



USING THE TEMPLATE INTERFACE AGREEMENT FOR RAIL OR ROAD CROSSINGS

BACKGROUND

What is the purpose of the interface coordination provisions of the *Rail Safety Act 2008*?

The purpose of the interface coordination provisions of the *Rail Safety Act 2008* is to ensure that rail infrastructure managers and roads authorities identify risks to safety arising from rail or road crossings, determine measures to manage, so far as is reasonably practicable, those risks and seek to enter into interface agreements to manage the risks.

The provisions are intended to ensure that risks arising from rail or road crossings are identified and that accountabilities for risk control measures are clearly articulated.

What is an interface agreement?

An interface agreement is a written agreement for managing risks in relation to rail or road crossings. As a minimum an interface agreement must include provisions for:

- implementing and maintaining measures to manage those risks;
- the evaluation, testing and, where appropriate, revision, of those measures;
- the respective roles and responsibilities of each party to the agreement in relation to those measures;
- procedures by which each party to the agreement will monitor and determine whether the other party complies with its obligations under the agreement; and
- a process for keeping the agreement under review and its revision.

What is a rail or road crossing?

A rail or road crossing is a rail crossing, that is a level crossing or any area where a footpath crosses a railway or tram tracks at substantially the same level, or a bridge carrying a road over a railway or bridge carrying a railway over a road.

Who is required to enter into an interface agreement?

Rail infrastructure managers and roads authorities are required to seek to enter into interface agreements in relation to rail or road crossings on public roads. Rail infrastructure managers and roads authorities may also enter into interface agreements in relation to rail or road crossings on Crown roads and private roads.



A rail infrastructure manager means the person who has effective management and control of rail infrastructure of a railway, whether or not the person owns the rail infrastructure or has a statutory or contractual right to use the rail infrastructure or to control, or provide, access to it.

In NSW rail infrastructure managers include:

- the Australian Rail Track Corporation (ARTC);
- Rail Corporation New South Wales (RailCorp);
- the Rail Infrastructure Corporation (RIC);
- the Transport Infrastructure Development Corporation (TIDC); and
- rail infrastructure managers of isolated lines and private sidings.

In relation to a public road 'roads authority' means the persons identified in section 7 of the *Roads Act 1993* and in relation to a private road 'roads authority' means the owner of the road.

In NSW roads authorities include:

- the Roads and Traffic Authority;
- the Minister for Roads (in relation to Crown roads);
- local councils; and
- owners of private roads.

What happens if a party refuses to enter into an interface agreement?

Where a rail infrastructure manager or roads authority unreasonably refuses or fails to enter into an interface agreement with another person as required under Part 2, Division 3 of the *Rail Safety Act 2008* or is unreasonably delaying the negotiation of an agreement ITSRR may appoint an independent person to determine the arrangements to apply, and may direct the parties to give effect to those arrangements. Compliance with any such direction is mandatory.

Applications for a person to be appointed under section 30 of the *Rail Safety Act 2008* may be made by a rail infrastructure manager or a roads authority, and should be made in writing to ITSRR.

Purpose of the template interface agreement

The template interface agreement aims to assist rail infrastructure managers and road authorities to meet their obligations under Part 2, Division 3 of the *Rail Safety Act 2008*.

The template interface agreement has been drafted to meet the requirements set out in the definition of interface agreement in section 23 of the *Rail Safety Act*.

It is not mandatory to use the template interface agreement when entering into an interface agreement.



Scope of the template interface agreement

The template interface agreement provides for one or more rail infrastructure managers and one or more road authorities to agree on measures to manage risks to safety arising from one or more rail or road crossings.

Legal status of interface agreements

It should be noted that upon signing an interface agreement, the parties to the agreement create a contractual relationship and are bound by the terms and conditions of the agreement.

It is recommended that if clauses are added to or deleted from the template interface agreement, parties seek independent legal advice to ensure that they comply with the *Rail Safety Act 2008*.

The template interface agreement does not interfere with the continuing benefit of the *Civil Liability Act 2002* protections to public authorities including the section 45 protection available to roads authorities. Section 45 of the *Civil Liability Act* provides that a public road manager is not liable to proceedings for civil liability for harm arising from a failure of the road authority to carry out road work, or to consider carrying out roadwork, unless at the time of the alleged failure they had actual knowledge of the particular risk, the materialisation of which resulted in the harm.

