Productivity Commission

Initial Submission

December 2013

Pictured: Brighton Transport Hub: Logs being prepared for rail haulage to Bell Bay and general containerised freight departing to Burnie Port.

TASRAIL
Our future on track

File No: **PC_0012013**

Date: 11/12/2013

Background

On 1 December 2009 a new State-owned company, Tasmanian Railway Pty Ltd (TasRail), was established by an Act of the Tasmanian Parliament (*Rail Company Act 2009).*

TasRail was created by combining the Below Rail assets (track and associated infrastructure), for which the Tasmanian Government had assumed responsibility in 2007, with the Above Rail assets (rolling stock, workshops, depots) and business assets purchased from Pacific National late in 2009. This completed the amalgamation of the whole operating rail network within Tasmania, and importantly, enabled TasRail to operate as a vertically integrated rail freight business.

At the time of its establishment, it was well documented that TasRail had inherited a business characterised by many decades of capital under-investment. This had critically constrained the ability of rail to contribute to the business development of the State and led to increased volumes of freight being transferred to the road network.

As investment in rail has occurred since the new company has been established, TasRail is rapidly transitioning from the Rail Rescue to the Revitalization phase with new customers, growing volumes, improved Below Rail infrastructure and new rolling stock all well advanced.

Current Situation

Rebuilding the Below Rail Network

The Australian and Tasmanian Governments recognised that, similar to the road network, the Below Rail Network is critical infrastructure that requires sufficient funding to ensure appropriate maintenance, operational and safety standards.

A Memorandum of Understanding (MOU) between the Commonwealth of Australia and the State of Tasmania, signed in 2008-2009, set out funding allocations for rail projects under the current Nation Building Program (NB1).

Under NB1, the capital funding commitment by the Australian Government for renewal of priority Rail Network Infrastructure (Below Rail assets) will be $210.5 million to 30 June, 2014.

$ million	To 2009/10	2010/11	2011/12	2012/13	2013/14	Other	TOTAL
Funding Committed	88.89*	19.05	21.26	45.70	30.40	5.2	210.5

**Includes funds received and retained by the Tasmanian Department of Infrastructure, Energy and Resources prior to the establishment of TasRail*

NB1 funding has enabled TasRail to address the most urgent and safety critical defects and to achieve considerable improvement in network condition, safety and reliability.

Examples include the replacement or refurbishment of four major North West Rail Bridges – total value $24 million; and the installation of ~70kms of concrete sleepers to eliminate tight

radius curves at priority sections on the South Line and the Western Line – total value $46 million.

In addition to the Tasmanian Government's Above investment (discussed below), the State Government is also providing annual funding for Below Rail "catch up" maintenance and asset renewal.

Rebuilding the Above Rail Asset

The Tasmania Government will have invested $137 million over 7 years (2009/10 to 2015/16) for the replacement of life expired plant and equipment. This includes a complete new locomotive fleet, new wagon fleet and a new Train Control System with commensurate improvements in capacity and reduced operating costs. After decades of little or no Above Rail investment, these productivity improvements will dramatically increase TasRail's competitive position in the freight market.

Over the coming year TasRail will take delivery of 209 new wagons (54 ore, 18 cement, 17 coal and 120 intermodal) and 17 new locomotives.

Economic Development

For more than a century, rail has consistently underpinned Tasmania's economic and industrial development. Many of Tasmania's iconic and emerging industries such as minerals, paper, timber, cement and zinc rely on rail as a critical transport link to efficiently connect to local, national and global markets.

Major users of freight rail in Tasmania include some of State's largest employers, many of which are in regional areas. (**See Appendix A**)

TasRail has recently executed new contacts with Shree Minerals and Venture Minerals who are new mining companies in Tasmania. At the time of writing, Shree Minerals had begun operations and Venture Minerals intend to start in early 2014. The mines will produce major base load volumes for TasRail, significantly increasing TasRail's annual revenue and asset utilisation. Venture Minerals alone will increase TasRail's annual tonnage by approximately 35%.

TasRail is actively involved in a range of other prospective mining developments in Tasmania. Rail is an integral component of the freight system in Tasmania, meeting the needs of Tasmania's non time critical intermodal and heavy haul freight task.

Nation Building 2

In May 2013, the Australian Government announced a $119.6m rail investment over five years as part of Nation Building 2 (NB2) from 2014/15 to 2018/19. A further $119.6m of matched funds is required from the State Government as a condition of funding NB2.

NB2 will continue the critical process of bridge upgrades, drainage work and replacing life expired rail and sleepers. The infrastructure benefits of NB2 include:

- Liberating network capacity.
- Reducing network maintenance costs.

- Improving network safety and reliability (reducing derailment risks).
- Improving transit times (with commensurate benefits to TasRail's competitive position).

