

Enforceable Voluntary Undertaking

ARTC

A photograph of a long, straight road stretching into the distance under a dark sky. The road is flanked by low-lying vegetation and a dirt shoulder. The text 'ARTC' is overlaid in the center of the image in a white, sans-serif font. The 'A' has a horizontal bar above it, the 'R' has a horizontal bar below it, the 'T' has a horizontal bar above it, and the 'C' has a horizontal bar below it.

Enforceable Voluntary Undertaking

Made pursuant to Part 10 Division 6 of the Rail Safety National Law

The commitments in this enforceable voluntary undertaking are offered to the Office of the National Rail Safety Regulator by:

Australian Rail Track Corporation Limited (ACN 081 455 754)

Table of Contents

1	Introduction.....	3
2	Purpose.....	3
3	Background	3
3.1	Incident Overview	3
3.2	Continual improvement since the Incident	4
4	Details of the alleged contravention	4
5	Addressing the alleged contravention	4
6	Operational of the enforceable voluntary undertaking.....	5
7	Undertaking development.....	5
8	Undertaking.....	5
8.1	Overview	5
8.2	Safety initiatives.....	6
8.3	EVU Delivery and Governance Arrangements	6
8.4	Cost of Implementation of the EVU	8
8.5	Safety Outcomes Achieved through the EVU.....	8
8.6	Program Management and Independent Monitoring	9
8.7	Commitment schedule.....	9
9	Miscellaneous	9

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1 Introduction

- (a) Australian Rail Track Corporation Ltd (ARTC) was established in 1998 as a government owned statutory corporation to manage and develop Australia's interstate track infrastructure as a single entity. ARTC manages more than 8,500 route kilometers of track in New South Wales, Queensland, South Australia, Victoria and Western Australia, as well as the Hunter Valley coal rail network.
- (b) ARTC's responsibilities include selling access to train operators, developing new business, capital investment in the network, managing train operations and maintaining the network.
- (c) ARTC is committed to maintaining the health and safety of its people, the environment and the communities in which it operates. To this end, 'No Harm' is the first of four core values ARTC focuses on (with the others being 'Future Thinking', 'Active Engagement', and Results').

2 Purpose

- (a) The commitments within this Enforceable Voluntary Undertaking (**EVU**) are offered to the National Rail Safety Regulator (**Regulator**) as an alternative to the conduct of litigation associated with a prosecution. The purpose of this EVU is to document ARTC's proposed undertakings under section 251 of the Rail Safety National Law (**RSNL**), in connection with an incident that occurred at Frampton, NSW on 25 June 2018 to demonstrate that ARTC is committed to addressing factors that could be considered causal or contributory at both the local and system levels. This proposal is submitted in acknowledgment of the seriousness of the incident.

3 Background

3.1 Incident Overview

- (a) At approximately 10.27am on 25 June 2018, Pacific National Pty Ltd train service 2MW2 struck scaffolding erected on the Up-Main South Line, in the Botany-Craigieburn Corridor, under a private road overbridge at Frampton, New South Wales, between Cootamundra and Junee (**Incident**).
- (b) Prior to the Incident, ARTC had engaged Bridge Check Australia Pty Ltd (**BCA**) to perform engineering inspections of two overhead timber overbridges on the Main South Line including the Frampton overbridge. The workers who erected the scaffolding involved in the Incident, and who were present at the worksite at the time of the Incident, were employees of BCA.
- (c) BCA utilised a Protection Officer from Rail Con (**PO**) to assist in providing worksite protection. The PO appears to have, among other things, incorrectly identified that the Frampton overbridge was on the Down Main Line and requested a Track Occupancy Authority (**TOA**) for the Down Main Line.
- (d) BCA contractors heard Train 2MW2 approaching on the Up-Main line where they were working on scaffolding under the bridge. The two BCA contractors were able to move to a safer location prior to Train 2MW2 hitting the scaffolding that they had been working on. Fortunately, the Incident did not result in any injury to any workers.
- (e) On the date of the Incident, ARTC had management and control of the railway and was an accredited rail infrastructure manager for the purposes of the RSNL as it applies in the State of New South Wales.
- (f) ARTC has cooperated fully with the ONRSR investigation of the Incident and related matters.

