	LENGTH OF NEW UTILITY + CABLE (M)	PERMANENT PROTECTION OF UTILITY?	LENGTH OF PROTECTION (M)	LENGTH OF ABANDONED (M)	COMMENT

**Structures – No council structures identified as impacted**

STRUCTURE	LOCATION	WORKS REQUIRED	REFERENCE DRAWINGS

**Other Assets**

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DESCRIPTION	LOCATION	WORKS REQUIRED	REFERENCE DRAWINGS
<b>Footpaths and pedestrian underpasses</b>	Project Area	General works to footpaths and pedestrian underpasses that are affected within the project works area	Drawings to be provided once the design is further developed
<b>Other Ancillary Assets (i.e. drainage modification, street lighting, car parking)</b>	Project Area	Detail to be defined through Preliminary and Detailed design phases	Drawings to be developed through Preliminary and Detailed Design Stages

### Schedule 3 – Monitoring Regime

ARTC's Contractor will implement a Monitoring Regime in accordance with their Conditions of Approval.

## Schedule 4 – Condition Reports

### 1. Definitions

In this Schedule 4:

**Condition Consultant** means the consultant appointed by ARTC or its Contractor to prepare the Condition Survey Plan and to carry out the Initial Condition Report and the Dilapidation Survey.

**Dilapidation Survey** means the survey referred to in clause 4.

**Infrastructure** means Assets

**Initial Condition Report** means the report referred to in clause 3.

### 2. Condition Consultant

- (a) Prior to the commencement of any Works, ARTC or its Contractor will appoint the Condition Consultant who will, at ARTC's expense, prepare: the Initial Condition Report; and
- (b) the Dilapidation Surveys.

### 3. Initial Condition Report

- (a) Prior to any Works being carried out, ARTC or its Contractor must instruct the Condition Consultant to inspect the Infrastructure and prepare a report detailing the condition of the Infrastructure.
- (b) ARTC or its Contractor must instruct the Condition Consultant to:
  - (i) provide a draft of the Initial Condition Report to ARTC and Asset Owner for comment; and
  - (ii) take into account ARTC and Asset Owner's comments on the draft Initial Condition Report and to incorporate such of those comments in a further draft of the Initial Condition Report as the Condition Consultant considers appropriate and provide a copy of the further draft Initial Condition Report to ARTC and Asset Owner for approval.
- (c) ARTC and Asset Owner must provide any comments on the draft of the Initial Condition Report to the Condition Consultant within 20 Business Days of receipt of the report under clause 3(b)(i).
- (d) ARTC and Asset Owner must consult and act reasonably in order to promptly agree the draft Initial Condition Report. If the draft Initial Condition Report is not agreed within:
  - (i) 20 Business Days of Asset Owner first being provided with a copy of the draft Initial Condition Report under clause 3(b)(i); or
  - (ii) 10 Business Days of Asset Owner first being provided with a copy of the revised Initial Condition Report under clause 3(b)(ii),
 the matters in dispute may be referred by either Asset Owner or ARTC for determination in accordance with clause 11.
- (e) The Initial Condition Report for the purposes of this Agreement will be the draft Initial Condition Report agreed by Asset Owner and ARTC pursuant to clause 3(d) or determined in accordance with clause 11.
- (f) Asset Owner and ARTC agree that the Initial Condition Report will accurately record the condition of the relevant Infrastructure prior to the carrying out of the Works.
- (g) ARTC must ensure that no Works are carried out until the Initial Condition Report is agreed by Asset Owner and ARTC pursuant to clause 3(d) or determined in accordance with clause 11.

### 4. Dilapidation Survey

- (a) As soon as reasonably practicable following completion of the Works as determined in accordance with Schedule 1, ARTC or its Contractor must instruct the Condition Consultant to inspect the Infrastructure and, if Asset Owner reasonably requires a Dilapidation Survey of one or more of the Infrastructure, the Condition Consultant will prepare a survey detailing the condition of the Infrastructure.
- (b) ARTC or its Contractor must instruct the Condition Consultant to:
  - (i) provide a draft of the Dilapidation Survey to ARTC and Asset Owner; and

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- (ii) take into account ARTC and Asset Owner's comments on the draft Dilapidation Survey and incorporate such of those comments in a further draft of the Dilapidation Survey as the Condition Consultant considers appropriate and provide a copy of the further draft Dilapidation Surveys to ARTC and Asset Owner for approval.
- (c) ARTC and Asset Owner must consult and act reasonably in order to promptly agree the draft Dilapidation Survey. If the draft Dilapidation Surveys is not agreed within a reasonable time of Asset Owner and ARTC first being provided with a copy of the draft Dilapidation Survey, the matters in dispute may be referred by either Asset Owner or ARTC for determination in accordance with clause 11.