The financial and economic benefits include:

- Increasing utilsation of TasRail's new rolling stock.
- Improving commercial performance for TasRail.
- Servicing Tasmania's major miners, manufacturers and processors that currently use TasRail (see attachment A).
- Servicing new mining and industry development by providing an efficient on-island freight service.
- Increasing rail's market share reduces road maintenance and road trauma costs to Government.

TasRail's NB2 funding submission included an independently prepared cost benefit analysis of the project which has been reviewed by Infrastructure Australia and the Commonwealth Department of Infrastructure and Transport.

Competitive Environment Overview

As noted in the Tasmanian Governments *Tasmanian Rail Network - Objectives & Priorities for Action 2010/11 - 2013/14 (*DIER; 2011*)* the rail freight network is duplicated by the road network in Tasmania (**See Appendix B**). This means that rail has no unique markets or geographic advantage and faces very strong competition from road transport.

The same DIER policy paper goes on to underline the importance of competitive neutrality between road and rail in an efficient land transport system. Specifically that "it is the Tasmanian Government's position that similar to road transport, rail services will be undertaken on a commercial basis".

Reflecting this policy position, the Tasmanian Government's *Statement of Expectations* **(See Appendix C)** requires TasRail to:

- "be a successful company by operating in accordance with sound commercial practice and as efficiently as possible; and

- Achieve a sustainable rate of return on its commercial operations in accordance with its corporate plan having regard to the social and economic objectives of the State, as agreed in writing with the Members".

Consistent with Tasmanian Government policy, TasRail operates under the following five principles to ensure strong competition in the land based network in Tasmania.

1. Open Access Rail Network

In 2007, the Tasmanian Government made an application to have the rail network declared Open Access. On 14 August 2007, the National Competition Commission (NCC) recommended to the then Tasmanian Premier that the network be declared Open Access. Based on this recommendation the Premier declared the Tasmanian Rail Network Open Access in October 2007 for 10 years (attached - **Appendix D**).

TasRail is required to provide access to the network to any third party rail operator under the conditions set out in DIERs third party access regime; the *Tasmanian Rail Network – Transitional Access Framework.*

2. Open Access Freight Terminals

Consistent with the rail network being open access, TasRail operates its key freight terminals under the same principle. TasRail is actively engaged with small, medium and large freight forwarders and direct customers to attract new freight to rail and operates the freight terminals to enable this to occur.

3. Open Access Bulk Minerals Ship Loader

TasRail operates the only open access bulk minerals ship loading facility in Tasmania at the Port of Burnie. Consistent with the principles of open access and competitive neutrality between road and rail, TasRail's bulk customers use both road and rail modes to deliver material to be loaded into ships via the Ship Loader.

The Burnie Shiploader is a critical piece of economic infrastructure in Tasmania and enabler of existing and new mining developments in the state. TasRail markets the facility to the mining industry on the basis that materials can be delivered by road and/or rail.

4. Commercially Sustainable Above Rail Business

Consistent with Shareholder expectations that TasRail achieve a sustainable rate of return on its commercial operations, the Company's Above Rail Business has in place a Pricing Policy to ensure business development activities are undertaken on a sustainable basis. Specifically that the replacement of capital (by way of a depreciation allowance) is factored into the TasRail Pricing Policy.

5. Competitively Neutral "Pit to Port" Logistics model

TasRail's business development strategy in the bulk market is to offer mining companies a "pit to port" solution where this arrangement is strategically and commercially appropriate for both parties. In practical terms, this requires to TasRail to provide a bundled service offering including trucking services from the mine to the rail head, rail haulage, bulk storage and ship loading services.

Consistent with the principles of competitive neutrality, in the event TasRail is required to offering road haulage services it does this by way of using a trucking sub contractor – as opposed to operating a its own fleet of trucks.

Interface between Rail/Road and Ports

TasRail owns and operates strategically located bulk and intermodal freight terminals across Tasmania. These terminals enable an efficient linkage with road, rail and shipping services for TasRail's customers.

These critical terminals are strategically located near Tasmania ports, enabling the import and export of bulk and intermodal goods (**Appendix A**).

Bulk

TasRail has a bulk loading facility at Melba Flats to service the mining companies on the West Coast and dedicated spur lines servicing our key customers such as MMG (Rosebery), Cornwall Coal (Fingal), Forestry Tasmania (Artec Mill at Bell Bay) and Cement Australia (Railton/Devonport). These direct interfaces with customers reduce the freight cost to the customer and reduce overall system costs in the supply chain.

In terms of bulk export, the Burnie Shiploader is a critical asset within the port precinct and is directly linked to the rail network via a "wagon tippler" and bulk minerals storage facility. The rail line, "wagon tippler", storage facility and Shiploader are an integrated and efficient export supply chain.

