



Standard

Concessions to ASA Requirements

Version 2.0

Issued date: 22 September 2015

Effective date: 02 November 2015

Important Warning

This document is one of a set of standards developed solely and specifically for use on Transport Assets (as defined in the Asset Standards Authority Charter). It is not suitable for any other purpose.

You must not use or adapt it or rely upon it in any way unless you are authorised in writing to do so by a relevant NSW Government agency. If this document forms part of a contract with, or is a condition of approval by a NSW Government agency, use of the document is subject to the terms of the contract or approval.

This document is uncontrolled when printed or downloaded. Users should exercise their own skill and care in the use of the document.

This document may not be current. Current standards may be accessed from the Asset Standards Authority website at www.asa.transport.nsw.gov.au.

Standard governance

Owner: Manager Network Standards and Services, Asset Standards Authority
Authoriser: Director Network Standards and Services, Asset Standards Authority
Approver: Executive Director, Asset Standards Authority on behalf of the ASA Configuration Control Board

Document history

Version	Summary of Changes
1.0	First issued as TS 10765
2.0	Document number changed to T MU MD 00011 ST Inclusion of process for nonconformances Changes to associated forms

For queries regarding this document,
please email the ASA at
standards@transport.nsw.gov.au
or visit www.asa.transport.nsw.gov.au



Preface

The Asset Standards Authority (ASA) is an independent unit within Transport for NSW (TfNSW) and is the network design and standards authority for defined NSW transport assets.

The ASA is responsible for developing engineering governance frameworks to support industry delivery in the assurance of design, safety, integrity, construction, and commissioning of transport assets for the whole asset life cycle. In order to achieve this, the ASA effectively discharges obligations as the authority for various technical, process, and planning matters across the asset life cycle.

The ASA collaborates with industry using stakeholder engagement activities to assist in achieving its mission. These activities help align the ASA to broader government expectations of making it clearer, simpler, and more attractive to do business within the NSW transport industry, allowing the supply chain to deliver safe, efficient, and competent transport services.

The ASA develops, maintains, controls, and publishes a suite of standards and other documentation for transport assets of TfNSW. Further, the ASA ensures that these standards are performance-based to create opportunities for innovation and improve access to a broader competitive supply chain.

This document replaces the previously issued TS 10765 *Concessions to ASA Requirements* and all its associated forms. The document scope has been extended to cover the instances where work has progressed noncompliant to ASA requirements without a concession from ASA.

Table of contents

1. Introduction	5
2. Purpose	5
2.1. Scope	5
2.2. Application	5
3. Reference documents	6
4. Terms and definitions	6
5. Concession process	8
5.1. Early engagement with ASA	8
5.2. Request for concession to ASA requirement	8
5.3. Withdrawal of request for concession	9
5.4. Notice of concession	9
5.5. Types of concession	9
5.6. Concession process overview	11
5.7. Requestor of a concession	13
5.8. Endorsement by responsible body	13
5.9. Submission of request for concession	14
5.10. Acknowledgement and advice of ASA response time	14
5.11. Request for additional information	14
5.12. Assessment of the request for concession	14
5.13. ASA assessment notification	15
5.14. Implementation and management	15
6. Failure to comply with concessions process	16
6.1. Request for review of nonconformance	16
6.2. Review of nonconformance	17
6.3. Nonconformance process overview	17
6.4. ASA review of nonconformance and notification	19

1. Introduction

The Asset Standards Authority (ASA) develops, maintains and publishes engineering and asset based network standards. Network standards include ASA requirements (as defined in the *ASA Charter*), that transport agencies are obligated to adopt when delivering asset related projects and services. AEOs providing asset related services to TfNSW through contracts are also mandated to comply with ASA requirements.

While it is expected that every effort is made to comply with ASA requirements, ASA recognises that it may not be reasonably practicable to comply fully with its requirements at all times. In some instances, better outcomes can be achieved for TfNSW through noncompliant alternatives even when compliance is reasonably practicable to achieve. These situations require approval to be sought for deviations from ASA requirements.

2. Purpose

The purpose of this document is to specify the process and procedure to obtain concurrence from ASA for a deviation from ASA requirements in the following situations:

- when compliance is not reasonably practicable
- when an innovative asset solution that benefits TfNSW in the larger context of its application beyond the particular instance involved is proposed as an alternative to a compliant solution

In addition to these situations, this document specifies the actions when the correct processes have not been followed; that is, when the deviation has already occurred without approval from the ASA.