## Schedule 5 – Insurance

ITEM	TYPES OF INSURANCES	MINIMUM SUM INSURED	PERIOD OF INSURANCE	INSURANCE COVER IS TO INCLUDE THE FOLLOWING
i	Public Liability	Public Liability \$20,000,000 each and every occurrence.	Until the expiry of the Defects Correction Period	(a) Is with an approved insurer as defined in clause 1 of the Definitions and Notes below; (b) Is governed by the law of State or Territory specified in Schedule 1 and subject to Australian jurisdictions as defined in clause 2 of the Definitions and Notes below; (c) Includes contractors and sub-contractors for their respective rights, interests, and liabilities as an additional insured; and (d) Includes a cross liability clause as defined in clause 3 of the Definitions and Notes below.
ii	Workers Compensation	As per relevant Workers Compensation State legislation.	Annually	As per relevant Workers Compensation State legislation.

### Definitions and Notes:

1. Approved insurer means:
  - (a) an Australian registered insurance company which is approved by the Australian Prudential Regulatory Authority ('APRA') to conduct general insurance business in Australia; or
  - (b) Lloyds Underwriters; or
  - (c) The Comcover insurance scheme for the Australian Federal Government
2. Insurances policies must be subject to the laws of Australia (or an Australian State or Territory) and their courts.
3. A Cross liability clause operates as if there was a separate policy of insurance covering each of the insured. This means that the insurer provides each party named on the insurance policy access to the limit of liability, subject to the overall limit under the policy not being exceeded.
4. References in this Insurance Schedule to the “contractor” and the “contract” are to be interpreted to harmonise with the terminology used in the contract in which this Insurance Schedule is used (eg “ARTC Contractor” and “Agreement” or as the case may be).



## Schedule 6 – Contractor Deed Poll

### This Deed Poll is made on

Given by: <Insert details> (ABN<insert number>) of <insert address> (ARTC Contractor).

In favour of: <Insert details> (ABN<insert number>) of <insert address> (Beneficiary)

### Background

- A. ARTC and the Beneficiary entered into the Master Inland Rail Development Agreement on or about <choose date> (the **MIRDA**).
- B. ARTC and the ARTC Contractor entered into the Construction Contract on or about <choose date> (the **Construction Contract**).
- C. Pursuant to the Construction Contract the ARTC Contractor is required to enter into this Deed Poll in favour of the Beneficiary.

### Operative provisions

#### 1. Interpretation

Terms defined in the MIRDA have the same meanings when used in this Deed Poll unless otherwise expressly defined in this Deed Poll.

#### 2. Benefit of warranties and acknowledgements

The ARTC Contractor acknowledges and agrees that each promise, warranty, undertaking, representation, and acknowledgement made by the ARTC Contractor in the Construction Contract is made for the benefit of and is directly enforceable by the Beneficiary.

#### 3. Obligations under Construction Contract

The ARTC Contractor warrants that it will comply with its obligations under the Construction Contract to the extent that they relate to the Project Activities and the Works.

#### 4. Indemnity

The ARTC Contractor must indemnify the Beneficiary against:

- (a) any loss of or damage to property of the Beneficiary; and
- (b) any liability to or claims by a third party in respect of loss of or damage to property, the loss of use of or access to property, or injury to or death of persons,

caused by, or arising out of, or in any way in connection with, the Project Activities and the Works (to the extent that the ARTC Contractor is required under the Construction Contract to carry out those activities or works), provided that the ARTC Contractor's responsibility to indemnify the Beneficiary will be reduced proportionally to the extent that an act or omission by the Beneficiary contributed to the loss, damage, injury or death.

#### 5. Limitation

The ARTC Contractor's total aggregate liability in respect of any Claim or loss suffered or incurred by Beneficiary arising out of or in any way in connection with this Deed Poll, the Project Activities or the Works, is limited to:

- (a) the amount for which the ARTC Contractor is entitled to be indemnified in respect of the Claim or loss under a policy of insurance that the ARTC Contractor is required to effect and maintain under the Construction Contract, or would have been entitled to be indemnified for but for:
  - (i) a breach by the ARTC Contractor of its obligations in respect of insurance under the Construction Contract;

- (ii) a failure by the ARTC Contractor to pay any premiums or to otherwise maintain the insurances required under the Construction Contract;
  - (iii) a breach by the ARTC Contractor of any provision of a contract of insurance which the ARTC Contractor is required to maintain under the Construction Contract; or
  - (iv) any conduct by the ARTC Contractor under a contract of insurance which the ARTC Contractor is required to maintain under the Construction Contract, which entitles an insurer to avoid the relevant contract of insurance or to reduce its liability under the relevant contract of insurance; and
- (b) to the extent that liability to Beneficiary is not covered by clause 6(a), the aggregate sum of \$20,000,000.00.