TasRail's network runs directly into Cement Australia's export facility at the Devonport Port. This allows TasRail to effectively provide a conveyor belt (albeit via freight rail) between Railton and Cement Australia's shipping service at Devonport Port.

As noted in **Appendix A**, there is a high level of interdependency between TasRail's major customers which is enabled by an efficient network and terminals. MMG Rosebery produces zinc concentrate which is used by Nyrstar in Hobart. Similarly, Cornwall Coal produces coal which is used by Cement Australia at Railton.

Intermodal

TasRail currently has three intermodal terminal developments underway across the state directly linked with road and rail.

The Brighton Transport Hub (logs and intermodal) was officially opened in 2013 and the Bell Bay Intermodal Terminal (logs and intermodal) will be under construction this summer with an operational date in mid 2014. The Burnie Port Optimisation will be under construction during 2014, with the purpose to improve intermodal capacity and efficiency.

The Brighton and Burnie terminals developments are the "bookends" of the primary freight corridor between Hobart and Burnie and will increase capacity and efficiency. Noting that TasRail is engaging with the market and in the medium term intends to operate intermodal services at Devonport (in addition the bulk services currently underway).

Similar to the dedicated spur lines into the major bulk customers' facilities, TasRail's network directly services Norske Skog's Boyer paper mill.

Conclusion

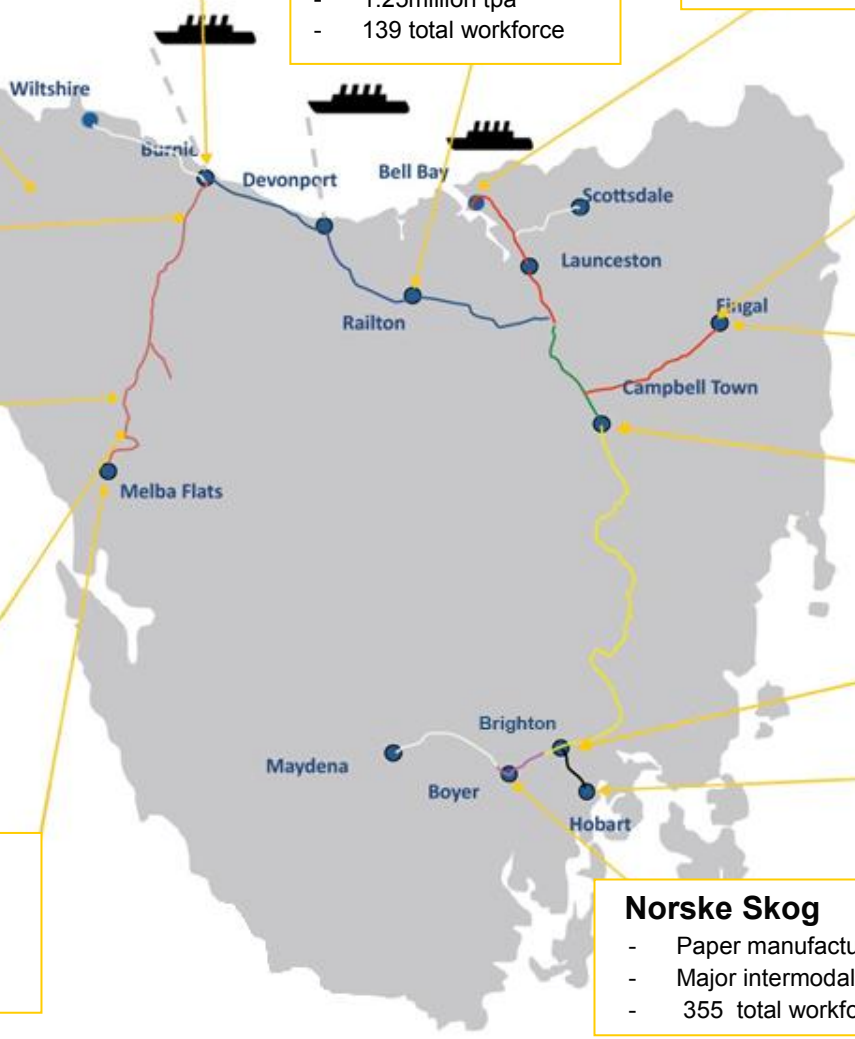
Since its inception in December 2009, TasRail's Above and Below Businesses have received significant investment from both the Tasmanian and Australian Governments. This investment has provided TasRail with the appropriate infrastructure to service major industries in Tasmania with a safe, reliable and efficient means of transporting bulk and intermodal freight. Furthermore; TasRail has played a pivotal role in enabling new industry development in Tasmania.

TasRail recognises the challenges faced by industry in Tasmania and the role a competitive and integrated freight network plays in supporting the Tasmanian economy.