2.1. Scope

This document describes the submission process when requesting an approval for a deviation from ASA requirements. It provides details of information that needs to be submitted and the types of notices that are issued by the ASA following assessment or review of such requests.

2.2. Application

The process described in this document applies to deviations from ASA requirements that are published and managed by the ASA excluding the *Train Operation Conditions (TOC) Manual* (TS TOC1, TS TOC 2 and TS TOC 3).

The requirements in this document apply to the following:

- all transport agencies and AEOs that are required to comply with ASA requirements through the *ASA Charter*

- all TfNSW projects and contracts where scope includes providing new assets or altering existing assets including design of those (this includes property lease agreements such as air space developments and easements)
- third parties whose work affects a designated transport corridor or service and are required by a planning instrument to comply with ASA requirements
- third party operators or owners of rolling stock or transport assets

3. Reference documents

Transport for NSW standards

TS 20001 System Safety Standard for New or Altered Assets

T MU MD 00011 F1 Request for Concession to ASA Requirement

T MU MD 00011 F2 Request for Review of Nonconformance to ASA Requirement

T MU MD 00011 F3 Notice of Concession

T MU MD 00011 F4 Notice of Review of Nonconformance

T MU AM 01001 ST Life Cycle Costing

T MU AM 04001 PL TfNSW Configuration Management Plan

Other reference documents

ASA Charter

4. Terms and definitions

The following terms and definitions apply in this document:

AEO Authorised Engineering Organisation; a legal entity (which may include a transport agency as applicable) to whom the ASA has issued an ASA Authorisation

ASA Asset Standards Authority

ASA requirements (as defined in the *ASA Charter*) the standards, plans, processes, procedures, instructions, requirements and guidance material (in whatever form) published externally or notified by the ASA in the exercise of its functions including (but not limited to) any:

- network and asset standards (including both technical and maintenance standards)
- requirements for policies and processes in relation to ASA Authorisation
- asset management plans, systems and processes
- configuration control processes

- asset and configuration data condition requirements
- asset and condition reporting requirements

The ASA requirements do not include standards and procedures for operational systems including network rules.

CCB configuration control board

CMAAC Configuration Management and Asset Assurance Committee

concession a deviation from an ASA requirement approved by ASA in advance

deviation departure from an ASA requirement

International standard an internationally accepted standard such as those prepared by an internationally recognised standards development organisation such as ISO or IEC

network standards ASA requirements and other content published externally that fulfil the network and asset standards function as defined in the *ASA Charter*

nonconformance a deviation from an ASA requirement that has occurred without prior approval from ASA

not reasonably practicable means that the cost of compliance grossly outweighs the risk being managed through the standard requirement and other suitable means of reducing the risk to a tolerable level are available.

other national standard standards developed outside Australia by other national and regional standards organisations

requestor the party requesting either an approval or review of a deviation from an ASA requirement

responsible body the business unit of the transport agency responsible for the management of the contract to which the concession or review of nonconformance request relates and is acting in the best interests of TfNSW

SFAIRP so far as is reasonably practicable; that which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters including:

- (a) the likelihood of the hazard or the risk concerned occurring
- (b) the degree of harm that might result from the hazard or the risk
- (c) what the person concerned knows, or ought reasonably to know, about the hazard or risk, and ways of eliminating or minimising the risk
- (d) the availability and suitability of ways to eliminate or minimise the risk, and

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

SME subject matter expert

Transport agency Transport for NSW (and each of its divisions), Rail Corporation NSW, Sydney Trains and NSW Trains

TOC train operating conditions

5. Concession process

A request submitted for a concession to an ASA requirement shall be made using the form T MU MD 00011 F1 *Request for Concession to ASA Requirement*. ASA assesses the request and issues a notice of concession to the responsible body (where applicable) and to the requestor.

5.1. Early engagement with ASA

To minimise the possibility of aborting work due to inappropriate, incompatible design selection or noncompliant design, every requestor shall consult with the relevant discipline lead subject matter expert (SME) at ASA at an early stage of development of the concession request.

A list of ASA contacts is set out in the ASA website.