## 6. Consequential Loss

- (a) Subject to clause 6(b), the ARTC Contractor has no liability (whether in contract, tort negligence, under an indemnity or otherwise) to the Beneficiary for any Consequential Loss suffered or incurred by the Beneficiary arising out of or in connection with this Deed or otherwise in connection with any act or omission of the ARTC Contractor.
- (b) The exclusion of Liability of the ARTC Contractor under clause 6(a) does not apply:
- (i) to liability arising from:
    - A. any criminal act or fraud; or
    - B. wilful misconduct or wilful default,on the part of the ARTC Contractor of any of its subcontractors or agents;
  - (ii) arising from injury to, illness, disease, or death of a person, caused or contributed to by the ARTC Contractor or any of its subcontractors or agents.
  - (iii) to the extent to which the ARTC Contractor or any of its subcontractors or agents is paid or indemnified, or is entitled to be paid or indemnified, under any insurance effected in respect of such a liability up to the limits that such insurance is required to be effected and maintained under the MIRDA; or
  - (iv) to the extent the ARTC Contractor or any of its subcontractors or agents cannot limit or exclude such Liability at law.

## 7. Acknowledgement of reliance

The ARTC Contractor acknowledges that the Beneficiary:

- (a) **(liability)**: may suffer loss if the ARTC Contractor does not comply with its obligations under the Construction Contract in respect of the Project Activities and the Works; and
- (b) **(reliance)**: is entitled to, and will, rely on this Deed Poll.

EXECUTED AS A DEED POLL.

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by <Insert details> (ABN<insert number>) in accordance with section 127 of the *Corporations Act 2001* (Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of company secretary/director

\_\_\_\_\_  
Full name of director

\_\_\_\_\_  
Full name of company secretary/director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## Schedule 7 – Rail Asset

*[Note insert provisions which may need to be inserted where the Asset is rail]*

## Schedule 8 - Design Documentation Review

- (a) Prior to commencement of construction, ARTC will provide to Asset Owner a copy of the Design Documentation for each stage of construction (in a self-contained package which is, where reasonable to do so, capable of interpretation without reference to other material) of the Returned Works. If Design Documentation requires other material for interpretation and it is not reasonable to provide it in a self-contained package, then ARTC must provide such material to Asset Owner at the same time as it provides the relevant Design Documentation.
- (b) Subject to paragraph (c):
  - (i) Asset Owner may, within 15 Business Days of receipt of such Design Documentation, provide to ARTC its written comments on the Design Documentation; and
  - (ii) if Asset Owner does not provide any comments within the timeframe required by paragraph (b)(i), Asset Owner will be deemed to have accepted the Design Documentation.
- (c) Asset Owner acknowledges and agrees that Asset Owner is only entitled to make comments under paragraph (b) on the Design Documentation provided pursuant to paragraph (a) to the extent that such Design Documentation does not comply with the Works Description.
- (d) Unless otherwise agreed in writing by Asset Owner, ARTC will not use for construction purposes any Design Documentation unless:
  - (i) a copy of that Design Documentation has been provided to Asset Owner in sufficient time to enable Asset Owner to provide comments as contemplated by paragraph (b)(i); and
  - (ii) ARTC has considered the comments provided by Asset Owner in accordance with paragraph (b)(i) or Asset Owner has withdrawn the comments after consultation with ARTC.
- (e) Unless otherwise specified in item 17 of Schedule 1, all Design Documentation will be prepared in accordance with ARTC Inland Rail standards and specifications.
- (f) Design Documentation will be issued to Asset Owner electronically in the formats specified in item 18 of Schedule 1.

## Schedule 9 – Special Conditions

No Special Conditions.

## Schedule 10 – Works Description

### 10.1 Scope of Works

The Australian Government has undertaken to deliver the Melbourne to Brisbane Inland Rail as a vital piece of infrastructure to complete the National Freight Network and to provide for a significant modal shift of freight from road to rail. To deliver this strategy, the Inland Rail Program has been divided into 13 projects, one of these being the Tottenham to Albury (T2A) Project.

Within the T2A project, there is limited flexibility in design solutions to achieve the required clearance. This is largely due to spatial constraints in brownfield areas where tie-in to existing infrastructure is required. Design solutions that could provide the required clearance under bridges are limited to:

- ▶ Lowering or realigning the track; and, or,
- ▶ Raising or widening the bridges; or
- ▶ Replacing the bridges (road and pedestrian footbridges)

The T2A project scope has been split into two phases:

**T2A Project Scope 1 (Phase 1):** Beveridge to Albury Section Stage 1, which is the subject of this Agreement. T2A Stage 1 will utilise the existing North East Rail Line from Beveridge to Albury and modify or replace existing infrastructure at discrete locations along the corridor where there is not adequate clearance for double stacked freight trains.