Therefore TasRail will continue to be an active member of industry coordination groups, strategic reviews and policy development for a strategic freight and infrastructure investment plan. Consistent with this, TasRail looks forward to working with the Productivity Commission during this Inquiry and is available to provide further information on any areas within this Initial Submission or other matters of interest to the Productivity Commission.

END.

Appendix A: Major industry that use rail freight in Tasmania



General Intermodal Freight
- Between Burnie, Launceston and Hobart

Shree Minerals
- (Ship Loading Only)
- New customer
- Direct Shipping Ore
- 400,000 tpa

Cement Australia
- Bulk cement producer
- 1.25million tpa
- 139 total workforce

Forestry Tasmania
- Southern hardwood timber.
- Exported from Bell Bay Port
- 75,000 tpa

Cornwall Coal
- Coal mining (70 total work force)
- Used by Cement Australia
- 150,000 tpa

TAS Mines
(Ship loading only)
- Magnetite mining
- 200,000 tpa exported from Burnie Port.

Hardrock Coal
(Potential new major customer)
- Coal mining
- 1million tpa

Venture Minerals
- (New major customer – starting 2014)
- 1million tpa (DSO)
- Exported from Burnie Port.

Australian Bauxite
(Potential new major customer)
- Bauxite mining
- 1 million tpa

MMG Rosebery
- Zinc, lead, gold & silver mine
- Exported from Burnie Port.
- 200,000 tpa
- 500 total workforce

General Intermodal Freight
- Between Burnie, Launceston and Hobart

Copper Mines Tasmania
- Copper mining
- Exported from Burnie Port.
- 100,000 tpa
- 400 total workforce

Nyrstar
- Zinc smelter (using MMGs zinc)
- Major intermodal rail user.
- 600 + total workforce

Norske Skog
- Paper manufacturing
- Major intermodal rail user
- 355 total workforce

Pictured: Brighton Transport Hub: Timber arriving to the Brighton Transport Hub and a fully loaded log train departing to Bell Bay.

Appendix B

Tasmanian Rail Network - Objectives and Priorities for Action 2010 – 2011to 2013-14.

March 2011

Department of Infrastructure Energy and Resources

Tasmania
Explore the possibilities

Contents

Minister's Foreword 1
Tasmanian Government's vision for rail 2
Introduction and Historical Background 4
Tasmanian Rail Network 5
Rail as a Component of the Land Transport Network 8
Regulatory and Operating Framework 11
Investment in the Rail Freight Network 13
Links to Key Strategies and Reform Processes 14
The Tasmanian Government's Objectives for the Rail Freight Network 16
Objectives, Priorities and Key Initiatives 22
Measuring Objectives 24

Minister's Foreword

On 1 December 2009, Tasmanian Railway Pty Ltd (TasRail) secured ownership of the Tasmanian rail network and began operating train services for freight customers. This was an historic day. Through the establishment of TasRail, the Tasmanian Government is ensuring that rail continues to be a viable transport option in Tasmania with benefits to industry, the broader community and the State's economy. This is our vision.

For the first time the strategically important Melba Line between Zeehan and the Port of Burnie are now operating under government ownership.

Investment in rail infrastructure has lapsed under private ownership. The Tasmanian Government's key priority is improving network safety and reliability. A return of customer confidence and commitment to the rail network will ensure its viability for the long term. Therefore, the focus of investment is on the 'existing network first' to ensure that this outcome is realised.

The Tasmanian and Australian Governments have committed funding in excess of $400 million in recent years towards rail track infrastructure, intermodal projects and rolling stock replacement to ensure the viability of rail as a transport option. This investment will result in significant improvement to safety and efficiency of the rail network. In addition, the Tasmanian Government has committed $78 million for the construction of the Brighton Transport Hub and the Australian and Tasmanian Government's and the George Town Council have committed funding to improved port interfaces at Bell Bay. This investment will mean that rail is better integrated into the transport system – leading to efficiency in the transfer of freight between rail and road and rail and ships.

Improved competitiveness and efficiency will result from complementary investment in locomotives and wagons. In the 2010 State Budget, the Tasmanian Government committed $130 million over four years to upgrade rolling stock assets. At the same time, the Government has committed $70.8 million towards maintenance and administration. This funding, in addition to ensuring the stability of continued business operations, will enable TasRail to upgrade to a positive train control system, undertake essential environmental and structural maintenance works on the Burnie Ship Loader and invest in new high-rail vehicles and workshop equipment.

This paper sets out the Tasmanian Governments vision for the rail network and the objectives we have identified as being important to transport and the Tasmanian Community. These objectives are:

- The safe operation and use of the rail network, including interaction with the broader community.
- A greater proportion of Tasmania's growing freight task is transported by rail.
- A viable rail network for the long term.
- A cost effective and efficient transport system.

