

**Submission to the ACCC  
Consultation Paper on the ARTC's  
Proposed Variation to the  
Interstate Rail Network Access  
Undertaking to Include Southern  
Sydney Freight Line Indicative  
Access Charges**

**Public**

**October 2012**

---



# Table of Contents

1	Introduction and Background .....	4
2	Outline of ARTC Proposal .....	5
3	Asciano’s General Position on the ARTC Proposed IAU Variation and the SSFL.....	5
4	Asciano’s Position on the SSFL Indicative Access Charge .....	6
5	Timing Issues.....	13
6	Other Amendments.....	13
7	Conclusion .....	13
	Attachment 1 Answers to ACCC Questions Raised in its Consultation Paper.....	15

## **1 INTRODUCTION AND BACKGROUND**

Asciano welcomes the opportunity to make a submission to the ACCC in response to the Australian Rail Track Corporation's (ARTC) application to the ACCC to vary the Interstate rail Network Access Undertaking (IAU) to include Southern Sydney Freight Line (SSFL) and its related proposed indicative access charges.

The ACCC accepted the IAU in 2008. Section 2.1 of the IAU provides for the extension of the IAU to include the SSFL when the SSFL is completed. As the SSFL is nearing completion ARTC are now seeking to vary the IAU to include the SSFL. The proposed variations to the IAU focus on changes in indicative access charging relating to the SSFL.

Asciano has a strong interest in the SSFL and SSFL access charges via its Pacific National subsidiaries. These subsidiaries carry both containers and bulk goods by rail through the rail corridor served by the SSFL. Pacific National is the largest freight rail operator and freight rail access holder through this rail corridor.

Asciano has major concerns with the proposed SSFL indicative access charge, as pricing at the proposed level will not be competitive with either other rail network access options or road transport. The proposed indicative access charge is significantly greater than current prices paid by Asciano for a similar service on the Railcorp network. Asciano believes that the SSFL indicative access charge should be capped by competitive pressures from both competing networks and road transport competition and that these competitive pressures have not been fully taken into account by ARTC. There are two market segments that are expected to use the SSFL, namely long haul intermodal market and the short haul bulk market. The competitive position of rail in both of these markets is negatively impacted by the higher SSFL indicative access charges.

In addition while Asciano recognises that the SSFL will bring some benefits, these benefits are unlikely to be as large as claimed as the Railcorp curfew remains for trains travelling through the northern section of the Railcorp network.

This submission is public. A confidential version has also been provided.

## **2 OUTLINE OF ARTC PROPOSAL**

ARTC expects the SSFL to be completed and commissioned by the end of February 2013, and as such ARTC has applied to the ACCC to vary the IAU to include the SSFL and its related access charges. The ARTC proposal is:

- a variable charge of \$8.564 per '000 gross tonnes per kilometre for indicative services;
- a fixed charge of \$3.426 per kilometre for indicative services; and
- no excess network occupancy charge.

## **3 ASCIANO'S GENERAL POSITION ON THE ARTC PROPOSED IAU VARIATION AND THE SSFL**

Asciano notes that if the ACCC accepts ARTC's proposed variation to the IAU undertaking then:

- the IAU will be extended to include coverage of the SSFL. Asciano has no issue with the IAU being extended to cover the SSFL.
- the terms and conditions of the IAU will apply to those access seekers negotiating access to the SSFL with ARTC. Asciano has no issue with the terms and conditions of the IAU being applied to the SSFL, although Asciano notes that these terms and conditions of individual access agreements under the IAU should be able to be further negotiated by the parties involved.
- the Indicative Access Charge as proposed by ARTC will apply to the SSFL. Asciano believes that the indicative access charge as proposed by the ARTC should not be accepted by the ACCC, an access charge at a lower level should be levied.
- the ARTC will be able to annually vary the Indicative Access Charge in accordance with clause 4.6(d) in its IAU. Asciano has no issue with an access charge set at an acceptable level being escalated annually in accordance with clause 4.6(d).

Thus the major concern which Asciano has with the ARTC's proposed variation to the IAU is the level of the proposed Indicative Access Charge.