**T2A Project Scope 2 (Phase 2):** Is the Southern End of the T2A project. Phase 2 has been suspended following the announcement of The Beveridge Intermodal Freight terminal.

Stage 1 has 12 discrete enhancement sites, one of which is located in the Strathbogie Shire Council LGA.

SITE	PROPOSED WORKS	LGA
Anderson/Scott St and Euroa Station Precinct	Re-alignment of tracks to the North/West of the main Station platform with a new Western platform to be built. Removal of existing East platform and track. New car-parking and bus drop off area to be created on both East and West of track, along with a new DDA compliant pedestrian underpass to connect the platforms. Anderson/Scott St existing bridge will be demolished with a new underpass to be constructed. Existing access ramps from Anderson St to Hinton St and the platform will be removed.	Strathbogie

#### 10.1.1 Background of Site

- a) The existing Anderson Street Overbridge consists of a 3-span bridge spanning the East and West ARTC Main lines. The bridge deck is formed by structural steel girder and supported by the reinforced concrete piers and abutment.
- b) Anderson Street overbridge is a Department of Transport and Planning (DTP) structure and provides a key road link to other regional towns in the region. The road is authorised for over mass and over-dimensional heavy vehicles.
- c) The bridge provides vehicular access to Euroa Station through a ramp connecting to the east of the overbridge. The bridge is currently secured with a combination of steel rail fencing and w-beam safety barrier.
- d) Council has indicated that the Railway Street side ramp and the Station access side ramp need not be replicated in the final design
- e) The Road Underpass option has been progressed through Reference Design

### 10.1.2 Functional and Performance Requirements

#### a) General Requirements

- i. The design solution for the Anderson/Scott St road connection is a road underpass.
- ii. Urban design and landscaping design to requirements of Authorities and the Urban Design Framework and Urban Design Guidelines prepared for the delivery of the Project.
- iii. Modifications to ancillary assets impacted shall be undertaken to relevant standards as required within the project area (i.e. drainage assets, street lighting, car parks etc...)
- iv. ARTC and the Contractor must prepare and implement a Community and Stakeholder Management Plan (CSMP), in consultation with Strathbogie Council, that includes the following (without limitation):
  1. Addresses all Project activities that potentially impact on community and business operations and provide for a well-coordinated communication and engagement process.
  2. Sets out processes and measures to provide advance notice to key stakeholders and other potentially affected stakeholders of construction activities (including any staged works, early works, main works, or out of hours works), significant milestones, changed traffic conditions, interruptions to utility services, changed access and parking conditions, periods of predicted high noise and vibration activities, including contact details for enquiries/complaints.
  3. Provides for any interested stakeholder to register their contact details to the Project webpage to ensure they are automatically advised of planned construction activities, Project progress, mitigation measures and intended reinstatement measures where applicable.
  4. Respite and Relocation Management Plan (where required) to manage those residents and businesses directly impacted by noise and vibration (day and night works).

#### b) Rail Requirements

- i. All Works at Euroa Station and surrounding areas shall be designed to mitigate additional adverse impacts on adjacent properties up to and including 1% AEP.
- ii. Maintenance access and positions of safety for rail personnel are to be provided for in the design.
- iii. The existing Euroa Station building is situated between East and West main lines. The East and West main lines are to be relocated and a new platform face built on the relocated West main track. The existing East main line to be removed from the current alignment and landscaped to provide level access from Station Street and carpark to the platform.
- iv. The existing West main 47kg rail is to be replaced with new 60kg rail for the extent of the Site.
- v. SG East and West tracks catering for freight at 115km/h (max.) and passenger Express V/Line at 130km/h (max.).
- vi. Relocation of and continuity of all existing systems, Utility Services and Signalling Assets as may be necessary as a result of the design.
- vii. The design must demonstrate that the existing track formation and drainage are not compromised.
- viii. Emergency Services access to the station building must be demonstrated in the design.
- ix. Station facilities to PTV and V/Line standards including Ancillary Assets on the platforms.
- x. Security, lighting, user comfort and safety must be incorporated into the design for day and night.
- xi. Ease of maintenance must be considered in the design.
- xii. Functional drainage system for the track and pedestrian underpass which does not impact train services or underpass connection.