Government ownership and investment will not in itself guarantee the future of rail in Tasmania. Industry and transport service providers must make transport choices that support the long term role of rail in the transport network. This requires joint commitment and we look forward to seeing that happen.

I look forward with confidence to the revitalising of the rail system and the opportunities that this will bring for the future.

David O'Byrne MP
Minister for Infrastructure

Tasmanian Government's vision for rail

The Tasmanian Government's vision is for a viable rail network as part of an efficient land transport system.

Ultimately, the use of rail by the market and the price the market is willing to pay for rail freight services underpins the commercial viability of rail as a transport option. There are a number of service attributes that attract the market to transport services, including reliability, price, frequency, timeliness and consistency of the service being provided. In the context of rail services, reliability and price has been identified as the core service attributes to attract market share.

The path to achieve this vision is reliability to viability.

It is fundamental to understand the interdependency between the government, rail infrastructure providers, rail service providers and the transport market in achieving the long term viability of rail.

Rail service providers, such as TasRail, will only invest in rolling stock if they have certainty around access to, and the performance of, the rail network. Likewise above-rail investment needs to be underpinned by volume commitment from end customers. The transport market will only purchase rail services if the service is reliable and is offered at a competitive price. Infrastructure investment decisions by government are based on efficient transport outcomes and competing budget priorities. Infrastructure investment cannot be justified if the network is not delivering transport or social benefits arising from a sustainable market share.

The Tasmanian Government's transport priority is improving the reliability and enhancing the safety of rail infrastructure. However, this will not deliver a viable rail network alone. In the short term, investment by TasRail in locomotives and wagons is necessary for efficiency improvements necessary to attract market share. Conversely, the transport market will increasingly need to utilise rail services to justify future investment and to be willing to pay a fair cost for using the services. No government can afford to provide state-wide infrastructure for a transport mode for the sole reason of providing just another market competitor.

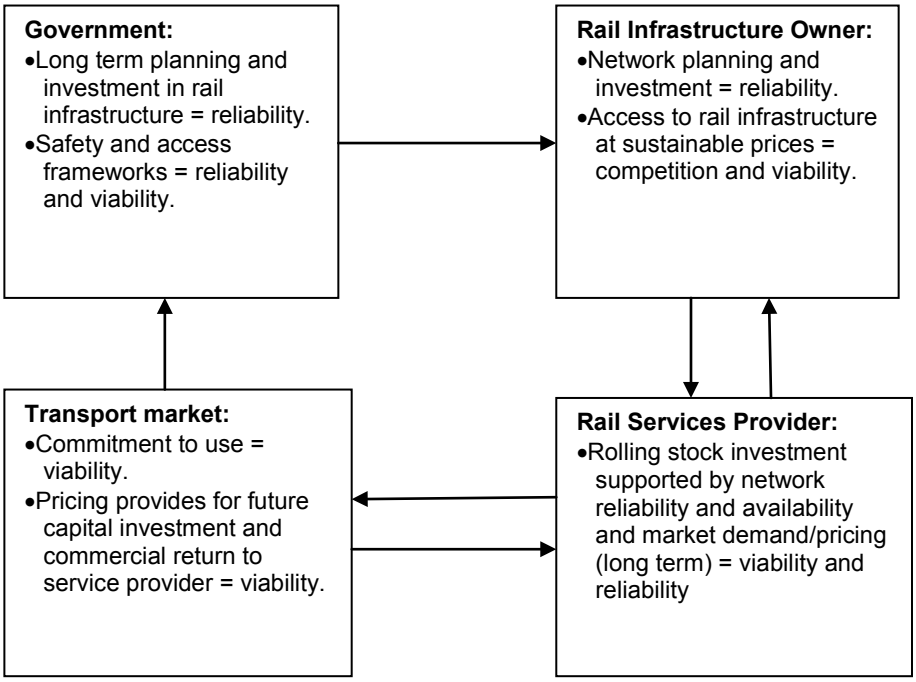
In addition to the significant commitment to investment in rail infrastructure, the Tasmanian Government also recognises that rail freight transport is part of a supply chain that incorporates intermodal transfers with heavy vehicles and shipping. To increase rail productivity, the Tasmanian Government has been prepared to invest in the Brighton Transport Hub and contribute to the Bell Bay Port access enhancements. Current investment in rail infrastructure will be important to keep transport options open for the future and to meet emerging challenges.

Transport safety continues to be a key priority for this Government – the rail network and rail services operate under an established rail safety framework. The Government is also ensuring an appropriate rail track access framework is maintained. The Tasmanian Government has declared the rail network open access meaning it is available to any accredited rail operator to offer rail services.