In deciding whether to agree to the ARTC's proposed variation to the IAU the ACCC needs to have regard to criteria identified in the Act. These criteria include the

interests of the service provider (ARTC) and the interests of access seekers (such as Asciano). Asciano believes that these interests must be balanced. The proposed Indicative Access Charge does not achieve the necessary balance between the interests of access providers and access seekers and holders. In particular, access charges at the proposed level may act to result in the level of freight carried on the SSFL to be at volumes which are lower than they potentially could be, to the detriment of both the ARTC and access holders.

#### **4 ASCIANO'S POSITION ON THE SSFL INDICATIVE ACCESS CHARGE**

##### **Overview**

The indicative access charge proposed by the ARTC is

- \$8.564 per '000 gross tonnes per kilometre
- \$3.426 per kilometre (note that the SSFL is 35 kilometres long).

Asciano seeks that the ACCC not approve the ARTC's proposed SSFL indicative access charge due to the unacceptable level of the charge. Asciano would support an SSFL indicative access charge that was at a lower level.

##### **Impact of Indicative Access Charges on Non-Indicative Services**

In considering the impact of the SSFL indicative access charge it should be recognised that here are two broad types of access charge that will apply to the SSFL, namely:

- the indicative access charge for the indicative service, which is subject to ACCC approval via this current regulatory process; and
- negotiated access charges, which are negotiated for non-indicative services or are otherwise negotiated between ARTC and access seekers. These charges are not subject to ACCC approval but the ACCC approved indicative access charge will be used as a benchmark in any access charge negotiation.

Thus, while Asciano strongly supports the concept of negotiating access charges between access seekers and access providers, it should be recognised that any ACCC approved indicative access charge will act as a benchmark in such negotiations and as such the indicative access charge will impact on the negotiated pricing of non-indicative services. As such the ACCC must recognise that negotiated access charges will also be impacted by its decision on the indicative access charge.

## Pricing Comparisons

The proposed SSFL indicative access charge is high compared to other comparable freight charges in large cities in Australia. The table below shows charges for both an indicative train and a representative train for 34.76 kilometres on various comparable freight rail access charging regimes in Australia.

**Table 1 Access Charge Comparison**

Access Provider	Charge for Indicative Train	Charge for Representative Train	Comment
ARTC SSFL (Sydney Metropolitan Area)	\$1309.83	\$1101.45	None
Railcorp (Sydney Metropolitan Area)	[confidential] approximately 50% less	[confidential] approximately 50% less	This is based on tariffs in the confidential Asciano Railcorp agreement. Note Railcorp charges on train length and distance not weight.
MTM (Melbourne Metropolitan Area)	\$857.88 35% less	\$707.75 36% less	This charge is based on tariffs in the MTM access arrangement which is public

### Note

- The indicative train is a 21 tonne axle load train, 1800 metres long with a maximum speed of 110 m/h. Asciano estimates that such train meeting these parameters would weigh approximately 4000 tonnes.
- The representative train is a train referred to on page 12 of the ARTC supporting submission. This train is 3300 tonnes and 1500 metres long and is seen as representative of intermodal trains expected to use the SSFL

The table above shows that the proposed SSFL charge is approximately double the freight access charge that would be charged by Railcorp for indicative trains. Asciano has also undertaken analysis across a broader range of possible train consists which may use the SSFL. This analysis shows that the proposed SSFL indicative access charges are between 50% and 100% greater than the current Railcorp access charges to Asciano.

In considering these pricing comparisons it should be recognised that the Railcorp network effectively parallels the SSFL and as such the service provided by the Railcorp network is similar to the SSFL. The main differences between the services offered by the Railcorp network and the SSFL relates to the fact that freight trains may not access the Railcorp network at certain times due to Sydney suburban passenger train priority on the Railcorp network.

Asciano notes that in the ARTC Supporting Submission (page 4) the ARTC indicates that it believes that its proposed indicative access charges are approximately 20 per cent above Railcorp prices for the Macarthur to Sefton Park Junction corridor<sup>1</sup>. As shown above this ARTC assumption is incorrect. Asciano believes that a reduction in the indicative access charge so it is only 20 per cent above the Railcorp prices would be a more reasonable starting position for the SSFL indicative access tariff, although at this level the benefits of the SSFL and market demand factors would need to be taken into account before such a position could be supported.