- xiii. The design must demonstrate that the existing station building, structures and Assets are not compromised or changed.
- xiv. The set-out for the proposed platform and associated station pit must take into account spatial considerations so as to provide for future gauntlet track on both the East and the West main tracks.
- xv. If the rail level through the retained platform requires raising, then allowance for rebuilding of the platform face to current standards must be made.

c) Rail Structure Requirements

- i. Design load is 300LA as per AS5100:2017.
- ii. A new rail bridge will be required spanning the new road underpass
- iii. Two new shared use path bridges with 3m clear width (appropriate additional clearance for walls, fences and barriers shall be provided) incorporated into the new rail underbridge with paths connecting into the new Station Precinct on the Albury side and into the existing footpaths on the Beveridge side.
- iv. Demolish the existing rail bridges/pedestrian underpasses connecting Kirkland Avenue to Frost Street and provide a new single rail underbridge to accommodate both the re-aligned West and East Line. The minimum vertical clearance to the underside of the new overbridge shall be 2.4m and pedestrian path with a 1.8m clear width shall be provided. A stormwater pump system is not required for this underpass.
- v. Demolish the existing rail bridge supporting the existing East Line at Cree Steet and provide a new rail underbridge to accommodate the re-aligned East Line. The minimum height to the underside of the new West Line overbridge shall be maintained.
- vi. Demolish the existing pedestrian underpass at the Anderson Street which connects Hinton St to Handbury St and provide a new shared use underpass to accommodate both the re-aligned West and East Line. The minimum vertical clearance to the underside of the new underpass shall be 2.5m and a shared use path with a 3.0m clear width appropriate additional clearance for walls, fences and barriers shall be provided. A stormwater pump system is not required for this underpass.
- vii. A new DDA compliant underpass for pedestrians from the Railway St car park to Euroa Station and connecting through to the western side of the town is required with a minimum of 5m in width and 3m in height. This underpass must include a stormwater pump system. The design shall adequately provide the shortest route wherever possible, whilst meeting an open visual amenity.
- viii. The existing bridge, side road embankments and ramps, and all earthen embankments must be removed and taken back to the natural ground level to the extent that is not required in the permanent works.
- ix. Installation of lifts at the new station pedestrian underpass location.

d) Road Requirements

- i. The design of the road must cater for oversize/overmass (OSOM) and over-dimensional heavy vehicles as per VicRoads standards.
- ii. Road design must comply with design vehicle for a B-double and be checked against the operation of a B-Triple vehicle.
- iii. The Road design speed must be 60km/h, with posted speed to be determined in consultation with the Road Authority.
- iv. Annual average daily traffic (AADT) for road is to be verified through the preliminary design phase
- v. Clearance check to be undertaken for a 25m non-articulated vehicle.
- vi. Maximum desired road grade as per AGRD, but not steeper than 8%.
- vii. Provide all earthworks, retaining walls, signage and, street furniture, civil and drainage required as a result of road works. Reconfigure including associated property accesses as required to mitigate any adverse impacts to property owners, including provision of required sightlines.
- viii. Adverse impacts to adjacent properties, traffic and driveway connections must be minimised and managed during design consultation.

- ix. Lane configuration of Anderson St must be a single carriageway providing for two-way traffic with each traffic lane having a minimum width of 3.5m with 1.2m minimum width outer shoulders. Reinstall street lighting and road Assets as required.
- x. The proposed detour route during the Anderson St closure is via Brock Street, Campbell Street and Birkett Street.
- xi. Birkett St level crossing and immediate road approaches must be upgraded to be made suitable for B-Double vehicles during any extended Anderson St closure. This will involve any associated upgrade to the current active level crossing, including all associated signalling work.
- xii. The remainder of any proposed temporary traffic detour during construction must be assessed and made suitable for B-double truck movements.
- xiii. The Road design at the intersection of Rail and Binney St must include a concept layout for a potential future roundabout at the end of Binney St
- xiv. Following construction works completion, the entire traffic detour route must be returned to Council in a comparable or better state than prior to works commencement.
- xv. The road underpass shall be designed to stay dry in a 1:50 year flood event including 300mm freeboard, with impact to surrounding properties minimised for a 1:100 year event
- xvi. Pump system to be installed within the road underpass as per DTP requirements.
- xvii. The Pump system to drain the water to the culvert at approximately 150.598km
- xviii. The underpass structure configuration must be optimised to allow access for safe inspection and maintenance by DTP.
- xix. The underpass must have a vertical height clearance of 5.9m.