3.2 Continual improvement since the Incident

- (a) ARTC is committed to the ongoing safety of its workforce.
- (b) Immediately following the incident, ARTC:
 - (i) suspended BCA from all operations on the ARTC Network;
 - (ii) suspended the PO and Worksite Supervisor involved in the Incident from working with ARTC;
 - (iii) briefed all South Managers and Interstate Leaders on the Incident;
 - (iv) issued an incident alert to all Interstate Leaders to share with their teams;
 - (v) caused a desk-top review of the incident to be undertaken by Area Safety Advisor and Project Delivery Manager South to identify any further immediate actions to be taken in addition to those stated here. None were identified;
 - (vi) delivered briefings to all Network Controllers regarding the importance of vigilance and questioning when POs may seem unsure about their location;
 - (vii) commenced an Incident Cause Analysis Method investigation led by Corporate Services and Safety and completed by an independent third party (Safety Wise Solutions Pty Ltd);
 - (viii) issued Two Safety Alerts in response to the Incident; and
 - (ix) undertaken a review of contractor safe work management systems.

4 Details of the alleged contravention

- (a) The Office of the National Rail Safety Regulator (**ONRSR**) has completed a compliance investigation into the Incident.
- (b) The ONRSR has formed the view that ARTC has contravened the following sections of the RSNL in relation to the Incident:
 - (i) Section 52(2)(b)(ii) and 59;
 - (ii) Section 52(2)(f)(i) and 59;
 - (iii) Section 101(1); and
 - (iv) Section 101(2).

5 Addressing the alleged contravention

- (a) ARTC sincerely regrets the Incident and is genuinely committed to ensuring that such an incident does not occur again, and to sharing its learnings and the importance of safety with its workforce and the rail industry more broadly.
- (b) ARTC is committed to continuous improvement and seeks to address any systems failure which underlie the alleged breaches of the RSNL. ARTC recognises that to implement enduring change and improvement, there is a need to focus on people, environment and organisational factors, and the specific systems and processes used.
- (c) To this end, without making any admissions as to liability, ARTC has committed to undertakings herein which address the systems and processes involved in the Incident, identify and address organisational and culture changes and also focusses on providing training, tools, and support to individuals (both front-line and supervisory). These undertakings are described in detail in section 8. In addition to these factors, ARTC is committed to sharing learnings with the Australian rail industry, and providing tools for the industry to help prevent their own incidents.

6 Operational of the enforceable voluntary undertaking

- (a) This EVU comes into operation on the date upon which the Regulator formally accepts it.
- (b) ARTC is committed to providing the ONRSR with updates on this EVU on a basis suitable to the ONRSR. ARTC will:
 - (i) report against its progress on the matters set out in this EVU to the ONRSR on a monthly basis (unless otherwise arranged with ONRSR);
 - (ii) provide suitable evidence to the ONRSR at the completion of defined activities (to this end, it is understood that the ONRSR may choose to undertake compliance monitoring activities to verify the evidence provided by ARTC); and
 - (iii) work with the ONRSR to identify and appoint (at ARTC's expense) a suitable independent party to monitor and review this EVU, and to provide the ONRSR with updates as required. This independent party will have full oversight and access to all components of this EVU delivery, including specific project plans associated with commitments.
- (c) ARTC will discuss with the ONRSR an appropriate means to confirm the closure of undertakings contained within this EVU. ARTC will ensure that all resource costs associated with this undertaking are appropriately tracked.
- (d) A final report to close-out this EVU will be provided by ARTC to the ONRSR within 3 months of the final milestone (note that the final EVU milestones are 30th June 2022).

7 Undertaking development

- (a) This EVU has been developed in consultation with the ARTC Board and Executive, ARTC Safe Work Improvement Program Executive Steering Committee, and ARTC General Managers' Consultation Group and stakeholders across the ARTC organisation.

8 Undertaking

8.1 Overview

- (a) The undertakings presented cover improvements in management systems; changes to the way our people work; and, the sharing ARTC's experience and knowledge with the broader industry. The undertakings have adopted a holistic approach to change, where it is the combination of changes to the way people work within a framework of processes with supporting hardware; that, when combined, will lead to an improved overall safety outcome.
- (b) By 30th June 2022, the activities described in this EVU will result in the following objectives being achieved:
 - (i) Improve the effective management and assurance of Safe Working providers and Protection Officers;
 - (ii) Improve the accuracy and accessibility of appropriate Network Information to enable Safe Working personnel to plan and execute work; and, communicate more effectively;
 - (iii) Improve corridor access management processes that identify and authorise contractors entering the ARTC's rail corridor; and, improve controls and effectiveness of the verification of track location;
 - (iv) Improve the quality and effectiveness of Registered Training Organisations delivery of training and competency framework to provide a higher level of Protection Officer competency; and,
 - (v) Improve the assurance framework to monitor and validate the effectiveness of safe working controls.
- (c) These outcomes provide evidence that the initiatives contained in this EVU have provided positive safety outcomes for individuals who work on track; and are objective in nature.