5.2. Request for concession to ASA requirement

A request for concession shall be made using T MU MD 00011 F1 and submitted to ASA via the responsible body (where applicable) together with all information and supporting documentation relevant to the request.

The supporting information shall comprise the following:

- Justification of why the requirement is not reasonably practicable to comply with or why the proposed design solution provides equal or better facility and safety with a compliant design solution in the context, which it is proposed.

This justification is required even when a proposal is an improvement (such as safety, environment or economic) to an existing situation but still falls short of meeting the requirement.

- A risk assessment prepared by a competent person that demonstrates the residual risk associated with the noncompliance is mitigated to SFAIRP. The risk assessment shall be of a level commensurate with the level of risk. The risk assessment shall identify and assess all risks associated with the asset in its operational state that will be impacted by the concession. For each risk its impact from the concession should be addressed and it

should be demonstrated that the risk has been reduced SFAIRP. An overall structured argument shall be presented and supported by evidence that demonstrates that safety will be ensured SFAIRP in implementing the concession. Where there is a significant level of risk, the risk argument shall be independently verified. The ASA at its discretion can request independent verification. Refer to TS 20001 *System Safety Standards for New or Altered Assets* that provides guidance on the expected level of rigor required for safety and risk management.

- An options report that describes the various options identified, the associated risks and costs, and why the proposed alternative is considered the best option.
- Stakeholder engagement details including identification of all relevant stakeholders and their organisational titles.

Acceptance of the proposed deviation by the stakeholder shall be indicated by the stakeholder representative's record of acceptance of the options report included as an addendum to the report.

- Whole-of-life cost assessment for the proposed deviation in comparison with the whole-of-life costs associated with other compliant options identified. Refer to T MU AM 01001 ST *Lifecycle Costing Standard* for more information.

5.3. Withdrawal of request for concession

A concession request that has been registered by ASA may be withdrawn by the requestor before ASA's determination by requesting in writing to standards@transport.nsw.gov.au. ASA accepts such withdrawal requests of concession and acknowledges the requestor in response to the request.

5.4. Notice of concession

ASA assesses the request for concession and notifies its decision by issuing a notice of concession. A request for concession results in one of the following outcomes of ASA assessment:

- concession granted
- concession rejected

5.5. Types of concession

Concessions granted are either time bound or permanent. Time bound concessions are either interim or temporary.

5.5.1. Interim concession

An interim concession is a temporary concession issued in a time-constrained situation where the ASA agrees in principle to a proposed deviation to avoid possible delays to a project or to the operation of transport services.

An interim concession is valid for a period of up to 10 working days from the date of issue, unless a different length of validity period is agreed with the assessor at the time of granting the interim concession. The interim concession shall be replaced either by a temporary concession or by a permanent concession within that period. The requestor shall apply for a formal concession as stated in Section 5.2 by submitting the required documentation within the validity period of the interim concession, allowing sufficient time for review and determination.

Situations that justify the request for an interim concession usually arises from construction and maintenance activities where latent conditions, unplanned circumstances or operational needs render the meeting of ASA requirements not reasonably practicable. In such situations, the responsible AEO may request an interim concession from the relevant discipline lead SME at the ASA. In requesting such concessions, the AEO shall obtain prior approval of the relevant operations and maintenance authorities for the risk controls to be implemented during the concession period.

Interim concession requests shall be made directly to the relevant lead SME by emailing details of the concession being sought. A list of ASA contacts is provided in the ASA website. An interim concession may be granted by the lead SME and the notice of the interim concession shall be in writing.

5.5.2. Temporary concession

A temporary concession is issued in one of the following situations:

- work is of a temporary nature and full compliance with ASA requirements is not reasonably practicable
- temporary conditions prevent full compliance but are likely to change to normal in the foreseeable future
- a nonconformance that has been rejected is allowed to remain until rectified within a given period

A temporary concession has an expiry date and requires one of the following actions:

- allow to expire (upon meeting the set conditions)
- renew for a further period (upon request for an extension)
- replace with a permanent concession

5.5.3. Permanent concession

A permanent concession is issued when the circumstances that cause the deviation to occur may not change over the life of the asset to which the concession applies.

5.6. Concession process overview

Figure 1 provides an overview of the full concession process.

Note: Not all process steps are applicable to the interim concession request review process.

