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WestNet Rail Pty Ltd

**Review of compliance with the Train
Path Policy and Train Management
Guidelines**

Year ended 30 June 2009

Deloitte.

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Mr Adam Sidebottom
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31 July 2009

Dear Adam

Re: Review of compliance with the Train Path Policy and Train Management Guidelines for the year ended 30 June 2009

We have completed our fieldwork on the above review and have received and incorporated WestNet Rail management's comments on each of the issues identified.

Accordingly, we are pleased to submit our report to you.

Yours sincerely

Richard Thomas
Partner

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1 Executive Summary

1.1 Introduction

In accordance with the letter of engagement accepted by the Commercial Manager on 7 July 2009, this report presents the results, conclusions and observations of the review of compliance by WestNet Rail Pty Ltd (WNR) for the year ended 30 June 2009 with the Train Path Policy (TPP) and Train Management Guidelines (TMG). The engagement was conducted in accordance with Australian Standard on Assurance Engagements ASAE 3000 'Assurance Engagements other than Audits or Reviews of Historical Financial Information'.

1.2 Purpose

The purpose of this review was to provide an assessment of the compliance by WNR with the TPP and TMG as outlined in our letter of engagement dated 7 July 2009 and further detailed in the scope below.

1.3 Scope

The scope of this review was to address whether:

- all personnel who handle confidential information had been included in the Confidentiality Register
- all personnel who handle confidential information had undergone appropriate induction training within a week of commencement to understand their obligations
- WNR provided operators with a time profile of its schedule of repair, maintenance or upgrading works to be undertaken and the length of potential disruptions
- WNR advised the affected operators of the revised time profile within a reasonable period (in any instances when WNR was unable to meet identified time commitments)
- WNR scheduled train paths have been affected by planned track maintenance activities and planned track upgrades, where the parties cannot be provided satisfactory alternate train paths.

1.4 Approach

The review involved the following activities:

- reviewing and understanding the relevant requirements of the TPP, the TMG, the Segregation Arrangements, policies and procedures
- interviewing key staff to understand processes as they relate to the functions outlined under the scope
- performing walkthroughs of relevant processes
- assessing compliance with the relevant legislative requirements and policies & procedures
- performing compliance testing
- identifying areas of non-compliance
- finalising the report.

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1.5 Instances of non-compliance

Our review highlighted two instances of non-compliance by WNR with the TPP and TMG:

1. confidentiality agreement sign off
2. confidentiality agreement register.

The above issues were also raised in the 2007 and 2008 reports. WNR management have not addressed these matters to date.

These issues are further detailed in section 2, Observations and Agreed Action Plans, where we outline our findings and recommendations. Management has responded with action plans to improve the relevant processes and prevent future non-compliance.

1.6 Acknowledgement

We wish to place on record our appreciation of the assistance and cooperation received from the management and staff of WNR.

1.7 Report Clearance

The contents of this report have been discussed and agreed with:

- Adam Sidebottom, Senior Commercial Analyst
- Arthur Fowler, Compliance Officer
- Vic Bliss, Manager Safety & Compliance.

1.8 Qualified conclusion

Based on our review, which is not an audit, except for the matters noted above and detailed in section 2, Observations and Agreed Action Plans section of this report, nothing has come to our attention that causes us to believe that WNR has not, for the year ended 30 June 2009, complied with the TPP and TMG as detailed in the scope above.

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2 Observations and agreed action plans

1. Confidentiality agreement sign off

Observation	Risk/Implication	Recommendations	Management Comment / Action Plan
<p>Section 4 of the Segregation Arrangements states that WNR employees who have duties that include managing or conducting access related functions are required to undertake confidentiality agreement training and sign a confidentiality agreement.</p> <p>WNR currently requests that only head office staff and train controllers sign the agreement. Regional staff such as signal technicians, perway inspectors are excluded from signing the agreement as they are classified by WNR as not having access to confidential information. This approach is currently not documented.</p> <p>The WNR process is that training and agreement signing takes place within one week of commencement.</p> <p>Detailed testing of confidentiality agreements identified the following deficiencies:</p> <ul style="list-style-type: none"> seven of 43 new employees tested did not sign a confidentiality agreement within a reasonable timeframe i.e. within one week of commencement. Of these seven employees, one person had been employed for more than three weeks before signing a confidentiality agreement three of the four WNR Board members did not sign the agreement one out of 33 terminated employees had not signed a new confidentiality agreement before re-commencing employment with WNR one month after his departure. <p>This issue was also identified in the 2007 and 2008 reports. Management have not taken any action to date to address this issue.</p>	<p>Employees who have access to, or could come in contact with, confidential information may not:</p> <ul style="list-style-type: none"> have received appropriate training have signed a confidentiality agreement fully appreciate their responsibilities around not divulging confidential information. 	<p>Confidentiality training should be incorporated into the employee induction process to avoid non compliance.</p> <p>The confidentiality agreement should be signed within a reasonable timeframe i.e. within one week of commencement.</p> <p>All employees including those re-commencing employment with WNR and those located in regional offices should sign the agreement as they could come in contact with confidential information.</p> <p>All WNR Board members should sign the confidentiality agreement.</p>	<p>WNR will develop a procedure to document the confidentiality agreement process.</p> <p>The procedure will clearly state:</p> <ol style="list-style-type: none"> what positions or workgroups are required to undergo training and sign an agreement what timeframes agreements should be signed within maintenance of the confidentiality register responsibilities and accountabilities for implementation.
		<p>Responsibility</p> <p>Accountability</p> <p>Target Date</p>	<p>Compliance Officer</p> <p>Manager Safety & Compliance</p> <p>30 September 2009</p>