e) Station Precinct Requirements

- i. Footpaths linking the station entrance to surrounding land uses including:
  - 1. Residential areas
  - 2. Retail areas across Railway St to Binney St (Euroa Town Centre)
  - 3. Recreational areas to the south and east of the railway line including Euroa Public Park
- ii. Provide cycling links directly to bicycle parking area
- iii. 10 Bike hoops on the Eastern side of the track (within 50m of faregate)
- iv. Direct pedestrian path from bike parking to the faregate
- v. Direct pedestrian paths between station and bus stops
- vi. 2 coach bays located within 50m of platform on the Eastern side of the track
- vii. Bus Shelter to meet patronage needs
- viii. PIDs at all decision points to align with V/Line standards and must consider locations of bus shelters, underpass and passenger movements
- ix. Provision of minimum 30 car parks on the Eastern side of the track, including 2 DDA car parks
- x. Provision of 25 car parks on the Western side of the track including 2 DDA car parks
- xi. Installation of a new compliant standalone Communications and Equipment Room (CER) on the retained platform
- xii. Provision of at least 2 staff parking spots with one next to the CER
- xiii. Allowance for 4 spaces for pick-up and drop off which can be shared with taxi's/rideshare on each side of the track

**10.1.3 Options and Alternatives**

None currently proposed

**Table 5.5 Stakeholders Interface:**

TRANSPORT AGENCIES	ROAD AUTHORITIES	UTILITIES	OTHER
Department of Transport and Planning	Strathbogie Shire Council	TBC on option choice	Adjoining Neighbours
V/Line – RSO	Department of Transport and Planning		Neighbouring Business

<b>TRANSPORT AGENCIES</b>	<b>ROAD AUTHORITIES</b>	<b>UTILITIES</b>	<b>OTHER</b>
Victrack – Asset Owner			Emergency Services
ARTC - RIM			Adjoining Health Services
			Euroa Stakeholder Group
			Euroa Connect

### 10.1.5 Traffic Management

- a) ARTC (through its nominated D&C Contractor) is responsible for any temporary traffic diversions and traffic management. This includes all works consequential to gaining acceptance from Council and DTP.
- b) Temporary traffic management may require that works be undertaken in relation to alternate traffic routes, subject to the requirements of Council and DTP.
- c) ARTC (through its nominated D&C Contractor) is required to obtain all approvals from relevant road authority and responsible to deliver the works required as part of the approvals.

### 10.2 Technical Requirements

<b>ASSET</b>	<b>STRATHBOGIE SHIRE COUNCIL STANDARD AND REQUIREMENT</b>
<b>Roadworks</b>	Aust Standards, AustRoads, Infrastructure Design Manual
<b>Road Drainage</b>	Infrastructure Design Manual
<b>Foot Paths</b>	Infrastructure Design Manual
<b>Street Trees</b>	Tree Management Plan
<b>Traffic Signage</b>	Australian Standards

**10.3 Returned Works (New works)**

As the design process progresses, the Parties will meet acting reasonably and in good faith to agree on the allocation of ownership and maintenance responsibilities for the Returned Works. Once agreement has been reached, the tables below will be updated to reflect the agreed ownership and maintenance boundaries.

**Road Works**

Following the completion of Preliminary Design the Parties will meet acting reasonably and in good faith to agree **and** document all assets in relation to roadworks within Council’s road reserve or other areas as identified within the project area that will be owned and/or maintained by Strathbogie Shire Council as a result of the delivery of the T2A project as part of the Inland Rail program.

ASSET	LOCATION	WORKS REQUIRED	REFERENCE DRAWINGS

**Retaining Walls**

N/A at this stage

**Other Assets**

Following the completion of Preliminary Design the Parties will meet acting reasonably and in good faith to agree **and** document all assets in relation to the area’s listed in the below table that are within Council’s road reserve or other areas as identified within the project area that will be owned and/or maintained by Strathbogie Shire Council as a result of the delivery of the T2A project as part of the Inland Rail program.

DESCRIPTION	LOCATION	WORKS REQUIRED	REFERENCE DRAWINGS
Land Opportunities Use			
Footpaths			
Other Ancillary Assets - drainage modification, street lighting, car parking			

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**Schedule 11 – Schedule of Rates for Cost Reimbursement**

Item	Description	Unit	Hourly Rate 2024/2025
	<b><u>Internal Resources</u></b>		
1	Executive Manager (Chief Executive Officer)	hrs	
2	Director	hrs	
3	Principal Engineer	hrs	
4	Senior Engineer / Council Officer / Manager	hrs	
5	Coordinators / Design Engineer / Civil Engineer	hrs	
6	Senior Works Inspector	hrs	
7	Other Support Officer (Admin)	hrs	
8	Principal Planner	hrs	
	<b><u>External Consultants:</u></b>		
1	Lawyers (have utilised Maddocks Lawyers)	hrs	
2	Other Consultants (please insert company name and role if required)	Per day	
3			

The rates shown *exclude* GST

Rates shown are to be reviewed on 1 July each year.