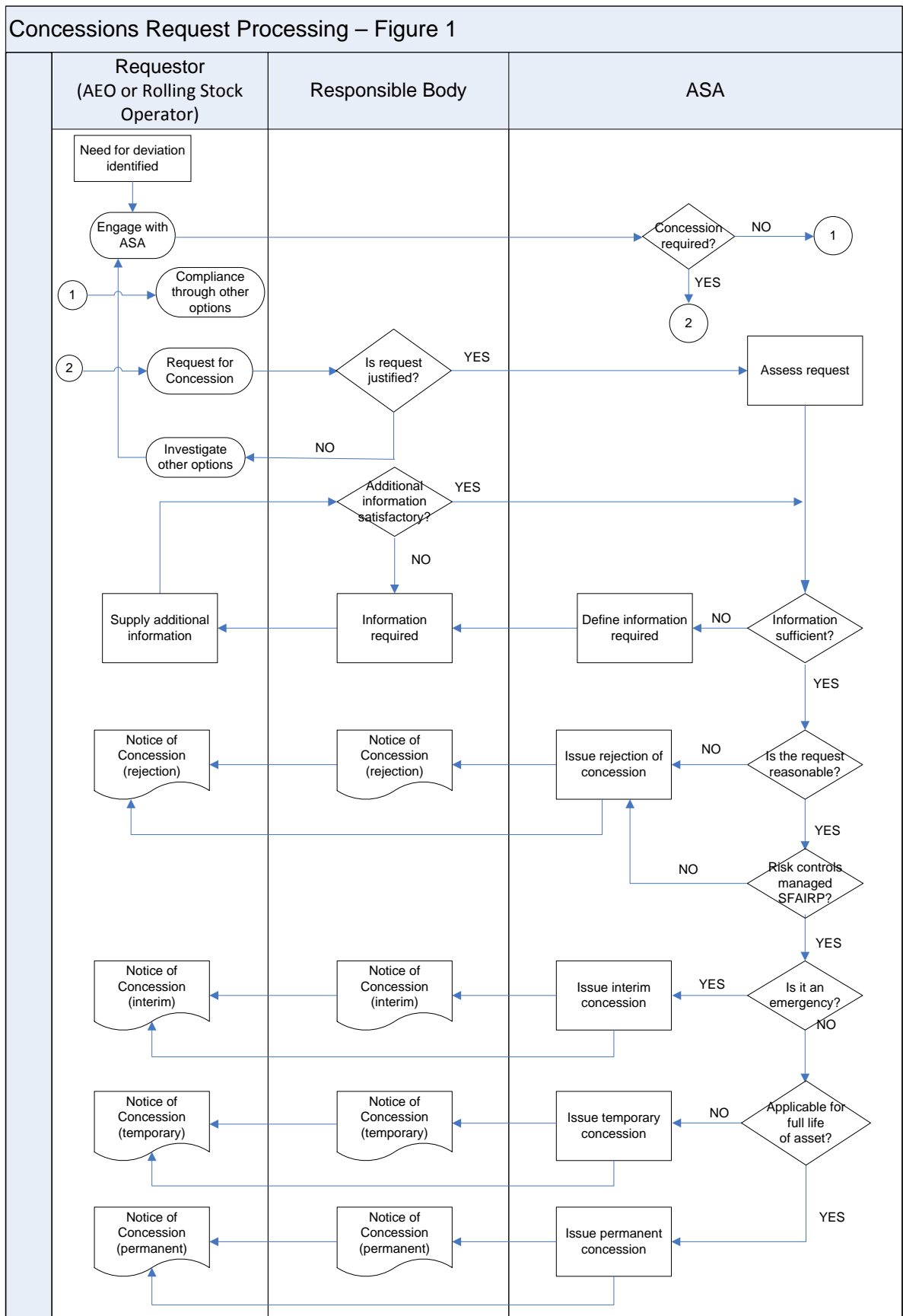


Figure 1 - Concession request processing

5.7. Requestor of a concession

In project situations including the delivery of maintenance programs, the requestor to a concession may be one of the following:

- an AEO performing the work under a contract
- the transport agency delivering the project or program of works

Where the requestor is the transport agency entrusted to deliver a project or program, all responsibilities of the responsible body as listed in Section 5.8.1 shall be carried out by the requestor; that is, a separate responsible body endorsement is not required.