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2. Confidentiality agreement register

Observation	Risk/Implication	Recommendations	Management Comment / Action Plan
<p>WNR does not maintain a confidentiality agreement register listing all employees that have received confidentiality agreement training and signed the agreement.</p> <p>An attendance listing is prepared for each confidentiality agreement training session conducted. This listing, however, does not confirm that the agreement has been signed because training can be delivered without the requirement to sign the agreement.</p> <p>Furthermore, the listing itself is not signed by each employee to indicate they have received the appropriate training.</p> <p>This issue was also identified in the 2007 and 2008 reports. Management have not taken any action to date to address this issue.</p>	<p>Potentially inefficient and/or ineffective method of ensuring that all relevant WNR employees have signed a confidentiality agreement.</p> <p>Identification of those employees who had signed the agreements would be difficult if the signed confidentiality agreements were misplaced or lost.</p> <p>Employees may not receive adequate training prior to signing the confidentiality agreement.</p>	<p>All employees should undergo confidentiality agreement training, sign the attendance listing and subsequently the confidentiality agreement.</p> <p>A confidentiality agreement register should be created to keep track of all employees that have completed the confidentiality training and signed the agreement.</p> <p>Maintenance of the confidentiality agreement register should be assigned to a suitable WNR employee.</p> <p>Responsibility</p> <p>Accountability</p> <p>Target Date</p>	<p>WNR will maintain an electronic register of all employees who have received training and/or signed the confidentiality agreement. The register will record:</p> <ul style="list-style-type: none"> • name • position title • workgroup • date of training • date of signing. <p>Attendance listing will be signed by the employee after receiving confidentiality agreement training.</p> <p>Compliance Officer</p> <p>Manager Safety & Compliance</p> <p>30 September 2009</p>

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3 Statement of responsibility

3.1 Management's Responsibility

The management of WNR are responsible for the compliance with the TPP and TMG. This responsibility includes establishing and maintaining processes and internal controls relevant to the compliance with the TPP and TMG to ensure that it is free from material misstatement, whether due to fraud or error, selecting and applying appropriate policies and making estimates that are reasonable in the circumstances.

3.2 Assurance Practitioner's Responsibility

Our responsibility is to express a conclusion on the compliance with the TPP and TMG. We conducted our review in accordance with Australian Standard on Assurance Engagements ASAE 3000, "*Assurance Engagements Other than Audits or Reviews of Historical Financial Information*," in order to state whether, on the basis of the procedures described, we have become aware of any matter that makes us believe that WNR has not maintained compliance with the TPP and TMG.

A review consists primarily of making enquiries, primarily of persons responsible for the compliance with the TPP and TMG and its underlying information, applying analytical and other review procedures, and examination of evidence for a small number of transactions or events. A review is substantially less in scope than a reasonable assurance "audit" conducted in accordance with ASAE 3000. Accordingly, we do not express an *audit opinion*. Had we performed a reasonable assurance "audit" as defined by ASAE 3000 or an audit as defined by Australian Standards on Auditing, additional information may have come to our attention, which would have been reported to you.

3.3 Inherent Limitations

Our work is subject to the following limitations:

- because of the inherent limitations of any internal control structure, it is possible that errors or irregularities may occur and not be detected. Our procedures were not designed to detect all weaknesses in control procedures as they were not performed continuously throughout the period and the tests performed are on a sample basis
- any projection of the evaluation of the control procedures to future periods is subject to the risk that the systems may become inadequate because of changes in conditions, or that the degree of compliance with them may deteriorate
- the matters raised in this report are only those which came to our attention during the course of performing our procedures and are not necessarily a comprehensive statement of all the weaknesses that exist or improvements that might be made. We cannot, in practice, examine every activity and procedure, nor can we be a substitute for management's responsibility to maintain adequate controls over all levels of operations and their responsibility to prevent and detect irregularities, including fraud. Accordingly, management should not rely on our report to identify all weaknesses that may exist in the systems and procedures under examination, or potential instances of non-compliance that may exist.

Suggestions for improvement should be assessed by management for their full commercial impact before they are implemented.

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3.4 Limitations on use

This report is made solely to the management of WNR in accordance with our engagement letter dated 7 July 2009, for the purpose of reviewing compliance with the TPP and TMG and should not be quoted in whole or in part without our prior written consent. We disclaim any assumption of responsibility for any reliance on this report to any person other than the management of WNR, or for any purpose other than that for which it was prepared.

We understand that a copy of this report has been requested by the Economic Regulations Authority (ERA). We agree that a copy of this report may be provided to the ERA for their information but we do not accept any duty, liability or responsibility to the ERA in relation to this report.

We disclaim all liability to any other party for all costs, loss, damages, and liability that the other party might suffer or incur arising from or relating to or in any way connected with the contents of our report, the provision of our report to the other party, or the reliance on our report by the other party.

3.5 Independence, Competence, and Experience

All professional personnel involved in this engagement have met the independence requirements of the Australian professional accounting bodies. Our team has been drawn from our Forensic Practice and has the required competencies and experience for this engagement.

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