## Schedule 12 – Road Use and Degradation

Defined terms in this Schedule 12 are given the following meanings or as set out in this Agreement.

### Definitions

**Build Corridor** means the physical site that Head Contractor will have control of for the purposes of construction of the Works during the site establishment and construction phases

**Condition Report** means a report that provides an indication of the overall condition of a Road, at a certain point in time, by identifying and recording defects in the road formation, pavement, and surface, as appropriate. It records any aspects of the Road that may be affected by Project Activities. Condition Reports include Dilapidation Reports which are typically used for roads that have a formal pavement design.

**Construction Period** means the period from site establishment to the start of the Defects Correction Period.

**ESA** means equivalent standard axles, a measure of traffic loading.

**Haul Road** means a Road used by the Head Contractor to haul material inside the Build Corridor.

**Haulage Route** means roads identified in the Traffic Management and Safety Plan as either;

- a) A Haul Road; or
- b) A Road used as a link from the main road to the Build Corridor and traffic on that road is predominately Project related or;
- c) A Road that is part of the wider network and Project traffic is a percentage of overall users.

**Independent Contractor** means a contractor that does not have a business relationship with either of the parties other than the performance of professional services on a paid basis.

**Local Road Network** means the Roads on the diagram labelled Strathbogie Shire Council Road Network that are not State Roads.

**Road** means the physical formation of the road within a road reserve including, as relevant, the table drains, kerb and guttering, culverts, stormwater drainage, bridges, footpaths, signage and any other Council assets within the Road Reserve.

**Road Reserve** means the legal area within which the physical road is constructed

**Road Segment** means a section of road between intersections with other roads

**State Road** means a road asset owned by Department of Transport and Planning (DTP) on behalf of the VIC State Government

**Traffic Management and Safety Plan** means the plan so titled to be prepared by ARTC or an ARTC Contractor.

**Timely Manner** means as soon as reasonably practicable with the urgency of the work being related to the risks associated with the deterioration.

Local Road Maintenance

Road Types	Scope (all road types)	Process (all road types)	Outcomes
Local Road Network – Sealed Roads	<p>Affects any road, or road segment, used by ARTC to undertake the Project.</p> <p>Construction traffic includes all vehicles used by ARTC, any ARTC Contractors, its employees, consultants, advisors and agents including suppliers of materials.</p>	<p><b>Haulage Routes</b></p> <ol style="list-style-type: none"> <li>Haulage Routes to be identified by ARTC or the ARTC Contractor prior to use for construction access or supply of materials or otherwise in connection with the Works through the Traffic Management and Safety Plan</li> </ol> <p><b>Traffic Volumes</b></p> <ol style="list-style-type: none"> <li>Unless the parties agree that sufficient data is available from existing sources to establish the base traffic volumes, one (1) week of data logging will be undertaken for each Haulage Route or Road Segment thereof with different traffic (using counter/classifier) at the cost of ARTC and in locations agreed to by Asset Owner. Wet weather, school holidays, harvest peaks, major events and major holidays (Easter, Christmas, long weekends etc) are to be avoided where possible.</li> </ol>	<p>Local Road Network – Sealed Roads.</p> <p>Maintain safety and serviceability of the local road network during the Project with the necessary work being conducted in a Timely Manner.</p> <p>Following Project Activities, return the Road to the same surface quality and pavement design life as prior to Project commencement, adjusted for the proportion of overall asset life of each Road Segment in line with the agreed base traffic volumes.</p>
Local Road Network – Unsealed	<p>Excludes road impacts associated with other developments such as separate third-party projects/developments or quarries which supply the project, where these have their own road maintenance obligations under conditions of development approval.</p>	<p>Where necessary, and as agreed between the parties, a loading percentage will be applied to account for Roads where seasonal factors impact the annual road traffic volume not captured by the one (1) week’s base traffic volume. The results of this data logging (together with any additional agreed loading percentage) will be considered the base traffic volume.</p> <p>Estimated additional traffic volumes for each Road Segment and ESAs associated with the Project are to be agreed by the parties and shall be considered the projected traffic volumes. The projected traffic volume will be compared with the agreed base traffic volumes.</p>	<p>Local Road Network – Unsealed (Gravelled)</p> <p>Maintain safety and serviceability of the local road network during the Project.</p> <p>Following Project Activities, make good the Road to the Asset Owner standard for an Unsealed Gravelled road.</p>
Local Road Network – Unsealed (Natural surface)		<p>At Asset Owner’s request, but not exceeding three (3) times per year, additional counts are to be undertaken by ARTC where Asset Owner has reasonable grounds for considering that actual Project traffic volumes may have materially increased from the projected traffic volumes. Further, ARTC may undertake additional counts, not exceeding three (3) times per year, where ARTC has reasonable grounds for considering that Project traffic volumes may have materially decreased from the projected traffic volumes.</p>	<p>Local Road Network – Unsealed (Natural surface)</p> <p>Maintain safety and serviceability of the local road network during the Project.</p>