### **Indicative Access Charge Modelling and Testing**

ARTC has based its indicative access charge on the floor and ceiling price modelling, where the proposed indicative access charge is greater than the incremental cost of providing the service (floor cost) but less than the stand alone cost of providing the service (ceiling cost). Asciano has not seen this modelling and so cannot comment on whether the indicative access charge is between the floor and ceiling cost levels. However, given the high level of pricing proposed Asciano queries whether the capital and operating costs underpinning the SSFL cost and price modelling are efficient costs. In particular, Asciano notes that in the ARTC Supporting Submission (page 9) final costs are not yet available. Given this, Asciano queries how any cost based pricing can be determined at the current time with any degree of certainty.

In any event, the range between the floor and ceiling cost levels as outlined in the ARTC documentation is very large and as such other factors need to be taken into account in determining the indicative access charge. In particular demand factors, as well as cost factors, should be considered in proposing an access charge for the SSFL.

Asciano notes that if the SSFL indicative access charge was set closer to the level of the Railcorp access charges, then based on the figures shown in Table 4 of the ARTC supporting submission (page 21) these lower access charges would still result in SSFL revenues well above the revenue floor.

Asciano believes that the proposed indicative access charge for the SSFL should be capped by competitive pressures from both competing networks and road transport

---

<sup>1</sup> Asciano recognises that ARTC acknowledges that it does not have access to Railcorp access charges and as such this figure was based on an internal ARTC estimate of Railcorp charges.



competition. Asciano does not believe that these competitive pressures have fully been taken into account by ARTC in proposing these indicative access charges. Asciano believes that a pricing approach based on competitive pressures is appropriate for two reasons:

- if the indicative access charges are not competitive with road and alternative networks there will be few users of the SSFL and as such the substantial fixed costs of the SSFL would need to be carried by a small user base, resulting in increased charges to remaining users in the future and increased government subsidy to cover these costs. (In this scenario it is possible that any increased charges would then result in other users withdrawing from the SSFL, creating a spiral of diminishing usage and increasing per unit costs and prices); and
- if the indicative access charges are not competitive with road then freight on road will increase. Asciano believes that rail freight transport provides a level of unquantified but real benefits to the community in the form of reduced road congestion, increased road safety and reduced pollution levels.

Overall, the proposed SSFL indicative access charge is of particular concern to Asciano as these charges do not appear to have undergone detailed market testing to ensure that they can be borne by the market. The price increase sought by ARTC requires substantial regulatory scrutiny and commercial testing before it can be seriously considered, let alone accepted.

#### **Factors Considered by the ARTC in Proposing the Indicative Access Charges**

ARTC states that in setting the SSFL indicative access charge it took into account a number of factors including:

- the IAU Pricing Principles;
- the ACCC decision to accept the IAU in 2008;
- the improved competitive position of SSFL users;
- existing indicative access charges applicable to other parts of the ARTC network; and
- factors applying in user markets.

In particular ARTC argues (ARTC page 13) that the SSFL indicative access charge is set at a level which does not impact on competitiveness with road transport on the North – South corridor.

Asciano believes that, while these factors may in themselves be appropriate to consider, the ARTC consideration of some of these factors is flawed.

#### Asciano Comment on IAU Pricing Principles

The IAU pricing principles are contained in part 4 of the IAU and address issues such as the appropriate balance between the interests of ARTC, users and the public, access charge formulation and differentiation, limits on revenue which can be generated from access charges, access charge structures and access charge escalation.

Under section 4.1 of the IAU ARTC is to develop its charges with a view to reaching an appropriate balance between the legitimate interests of ARTC, the public and access seekers as set out in 1.2 d) of the IAU. However, in setting SSFL indicative access prices at the level proposed ARTC is not meeting the interests of either access seekers (as the prices are not reasonable or efficient given the alternative rail access options available) or the public (as the prices do not promote efficient use of the network and do not promote an a shift of traffic from road to rail).

Under 4.2 c) of the IAU, when ARTC is formulating access charges it is to have regard to a number of factors including the market value of the train path sought. Unlike many other segments of the ARTC network there is a section of rail network owned by Railcorp which provides similar services to the services being provided by the SSFL. The freight access services provided by Railcorp are provided at a price which is substantially less than the indicative access price proposed by ARTC (as outlined above).

As such Asciano believes that in developing the SSFL indicative access price ARTC has not fully had regard to the factors outlined in 4.1 and 4.2 c) of the IAU.