In other situations, the requestor may be one of the following:

- a third party who owns or operates rolling stock or a transport asset
- a third party including a utility provider carrying out work that affects the TfNSW assets or operations

5.8. Endorsement by responsible body

The responsible body shall endorse the request for concession before forwarding the request to the ASA. This requirement applies to the following situations:

- the requestor is an AEO
- the requestor is a non-AEO and required to comply with ASA requirement through contracts with TfNSW as mentioned in Section 2.2
- the requestor is a third party whose work affects TfNSW assets or operations and is required by a planning instrument to comply with the ASA requirement

The responsible body shall check the request to ensure that all required information is included in the request. The representative of the responsible body who endorses the request shall be at a senior level and have defined authority and responsibility.

Note: Only requests that are endorsed by the responsible body will be processed by the ASA. Requests that are submitted without the endorsement by the responsible body will be returned to the requestor for proper endorsement.

5.8.1. Endorsement of request for concession

An endorsement by the responsible body of a request for concession to ASA requirement signifies the following:

- Evidence has been included in the submission that all items listed in Section 5.2 have been fully and adequately investigated and addressed.

- Stakeholder interests have been properly investigated and addressed.
- The proposed deviation and risk controls do not give rise to new risks or outcomes that are unacceptable. The outcomes may include life cycle cost increases that have been determined to be acceptable by stakeholders.

5.9. Submission of request for concession

The form T MU MD 00011 F1 shall be used for requesting a concession. All relevant fields shall be populated and the form shall be submitted electronically to ASA via email to standards@transport.nsw.gov.au in an open industry standard format, such as PDF.

5.10. Acknowledgement and advice of ASA response time

Depending on the complexity of issues associated with the request, the time for determining a request could vary. The ASA acknowledges receipt and communicates the estimated time for determining the request, within five working days from the date of receipt of request.

5.11. Request for additional information

ASA assesses whether the information that is supplied by the requestor is sufficient for its decision-making.

If the ASA determines that the information is not sufficient, ASA will request additional information. The request for concession is then put on hold for a period of up to three months from the date the ASA has requested additional information. If the requestor fails to submit the information within that time or within a time subsequently agreed with ASA, the request for concession shall be rejected.

A revised date for determining the request for concession shall be advised by the ASA within five working days of receiving additional information.

Any additional or supplementary information requested by ASA shall bear the reference number issued by ASA and be submitted via the same email address.

5.12. Assessment of the request for concession

The request for concession is assessed by the relevant lead SME of the ASA.

ASA assessment involves ensuring that the following have been performed:

- interfaces for the proposed deviation have been properly identified
- appropriate stakeholders have been identified and consulted
- appropriate risks identified and risks transferred

- risk control owners identified, their roles and responsibilities defined and that appropriate communication protocols are in place to inform all affected parties
- whole-of-life cost has been assessed
- all reasonable alternatives have been considered in proposing an alternative solution
- the proposed deviation is considered in the best interests of TfNSW over the life of the asset

The assessment is done in order to establish that the requestor has sufficiently demonstrated the following:

- that it is not reasonably practicable to achieve compliance
- sufficient steps, including additional control measures to mitigate the risks associated with the deviation to SFAIRP, have been specified
- the residual risk associated with the deviation is tolerable
- sufficient stakeholder consultation has been performed and the stakeholders have generally accepted the alternative proposed solution

The ASA grants a concession when satisfied that the requestor has done everything SFAIRP to ensure safety in operation and that the residual risks associated with the deviation are tolerable. The ASA can recommend additional risk controls where necessary.

5.13. ASA assessment notification

ASA notifies the outcome of its assessment of the request for concession by way of notice to the responsible body (where applicable) and to the requestor. The notice is issued on T MU MD 00011 F3 *Notice of Concession*.

5.14. Implementation and management

Where a notice of concession has been issued, the requestor shall arrange the execution of the work in accordance with the notice. This includes fulfilling any additional conditions or implementing any additional controls imposed by the ASA where relevant.

The responsible body shall arrange for the conditions of approval to be maintained throughout the life of the system or asset to which the concession applies.