		<p><b>Road Condition Assessments</b></p> <p>3. Prior to the commencement of any Project Activities, an Independent Contractor, engaged by ARTC at its expense, is to prepare a Condition Report in respect of any Haulage Routes identified in accordance with paragraph 1 above, as required. A copy will be issued to Asset Owner for its records.</p> <p>4. Asset Owner has the right to have a representative, at the expense of ARTC, present during all field survey work including Condition Reports.</p> <p>5. ARTC will perform monthly visual inspections of Haulage Routes that are in use throughout the Build and advise Asset Owner of any deterioration identified. In addition, Asset Owner may also monitor road conditions throughout the Build and assess any deterioration that affects serviceability. Any deterioration identified by either party or requiring rectification will be treated in line with the following principles.</p> <p><b>Cost of Maintenance</b></p> <p>6. Where traffic volumes, including construction traffic, do not exceed the Road Segment’s base traffic volumes, the Asset Owner will continue to be responsible for the cost of maintaining those Road Segments.</p> <p>Where the traffic volumes, including construction traffic, exceed the Road Segment’s base traffic volumes, ARTC will be responsible for paying the cost of maintenance equal to the percentage of traffic volume in ESA’s which exceeds the Road Segment’s designed traffic volume. Asset Owner will pay the cost of maintaining all Road Segments up to the design traffic volume threshold.</p> <p><b>Performance of Maintenance</b></p> <p>7. Road maintenance is to be carried out to by Asset Owner (unless otherwise agreed between the parties) to Asset Owner standards relevant to that Road Segment.</p> <p><b>Project End</b></p> <p>8. At the end of the Construction Period the Independent Contractor is to prepare a Condition Report identifying any further works required to achieve the identified outcomes as set out in this Schedule. The Parties agree the Condition Reports are used as the basis of identifying whether further works are so required.</p>	<p>Following Project Activities, make good the Road to the Asset Owner standard for an Unsealed (Natural Surface) road (including table drains).</p>
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		<p>9. Any such works are to be undertaken, or caused to be undertaken, by ARTC at its expense and in a Timely Manner.</p> <p>10. If any dispute arises over the scope of works identified in paragraph 8 of this Schedule, ARTC will, acting reasonably, consider any submission from Asset Owner regarding the degradation of Roads.</p> <p>11. A Defects Correction Period applies to any works conducted on sealed roads in accordance with paragraph 9.</p> <p>12. At the end of the Defects Correction Period an audit is to be undertaken by the independent Contractor in collaboration with ARTC, Asset Owner and the Head Contractor to confirm that the works have achieved the specified outcomes.</p> <p>13. Asset Owner's reasonable costs, in undertaking the steps of the process outlined above are to be paid by ARTC at the rates agreed in this Agreement. Refer clause 8 Asset Owner Costs</p>	
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## Schedule 13 – Certificate of Completion Form

### NOTICE OF COMPLETION

Clause 6.1(c)(i)

[From ARTC] \_\_\_\_\_

[To Asset Owner] \_\_\_\_\_

ARTC refers to the contract titled "Master Inland Rail Development Agreement, Contract No <insert details>" between ARTC and Asset Owner (**MIRDA**).

Unless the context requires otherwise, terms used in this notice have the meanings given to them in the MIRDA.

In accordance with <select one: 6.1(c) / 6.1(f)(i)> of the MIRDA, ARTC and the Asset Owner are satisfied that the Returned Works have achieved Completion on <insert date>.

\_\_\_\_\_  
[Signed the ARTC Project Manager]

\_\_\_\_\_  
[Date]

## Schedule 14 – Project Independent Verifier Deed Poll

<insert details>

**Executed as an Agreement**


Signed for **INLAND RAIL PLY LTD (ACN 094 819 520)**:

\_\_\_\_\_  
Signature of agent/attorney

\_\_\_\_\_  
Name of agent/attorney

\_\_\_\_\_  
Date

Signed for and on behalf of **STRATHBOGIE SHIRE COUNCIL (ABN 50 882 781 013)** by its duly authorised representative

  
\_\_\_\_\_  
Signature of duly authorised representative  
Tim Tamlin

\_\_\_\_\_  
Name of duly authorised representative  
13/08/2024

\_\_\_\_\_  
Date

**In the presence of:**

  
\_\_\_\_\_  
Signature of Witness  
Amanda Tingay

\_\_\_\_\_  
Print Name