#### Asciano Comment on the Improved Competitive Position of SSFL Users

Asciano notes that given the pricing relativities between the SSFL and the Railcorp network (as shown above in Table 1 above) users of the SSFL would be at a competitive disadvantage in regard to price when compared to users of the Railcorp

network. There is an advantage gained by users of the SSFL in that the usage of the SSFL is not constrained around peak passenger times as it is on the Railcorp network. However, it should be noted that on the north-south rail freight corridor the Railcorp curfew will continue to be an issue for trains travelling through the northern section of the Railcorp network (i.e. north of Sefton Park Junction). Thus, while the SSFL will partially address some of the operating limitations and costs created by the Railcorp curfew the impact of the SSFL in this regard should not be overstated. The Railcorp curfew will continue to impose operating limitations and costs on the north-south rail freight corridor.

#### Comment on Existing Indicative Access Charges Applicable to Other Parts of the ARTC Network

Asciano notes that the pricing levels of the SSFL are substantially higher than the charges applying in other parts of the ARTC network. In particular the prices are approximately four times greater than the charges on the adjoining Albury-Macarthur section of the ARTC network.

Asciano believes that the high SSFL access charges are unlikely to encourage growth on other relevant sections of the ARTC network and this may act to the broader detriment of ARTC and freight on rail in general. Asciano believes that lower SSFL pricing may encourage more freight to rail and as such may ultimately benefit ARTC by increasing revenues on the north-south corridor.

#### Comment on factors applying in user markets and competitiveness with road

There are two main market segments that could potentially use the SSFL, including:

- long haul intermodal freight services, typically a Melbourne – Sydney haul or Melbourne Brisbane haul. (These freight services are likely to be utilising rolling stock which has the general characteristics of the indicative service and as such it is likely these freight services will be charged the indicative access charge); and
- shorter haul bulk services, including cement and aggregate sourced from southern NSW and waste being taken to southern NSW. (These freight services are not as likely to be utilising rolling stock which has the general characteristics of the indicative service and as such it is likely these freight services will seek to negotiate access charges, however it should be

recognised that the indicative access charge will act as a benchmark in these negotiations)

These two market segments have different drivers and the SSFL charging will be a different proportion of these services total access charges.

In the intermodal market if the SSFL proposed indicative access charges are implemented then these charges will result in additional access charges of approximately \$1.5 million per annum on intermodal and steel services on Melbourne-Sydney, Melbourne-Brisbane and Perth-Sydney Routes. It should be recognised that the north south freight market is very competitive and pricing is already at the margin for some of this freight business. Any cost increase, such as an increase in access charges, may result in marginal business shifting to road.

In the shorter bulk haul market the current equivalent Railcorp charges for the SSFL route are approximately 15% to 30% of the total access charges of a Joppa Junction to Sefton Park Junction path and 30% to 50% of the total access charges of a Berrima Junction to Sefton Park Junction path. Thus these charges are already a significant portion of the costs of haulage. If the SSFL proposed indicative access charges are implemented then these increased SSFL access charges will add approximately 15% to 25% to the total access charges of a Joppa Junction to Sefton Park Junction path and 20% to 30% to the total access charges of a Berrima Junction to Sefton Park Junction path. This increase is substantial, and could be expected to result in substantial portions of this market moving to road.

Many of the current bulk users of the track section between Macarthur and Sefton Park Junction are marginal at current Railcorp access charges.

[ confidential]

Any increase in price is likely to result in a shift to road. The shift of such freight to road is likely to result in substantial externalities.

Overall Asciano has serious concerns that pricing at this level of the proposed indicative access charge for the SSFL will not be competitive with road transport. On the North – South corridor road prices are already very competitive with rail prices

and replacing lower Railcorp access charges with the higher proposed indicative access charge for the SSFL will only worsen this competitive position.

## **5 TIMING ISSUES**

Asciano understands that the SSFL is to be open for operation in late January 2013<sup>2</sup>, but that ARTC is seeking to implement the proposed pricing from 1 March 2013. Furthermore Asciano understands that under the current regulatory timetable for ACCC decision making on the proposed SSFL variations to the IAU it is unlikely that there will be a final decision prior to March 2013. Thus Asciano is seeking that ARTC clarify the basis of the SSFL pricing that will be charged prior to 1 March 2013; and

At this time Asciano proposes that until the SSFL pricing is finalised the ARTC charge either the relevant ARTC Albury-Macarthur access charges as per the ARTC website or the relevant Railcorp rates that apply to the relevant access holder.