Concessions for projects provide assurance to the Configuration Management and Asset Assurance Committee (CMAAC) that deviations from ASA requirements are managed. This evidence shall be presented by the responsible body to the CMAAC at configuration gateway 5 (asset hand over).

The assurance evidence shall contain the following:

- notices of concessions granted by ASA for all deviations from ASA requirements
- risk controls associated with concessions are implemented and residual risks are managed

Refer to T MU AM 04001 PL *TfNSW Configuration Management Plan* for information on configuration gateways.

6. Failure to comply with concessions process

A deviation is treated as a nonconformance in a situation where work has already been carried out or progressed without following the request for concession process and an argument has been presented that there is a benefit to TfNSW in not reworking (including work at any stage in the design and construct process).

ASA reviews all nonconformances and issues a report on its findings on the effect on the technical integrity of the asset, the additional cost implications for the operator and maintainer and the management plan submitted by the requestor.

6.1. Request for review of nonconformance

A request for review of nonconformance shall be made using T MU MD 00011 F2 *Request for Review of Nonconformance to ASA Requirement* and submitted to ASA together with all information and supporting documentation relevant to the request.

The supporting information shall comprise the following:

- What went wrong that led to the situation.
- Justification that it is not reasonably practicable to implement corrective action to comply with ASA requirements that have not been complied.
- A detailed description of the nonconforming item, identification of the relevant and specific section or sections of the standard and description of how the item does not comply with those sections.
- A detailed description of the proposed disposition of the nonconformance, which includes the following:
 - A detailed risk assessment to demonstrate that the risk associated with the proposed disposition has been managed to SFAIRP; refer to TS 20001 for details.

This shall include a certification by the design AEO that the proposed disposition manages risk to SFAIRP.

- A detailed description of the effect on reliability and maintenance requirements associated with the proposed disposition including an assessment of all immediate and ongoing costs arising for the whole-of-asset life cycle.
- A detailed plan for the future management of the nonconforming work.
- Approval of the disposition by all relevant stakeholders including maintaining and operating AEO clearly showing approver's name and organisational title. Acceptance of the proposed deviation by the stakeholders shall be indicated by stakeholder representatives' record of acceptance of the nonconformance report included as an addendum to the report.
- Lessons learnt and preventive action taken to avoid recurrence.

6.2. Review of nonconformance

ASA reviews the nonconformance and issues a notice of its findings via T MU MD 00011 F4 *Notice of Review of Nonconformance*. The notice of review of nonconformance contains ASA's opinion as to the validity of the argument that has been put forward. The review of a nonconformance triggers an investigation of the deviation. ASA's review advice shall form part of the assurance information provided for CMAAC acceptance as described in *T MU AM 04001 PL TfNSW Configuration Management Plan*.

6.3. Nonconformance process overview

Figure 2 provides an overview of the nonconformance review process.