The Tasmanian Government's primary role in the freight transport system is the provision of infrastructure, either a road or rail network and not to provide freight services. Consistent with this approach, the Tasmanian Government does not see itself desirably as the long term rail freight operator, preferring that this function is undertaken by the private sector. TasRail will assess rail freight operations on a commercial basis, actively promoting the advantages of rail transport to maximise its market share in competition with road transport.

Government, through its policies and investment in infrastructure, assists to establish confidence in the future operation of rail track infrastructure. The surety of the asset is further enhanced by Government through safety frameworks.

The diagram below illustrates the interconnected roles and relationships within the provision and use of rail as a transport option.



It is important to note that this document is, by virtue of the recent establishment of TasRail, an interim document that spans the current funding commitments and is intended to be updated as TasRail establishes its business model and evaluates its commercial market share, infrastructure priorities and potential future funding requirements. Time will allow the new business sufficient time to establish itself within the transport market.

The Tasmanian Government will work with TasRail to establish key performance indicators for both the rail network and service operations to monitor the long term viability of rail. At some time in the future this may result in the need for network prioritisation. The key focus for the Tasmanian Government is investment priorities and transport outcomes across the land transport network (both road and rail).

Introduction and Historical Background

Introduction

The Tasmanian Government's purchase of Pacific National's Tasmanian rail assets and the establishment of TasRail provides a timely opportunity to provide a clear statement of its rail network objectives and priorities for action over the next five years.

This document brings together the existing policy and regulatory frameworks as well as a vision for the future. In addition to establishing objectives and identifying priorities, it also provides an overview of the Tasmanian land transport system and major policy influences as the broader context in which rail operates, as well as identifying the key parties, roles and responsibilities, governance and funding arrangements.

Timeline of Rail in Tasmania

Ownership of the rail network and the operation of train services have, at various times, passed between government and the private sector. The first railways in Tasmania were established by private companies. These companies did not prosper financially and the Government progressively took over their operations.

Between 1885 and 1938 the rail network (excluding the Melba Line) was owned by the State and operated as the Tasmanian Government Railways (TGR). Ownership transferred to the Tasmanian Transport Commission between 1938 and 1975 when, as part of a Commonwealth initiative to amalgamate Australia's railways into one entity, the Tasmanian Government sold the railway to the Australian Government. The Transport Commission operated the network between 1975 and 1978 on behalf of the Australian Government, who owned and operated it as part of the Australian National Railways Commission (ANRC) until 1997. In 1997 the Tasmanian Government resumed ownership of the rail land asset as a strategic corridor. Ownership of the fixed assets (rail track infrastructure) was severed from the land itself and sold by ANRC along with the business to the Australian Transport Network (ATN). The Tasmanian Government leased the land corridor to ATN. ATN continued to operate the business as ATN Tasrail, annexing the Melba Line through the purchase of the Emu Bay Railway Company (giving it access to Melba Flats on the west coast and the mineral concentrates traffic) and merged the two businesses.

In early 2004 ATN sold Tasrail to Pacific National, who in 2006 approached the Tasmanian Government for funding to continue operations. In June 2006, the Tasmanian and Australian Governments announced a joint "Rail Rescue Package" of funding over 10 years towards capital upgrades and track maintenance. In conjunction with the Rail Rescue Package, the rail network infrastructure (excluding the Melba Line) was transferred to the Tasmanian Government from Pacific National Tasmania on 1 January 2007 for $1 and declared open access under the *Trade Practices Act 1976* (Cth), making it available to third party rail operators. Under the terms of the Rail Maintenance and Management Deed (RMMD), PNT continued to have responsibility for managing and maintaining the asset for the term of the RMMD. PNT continued to privately own and operate the Melba Line without government assistance.

In 2008 Asciano Limited announced its intention to cease business operations in Tasmania and following a failed market sale process entered into formal negotiations with the Tasmanian Government to acquire its rail assets. In November 2009, the Tasmanian Parliament approved the *Rail Company Bill 2009*, establishing a new State-owned Company, TasRail to own and operate the rail network and to undertake train services. TasRail began operation on 1 December 2009.

Tasmanian Rail Network

The Tasmanian Rail Network consists of the railways defined in Schedule 1 Part 1 of the *Rail Infrastructure Act 2007,* being:

- Bell Bay Line (approximately 57 km running from the East Tamar junction to Bell Bay);
- Derwent Valley line (approximately 71 km running from the Bridgewater junction to the railyard west of Maydena known as the 'Florentine rail yard'). That part of the Derwent Valley Line running from Boyer to Maydena is currently non-operational.
- Fingal Line (approximately 55 km running from Conara Junction to Fingal);
- North-East Line (approximately 73 km running from Coldwater Creek junction to Tonganah). The North-East Line is currently non-operational.
- South Line (approximately 199 km running from the Hobart rail yard to Western junction).
- Western Line (approximately 259 km commencing at the Inveresk Railyard (the 2 km at the western end of the rail bridge on the North Esk River is non-operational) and running to Wiltshire via East Tamar and Western Junction). That part of the Western Line running from Burnie to Wiltshire (often described as the Wiltshire Line) is currently non-operational.
- Risdon Line (approximately 3 km running from Derwent Park to the former siding at the Risdon Smelter). The Risdon line is currently non-operational.
- The Melba (approximately 130 km running from the port at the City of Burnie to Melba Flats).
- The Hellyer Line (being the railway running from the Hellyer Mine site to the eastern boundary of the Melba Line at Moorey Junction). The Hellyer Line is currently non-operational.