These outcomes will be achieved through the systems approach ARTC has adopted (i.e. the combination of systems and cultural improvements).

- (d) These outcomes will provide confidence to ARTC and the ONRSR that the issues which underlie the charges have been sufficiently and adequately addressed.

8.2 Safety initiatives

- (a) ARTC has identified that a source of risk relates to the planning and programming of track work in the rail corridor. ARTC has established a “Safe Work Improvement Program” to deliver the improvements identified within the EVU that will be governed by an Executive Steering Committee and led by a dedicated Project Director.
- (b) The EVU comprises 4 interdependent projects (identified as C, D, E & F) which will deliver the 8 solutions identified to achieve the five objectives as stated in 8.1 (b) above. The relationship between the 5 objectives, the 8 solutions that will result in the objectives being met; and, how these have been grouped into the 4 interdependent projects that are part of this EVU has been mapped.
- (c) Work content analysis and detailed scheduling of the EVU projects determined that in order to maintain a sustainable rate of change these specific projects were selected as a priority to deliver significant safety benefits over the next 2 years.

8.3 EVU Delivery and Governance Arrangements

- (a) The program will deliver those activities identified within the EVU, that in turn will be transparently provided to ONRSR through regular interface and reporting of progress; and
- (b) The diagram below illustrates how the 16 solutions deliver the objectives identified within the 5 Work Streams. The 16 solutions were then grouped into 8 potential projects. The selection of the 4 significant projects for priority delivery through this EVU is highlighted with a red border.

SWIP – EVU PRIORITY PROJECTS

Work stream	1. Engagement of Safe Working Providers	2. Information & Communication Process	3. Management of people accessing the Corridor	4. Protection officer Training and Competency	5. Supervision & Assurance
Objective	Improve the effective management and assurance of 'Safe Working' providers and Protection Officers.	Improve the accuracy and accessibility of appropriate Network information to enable Safe Working personnel to plan, execute work and communicate more effectively.	Improve Corridor Access Management processes to: 1. Identify, plan and authorise access to the Corridor, and 2. Improve controls and effectiveness of verification of track location.	Improve the quality and effectiveness of RTO training to improve Protection Officer competency.	Improve the assurance framework to monitor and validate the effectiveness of safe working controls.
Solutions	<p>A. Safe Working Service Providers</p> <p>1.1 Establish a framework for companies providing Safe Working services including: <ul style="list-style-type: none"> • Pre-qualification process • 'Authorisation' of companies • Contractual agreements • Requirements to retain 'Authorisation'. </p> <p>1.2 Develop a process to review and monitor the effectiveness of Safe Working services provided by authorised companies.</p> <p>B. Protection Officer Authorisation</p> <p>1.3 Establish a framework for Protection Officer 'Authorisation' that controls the Safe Working resources used by ARTC. Provides requirements for re-authorisation at prescribed periods.</p>	<p>D. Safety Critical Information</p> <p>2.1 Establish a framework for managing, updating, disseminating and confirming acceptance of safety critical information and the use of NIB's for safe working.</p> <p>E. Communications</p> <p>2.2 Improve communications between NC and Safe working staff through applications such as eTap and structured communication protocols.</p> <p>2.3 Deployment of eTap or like technology and associated rule changes.</p> <p>2.4 Manage work through the Enterprise Asset Management System 'Work Orders' with equipment and location data provided via Mobility platform.</p> <p>D. Safety Critical Information</p> <p>2.5 Develop an Online Safe Working Portal, to provide improved access to relevant safety information, rules and documents.</p>	<p>F. ARTC Corridor Access Management</p> <p>3.1 Implement improved planning processes to identify and authorise access to people wishing to enter the ARTC rail corridor.</p> <p>G. Role Clarity PWB & WPP</p> <p>3.2 Update Pre work brief and WPP process to include: <ul style="list-style-type: none"> • Clarification and clear definition of roles and responsibilities with a particular focus on Protection Officer and Site Supervisor. • Provide dual confirmation of worksite track location. </p>	<p>C. PO training & competency standards</p> <p>4.1 Review and update the core technical knowledge requirements for Protection officers.</p> <p>4.2 Create an ARTC competency for the domain knowledge and soft skills required for working on ARTC network.</p> <p>4.3 Review and update training materials delivered by RTOs to reflect the required core technical knowledge and ARTC domain skills.</p> <p>B. Protection Officer Authorisation</p> <p>4.4 Define the competency assessment framework for ARTC acceptance and recertification of Protection Officers.</p>	<p>H. Assurance</p> <p>5.1 Implement a targeted Safe Work Interaction campaign for leaders to discuss Safe Working with workers.</p> <p>5.2 Formalise an internal ARTC assurance program at 3 levels: <ul style="list-style-type: none"> • Local management, • Independent management, and • Internal audit. </p>
<div style="border: 2px solid red; padding: 5px; display: inline-block;">Denotes EVU Priority Project</div>					

