

**Submission to the Queensland
Competition Authority**

**Response to the Proposed
Investment Framework intended
for incorporation into QR
Network's 2010 Access
Undertaking**

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1 INTRODUCTION

Asciano Limited (Asciano) welcomes the opportunity to provide comments on the Proposed Investment Framework, which following any amendment is intended to be incorporated into the QR Network 2010 Access Undertaking (2010 DAU).

Asciano support the Proposed Investment Framework, but wish to raise several issues relating to both the context of the framework and the detail of the framework.

Asciano strongly believe that the Proposed Investment Framework must require all expansions and extensions in respect of declared services to be undertaken on an open access basis.

This submission contains no confidential information and may be considered a public document.

2 GENERAL ISSUES

2.1 Need for an Integrated Approach to Regulatory Consultation and Decision Making

Asciano has a concern with the Queensland Competition Authority (QCA) approach of separating the consultation and submission process for various elements of 2010 DAU. Asciano strongly believes that prices, services and capital expansion are all elements of a single package where all elements are interrelated to the extent that decisions cannot be made in isolation on any one element, but rather, a single decision has to be made which takes into account all elements.

Asciano believes that the QCA should reconsider its approach of separating submissions and decision making on separate elements of the 2010 DAU.

2.2 Need for Strong Separation and a Transparent Process

Asciano has a concern that the direct and ongoing involvement of QR Network with end users (assumed to predominantly be miners) in investment projects may provide

potential for above rail issues to be raised in such a way that favours QR's above rail business.

Asciano has broad concerns about the current ownership and operating structure of QR which centre on the vertically integrated nature of QR, whereby QR is the owner and operator of the monopoly below-rail assets and is also the major user of these assets as the largest above-rail service provider. These concerns can only be addressed by the implementation of an effective separation regime, as outlined by Asciano in previous submissions to both the QCA and other bodies¹.

The Proposed Investment Framework potentially provides a channel for QR Network to facilitate discussions between its above rail business and end users. Given this potential Asciano is seeking that QCA ensure they have the necessary powers and processes to ensure any Proposed Investment Framework discussions between QR Network and end users are limited to below track issues directly associated with the Proposed Investment Framework.

2.3 Role of Planning Bodies

The 2010 DAU (Chapter 11) contains a detailed outline of the coal supply chain co-ordination process for the Central Queensland Coal region including detailed outlines of numerous planning bodies and processes such as the Supply Chain Master Plan,

¹ Asciano's position on the shortcomings of the current industry structure and regulatory structure and processes can be found in numerous Asciano public submissions including:

1. Asciano (2010) Submission to the Queensland Competition Authority: QR Network 2009 Draft Access Undertaking: Response to the Draft Decision February 2010

<http://www.qca.org.au/rail/2009-DAU/draftdec.php>

2. Asciano (2010) Submission to the Queensland Competition Authority Response to the QR Network Draft 2010 Access Undertaking May 2010

<http://www.qca.org.au/rail/2010-DAU/QR2010DAU.php>

3. Pacific National (2010) Application Under part IIIA of the Trade Practices Act 1974 for a Declaration Recommendation for the Services provided by Queensland Rail's Queensland Coal Network

http://www.ncc.gov.au/index.php?application/application_for_declaration_of_queensland_rails_queensland_coal_rail_network/1

4. Pacific National (2010) Submission to the National Competition Council Queensland Rail Network – Certification and Declaration Applications July 2010

5. Asciano (2010) Submission to Queensland Treasury Proposed Amendments to the Queensland Competition Authority Act 1997 and Transport Infrastructure Act 1994 July 2010

It should be recognised that these submissions were provided to the relevant bodies within the specific context of the issue or process that was the focus of the regulatory process.

the Coal Rail Infrastructure Master Plan and the Coal Rail Infrastructure Master Planning Forum, amongst others.

These planning bodies appear to be absent from the Proposed Investment Framework process. The QCA should give some consideration as to whether they should be included in the process. For example Paragraph 41 lists the triggers for QR Network to initiate an expansion process; these triggers could be broadened to include a request for expansion from one of the planning bodies.

Similarly, Paragraphs 42 and 43 discuss expansion timetables and mechanisms to inform users of expansions and collect user access requirements. The planning bodies could be involved in informing users, collecting access requirements and aligning expansion timetables.

3 SPECIFIC ISSUES

3.1 Pricing

Paragraph 17 of the Proposed Investment Framework states that

If users fund an expansion, they should be compensated for their investment by any users of the capacity created by their investment who did not participate in the user funding. In order to deter free riding, users who opt not to participate in user funding should pay a premium to the funding users in their access charges

Asciano believes that the parties funding an expansion, whether end users or QR Network, should receive revenue which reflects efficient costs, including efficient capital costs

Users who chose not to participate in user funding should pay prices which reflect efficient costs. If this occurs users who chose not to participate in user funding should not be considered to be free riding. In particular users who chose not to participate in user funding should not be required to pay price premiums which have no basis in costs. Premiums which have no basis in costs are unlikely to result in economically efficient outcomes, and may be viewed as punitive or distortionary, depending on the nature of the premium.

Asciano believes that prices should be set on the basis of cost reflectivity rather than on the basis of requiring new entrants to pay a price premium if this price premium has no basis in costs. If a price premium reflects different cost structures for different users then such a premium is acceptable.

3.2 Ownership

Paragraph 21 of the Proposed Investment Framework states that

QR Network should have ownership and operating responsibility for the network, other than user specific extensions. This should include expansions funded by users.

This wording could be clarified. Asciano currently understands this to mean that user funded extensions, other than user specific extensions, are owned and operated by QR Network.

In addition the ownership and operatorship status should be clarified in a scenario where a user specific extension (owned by the user) is extended or expanded so that it serves multiple users and is no longer user specific. For example a spur line to a single mine site may be extended so it serves multiple mine sites.

3.3 QR Identity

Paragraph 25 states that "QR should construct all expansions". This should be clarified to identify the QR entity referred to, (presumably it is QR Network).