The rail network dates from the late 1800's and its alignment has changed little since. The network is a single rail line, narrow gauge (1067 mm) transport system and consists of a total of 632 kilometres of operational lines and a further 213 kilometres of non-operational lines. The operational network (hereafter referred to as the rail freight network) extends from Hobart to Western Junction and then to Bell Bay Port in the north-east and to Burnie in the north-west. Connections are also provided to Fingal in the east and Boyer in the Derwent Valley. The Melba Line connects the west coast to Burnie.

The Land Corridor

The land corridor sits under the rail freight network and varies in width. As a general rule, the corridor is about one chain in width (1 chain = 66 ft or 20.12 metres). The land corridor is retained as Crown Land and leased to TasRail.

In addition, the Tasmanian Government identified the land corridor under the former rail line between Melba Flats and Zeehan as having potential future significance for the transport of mineral ore concentrates from the west coast. This land corridor will be preserved for consideration of future rail requirements in addition to the currently non-operational lines.

Track Capacity – Speed and Load Capacity

Track capacity (the length and weight carrying capacity of trains) is influenced by a number of factors. Significantly, Tasmania's difficult topography confines the speed and load capacity the rail freight network, particularly creating the need for steep gradients (up to 1:40) and tight curves.

The single line rail network means that trains running in opposite directions are limited by passing loops. Passing loops on the rail freight network are typically 850 metres to 900 metres in length. Maximum train lengths, and hence the capacity of the rail freight network, is partially controlled by the length of the passing loops. The size of arrival/departure sidings, the number of crossing loops along the track, and the relative location of the passing loops also impact on the track capacity.

There are around 280 level crossings on the rail network (of which 37 cross State roads) that impact on the travel speed of trains, particularly in urban areas. There is also a significant number of pedestrian and private crossings (both formed and unformed) used to access private land.

The design speeds of the rail network are very low compared to the road speed limits on the corresponding road network, particularly where the rail network mirrors the National Network (where speeds are typically 100km per hour for heavy vehicles). Rail speed limits are nominally 70km per hour; however, there are sections of the network that are much lower than this due to track condition (temporary restrictions) and/or track alignment (permanent restrictions).

Ultimately, it is the axle load restrictions that determine the carrying capacity of wagons. The axle load limit for the rail network is 18 tonnes, except for the Melba Line which is 16 tonnes.