- (c) The critical activities to be completed in the next two years defined as the content of the EVU are:

Project C.	Protection Officer Training & Competency Standards development;
Project D.	Safety Critical Information, the provision and maintenance of easy to access information to plan protection;
Project E.	Communications; and,
Project F.	ARTC Corridor Access

8.4 Cost of Implementation of the EVU

- (a) A detailed program schedule and budget has been developed for the EVU work content which has been subject to critical review to ensure that the work proposed as the program of work within the EVU over the next 2-year period can be delivered in a sustainable manner that achieves the required objectives and results in new processes and systems being embedded as business as usual activities.
- (b) The cost of delivering the EVU over financial years FY20/21 and FY21/22 is summarised below. This is funding specifically allocated to deliver the EVU as priority work within ARTC and does not include already budgeted in FY19/20:

ARTC EVU Improvement Program (FY20/21/FY21/22)		Cost
Program Management		\$1,466,950.00
Project C – Protection Officer Training & Competency Standards		\$ 150,000.00
Project D – Safety Critical Information		\$ 584,950.00
Project E – Communications		\$ 0.00
Project F – ARTC Corridor Access Management		\$ 438,375.00
Project Risk Contingency 10% of unallocated spend		\$ 264,027.50
Cost associated with the delivery of the EVU		\$ 2,904,302.50

- (c) Note that this figure does not include those projects that ARTC is already delivering as part of the general business improvement process that have funding already agreed. The costs detailed above are those dedicated to the delivery of the prioritised projects within this EVU.

8.5 Safety Outcomes Achieved through the EVU

- (a) Ensuring robust, effective, and accessible systems are in place is fundamental to achieving strong safety outcomes. This is particularly true with respect to on-track work and ensuring that the workers are protected from train movements.
- (b) By improving systems, and in particular by enhancing planning and making systems more accessible and easier to apply, there will be increased compliance leading to improved safety performance.
- (c) This will support a reduction of incidents and near misses, particularly in the area of serious safeworking breaches resulting from incorrect worksite protection.
- (d) A suite of measures of success has been developed and is set out in Section 11 Schedules below.

8.6 Program Management and Independent Monitoring

- (a) To ensure that the activities described in sections 8.1 to 8.3 above are carried out on schedule and meet the intent of the activity as described, ARTC will seek to appoint a program manager and an independent party to monitor these undertakings.
- (b) With respect to the independent party, ARTC will identify a suitable candidate and seek endorsement from ONRSR prior to formal appointment. The independent party will be appointed within 8 weeks of acceptance of this EVU by ONRSR and will be obligated to provide ARTC regular reports to the ARTC Executive regarding progress of the initiatives. This independent party will have full access to all detailed plans associated with each of the undertakings, along with any risks to delivery (and therefore achievement of safety outcomes). The ONRSR shall have access to any reports produced and shall have access to the independent party on a reasonable basis if desired.

8.7 Commitment schedule

- (a) A comprehensive list of the commitments referred to in this paragraph 8, together with their associated costs and completion dates, is set out in Section 11 Schedules below.

9 Miscellaneous

- (a) This EVU takes effect on that date that it is signed by, or on behalf of, the Regulator.
- (b) Subject to section 257 of the RSNL, no proceedings for a contravention or alleged contravention of the RSNL may be brought against ARTC in relation to the Incident.