## **6 OTHER AMENDMENTS**

Asciano notes that ARTC are seeking to make other consequential amendments to the IAU. These amendments are generally as a result of a finalisation of the SSFL project and include issues such as amending network definitions to include the SSFL, removing clause relating to the incorporation of the SSFL at a future date and amending clauses relating to excess network occupancy charges to clarify that such charges are not necessarily required. Asciano has no particular concern with these proposed IAU amendments.

Asciano also notes that ARTC are proposing consequential amendments to the Track access Agreement for Indicative Services. These amendments include amending network definitions to include the SSFL. Asciano has no particular concern with these proposed amendments.

## **7 CONCLUSION**

Overall Asciano seeks that the ACCC not approve the ARTC's proposed SSFL indicative access charge. Asciano would support an SSFL indicative access charge that was at a lower level and which ensured that both bulk and intermodal traffics remained on rail.

---

<sup>2</sup> Asciano recognises that the ACCC Consultation Paper (page 6) indicates that the expected start date is in February 2013, but in discussions with ARTC Asciano has been told that the start date is late January 2013.

Asciano would support an SSFL indicative access charge that was determined after market testing and consideration of the other access options available to freight rail operators. Asciano expects that such a charge would be substantially lower than the SSFL access charge as currently proposed.

## **ATTACHMENT 1 ANSWERS TO ACCC QUESTIONS RAISED IN ITS CONSULTATION PAPER**

The ACCC Consultation Paper contained a series of direct questions relating to the ARTC's proposed IAU variation. These questions and Asciano's responses are shown below.

*Is the proposed 1 March 2013 implementation date for the Indicative Access Charge appropriate?*

This date is appropriate however to the extent those operations commence before 1 March 2013 the ARTC and ACCC should clarify the pricing regime that will apply in the interim period. This issue is further discussed in the main body of this submission in section 5.

*Are the factors that ARTC has had regard to in determining the Indicative Access Charge appropriate?*

While the factors themselves are generally appropriate Asciano does not believe that the factors have been properly assessed by ARTC in reaching its proposed indicative access charge.

This issue is discussed in the main body of the submission in section.

*What are the expected flow-on benefits from the SSFL?*

The SSFL will provide benefits to freight rail operators in relation to reduced transit times, improved reliability and flexible timetabling (which should provide some operating cost benefits to SSFL users). However these benefits will be limited by:

- higher SSFL access charges; and
- continuing Railcorp restrictions on operations which will still apply in the sections of the north south corridor north of Sefton Park Junction.

*Are the ARTC's modelling assumptions reasonable?*

Asciano has not seen the detailed modelling and so is unable to comment on the detailed modelling assumptions.

General ARTC assumptions are outlined in the ARTC submission (page 14). Asciano believes that the ARTC assumption of a road to rail modal shift on the north south corridor is unlikely to eventuate if access pricing is not competitive.

Asciano notes that in the ARTC Supporting Submission (page 4) the ARTC indicates that it believes that its proposed indicative access charges are approximately 20 per cent above Railcorp prices for the Macarthur to Sefton Park Junction corridor. Given this ARTC assumption is incorrect; Asciano believes other assumptions made by ARTC in developing SSFL access charges may be questionable.

*Is the revenue expected to be generated by the Indicative Access Charge appropriate?*

Asciano believes that the revenue to be generated by the indicative access charges is not appropriate as the price levels which underpin this revenue are likely to result in a shift of many rail haulage tasks to road. As such the higher prices may also result in lower revenue than if lower charges were levied.

*What is the likely impact of the Indicative Access Charge on the competitiveness of rail with other forms of freight transport?*

As outlined in the submission above the increased indicative access charges are likely to drive marginal intermodal business to road and are likely to drive large portions of the bulk market to road. The SSFL is a larger portion of the bulk market access charge and so the shift to the higher SSFL access charges will impact the bulk market to a greater degree.

*Do you agree with ARTC's reasons for not including an excess network occupancy component as part of the Indicative Access Charge?*

Asciano believes the ARTC position in regard to an excess network occupancy charges on the SSFL is appropriate.



*Are the proposed drafting amendments to the Interstate Access Undertaking appropriate?*

Asciano has no particular concern with the proposed drafting of the IAU amendments beyond the concerns with the level of the indicative access charges outlined in this submission.