Additional obligations under Part 2, Division 3 of the *Rail Safety Act 2008*

In addition to entering into interface agreements to manage risks to safety arising from rail or road crossings, rail infrastructure managers and road authorities must maintain a register of interface agreements to which they are a party and a register of arrangements determined by any appointed independent persons under section 30 of the *Rail Safety Act 2008*.

What are the transitional arrangements for Part 2, Division 3 of the *Rail Safety Act 2008*?

A roads authority for a road is not required to comply with Division 3 of Part 2 of the *Rail Safety Act 2008* until 3 years after the commencement of that Division.

COMPLETING THE TEMPLATE INTERFACE AGREEMENT

Clause 3 – Rail or Road Crossings

Parties should record the names and location of rail or road crossings in Schedule 1 along with a detailed description of the infrastructure comprising the rail or road crossing. It is also recommended that parties provide details of the surrounding physical environment in which the rail or road crossing is located.



Relevant diagrams, photographs, engineering standards, rail network or road rules, and technical or engineering drawings should be attached to or referenced in Schedule 1.

Clause 4 – Identification, Assessment and Management of Risks

Rail infrastructure managers and road managers must identify, assess and manage risks relating to rail or road crossings ‘so far as is reasonably practicable’.

In order for Schedule 3 to be completed:

- risks to safety which may arise at a rail or road crossing must be identified;
- a risk assessment must to be conducted;
- existing and required measures to manage risks (risk controls) so far as is reasonably practicable must be identified;
- the party responsible for implementing or maintaining risk controls must be identified; and
- the timeframe for implementing risk controls established.

A rail infrastructure manager or road manager who is required to identify and assess risks to safety relating to rail or road crossings may do so by:

- itself identifying and assessing those risks; or
- identifying and assessing those risks jointly with the another party; or
- adopting the identification and assessment of those risks carried out by the other party.

Risks that may occur over the life cycle of rail or road crossings and those that may occur due to changes in the use of the rail or road crossing should be identified.

Life cycle phases of rail or road crossings include:

- installation of a new rail or road crossing;
- maintenance of an existing rail or road crossing;
- providing new controls at an existing rail or road crossing;
- substituting one type of road or rail crossing with another eg replacing a level crossing with a bridge;
- closure of a rail or road crossing.

Changes in the use or application of the infrastructure which should be considered include:

- changes in rail speed, usage or any other change to rail traffic, including type and/or volume of rail traffic;
- changes in rail infrastructure;
- changes in road speed, usage or any other change to road traffic including type and/or volume of road traffic;
- changes in road infrastructure;
- changes in both road and rail traffic; and
- degraded operations.



Rail infrastructure managers and road authorities should refer to *AS4360 Risk Management* for guidance on risk management methodologies.

When identifying risk controls parties should consider:

- first, substituting the hazard giving rise to the risk with a hazard that gives rise to a lesser risk;
- second, isolating the hazard from the person put at risk;
- third, minimising the risk by engineering means;
- fourth, minimising the risk by administrative means (for example, by adopting safe working practices or providing appropriate training, instruction or information); and
- fifth, using personal protective equipment.

It may be appropriate to use a combination of controls to manage risk.

New, required risk controls may be identified through the process of identifying and assessing safety risks. Where these risks controls cannot be immediately implemented, a timetable for their implementation should be agreed and recorded.

Clause 5 – Monitoring and review of risk

If changes are identified through monitoring and review of risk, schedule 3 should be revised to reflect the changes.

In addition, rail infrastructure managers should ensure that the changes are reflected in their risk register and their safety management system more broadly.

Clause 7 – Communications and meetings

Details of the parties' representatives for the purposes of the interface agreement and emergency contact details should be recorded in schedule 4. Position names may be recorded in schedule 4 rather than the names of persons.

Parties should ensure that the details recorded in schedule 4 are kept up to date.

Clause 8 – Dispute resolution

Parties should identify a person to make a determination in the event that a dispute arises and conciliation is unsuccessful. The name of the person should be included in clause 8.5 of the template interface agreement.