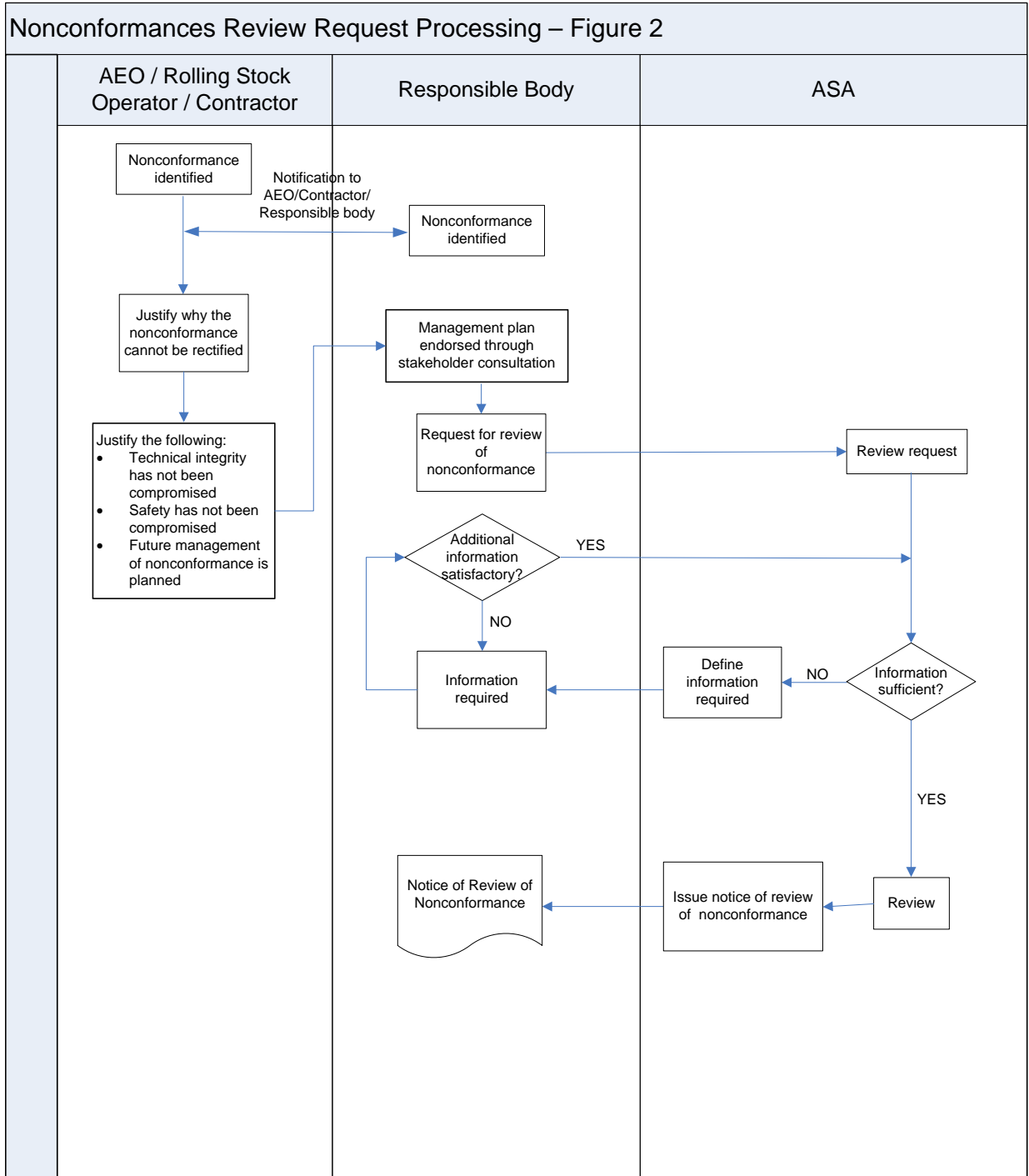


Figure 2 - Review of nonconformance processing

6.3.1. Requestor of review of nonconformance

Only the responsible body shall request a review of nonconformance. The AEO responsible for the nonconformance shall submit all supporting information to the responsible body and the responsible body shall make the request to the ASA.

6.3.2. Justification of nonconformance

The AEO shall justify why the nonconformance cannot be rectified and provide the following assurances to the responsible body:

- technical integrity of the asset has not been compromised (design assurance)
- safety has not been compromised (safety assurance)
- future management of nonconformance is planned (management plan)

6.3.3. Management plan endorsement

The responsible body shall endorse the management plan supplied by the AEO or contractor through stakeholder engagement. The management plan shall contain the following information:

- the argument put forward by the requestor for not taking corrective action to meet the ASA requirement is justified
- consequences arising out of nonconformance have been duly addressed
- cost of any alternative solution to avoid consequences, if any, is appropriate
- risk of accepting the nonconformance is tolerable
- ongoing costs considered for maintaining the legacy into the future is appropriate
- stakeholders duly consulted and their issues arising from the nonconformance can be addressed and managed

When the stakeholders of the project or contract are satisfied with the management plan and provide their acceptance, the responsible body endorses the management plan as acceptable to TfNSW over the life of the asset and then requests a review of the nonconformance by ASA.

6.4. ASA review of nonconformance and notification

The ASA in its review of a nonconformance will take into consideration the following factors:

- technical integrity of the asset is maintained
- criticality of implications of the nonconformance on future network asset strategy
- limitations on operations and changes to operating conditions imposed by accepting the nonconformance
- changes required to maintenance regimes
- adequacy of risk controls proposed

ASA notifies the outcome of its review by way of notice to the responsible body. The notice is issued via T MU MD 00011 F4 *Notice of Review of Nonconformance*.

ASA uses records of nonconformances in its AEO performance evaluations and in reporting to various TfNSW divisions.