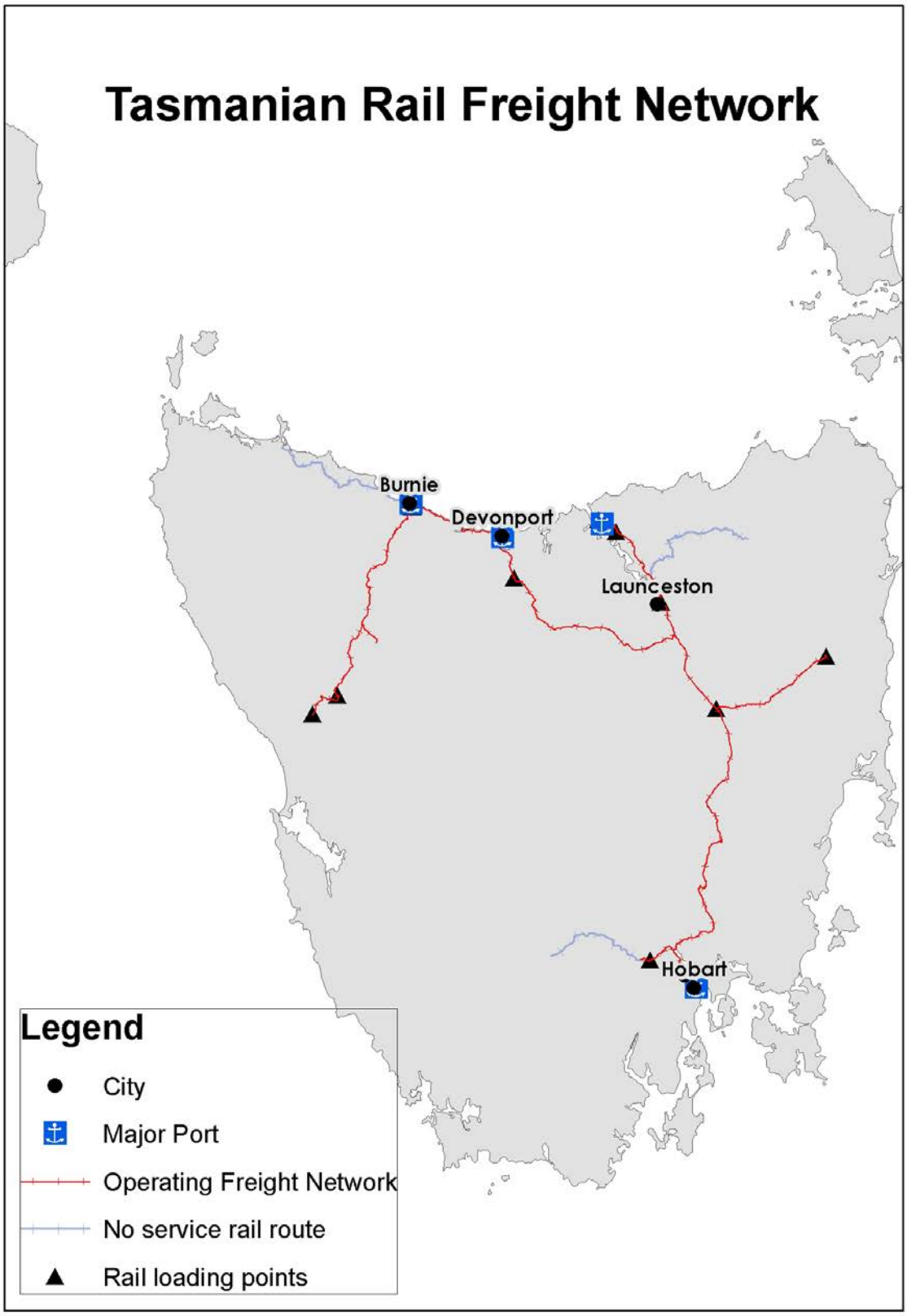
Train Capacity – Length and Frequency

Train capacity is further restricted by locomotive capacity and the scheduling of train services. While passing loops provide opportunity for trains to pass each other, the number of passing loops and their location will impact on train services particularly if a particular service has specific timing or priority requirements that require another service to wait in a passing loop. In these circumstances the full capacity of the rail infrastructure may not be realised.

Actual train lengths are further restricted by locomotive capacity. This is particularly the case with the steep gradient through the Rhyndaston tunnel.

It is the combined limitations of track and train capacity that currently restrict the efficiency and therefore productivity of rail transport.

Diagram 1: Tasmanian Rail Freight Network



Rail as a Component of the Land Transport Network

Duplication of the Road and Rail Infrastructure Network

The rail freight network is duplicated by the road network[1]. This means that rail has no unique markets, nor a geographic advantage in serving its markets; and faces strong competition from road transport. The National Road Network (Tasmania's part of the Australian Government funded National Highway) runs parallel to the rail freight network from Hobart to Bell Bay and from Western Junction to Burnie. The Murchison Highway (a State Road) duplicates the Melba Line point to point from origin to destination.

Ostensibly, for the contestable freight market, the duplicated road and rail networks provide competitive tension to facilitate efficiencies in each mode. However, at various locations the ability to increase capacity of the existing road and rail networks are limited by difficult terrain and infrastructure constraints.

Rail's Competitiveness in Freight Transport

The economics of rail freight transport, in worldwide terms, is generally that the greater the freight carried on a train and the longer the transit distance, the lower the unit cost (and therefore ability to price lower in the market). Operational costs per train service are generally fixed, with marginal costs of running a longer train over a longer distance relatively small. Rail is hampered by costs associated with double handling when freight is loaded to and from trains from heavy vehicles (known as transhipment or intermodal costs) and is better suited to moving freight from point of manufacture/production to direct point of delivery (usually a port).

Where a competitive freight task exists between road and rail, modal market share is not simply a matter of price. In the Tasmanian context, service characteristics such as consistency and reliability are strong determinants of customer modal choice, along with individual businesses logistics arrangements.

Competitive Neutrality

An efficient land transport system also requires competitive neutrality between road and rail transport. Ownership of a single operator monopoly rail network, in addition to the State road network, by the Tasmanian Government raises several competitive neutrality considerations. As a monopoly rail service operator and road and rail infrastructure provider operating in a duplicated land transport system, neutrality means:

- There is neutrality between the Government-owned above rail service operator and private sector road transport operators in terms of infrastructure access and pricing; and
- There is neutrality within government in respect of the land transport system, between road and rail infrastructure particularly in making infrastructure investment decisions.

It is the Tasmanian Government's policy position that, similar to road transport, rail services will be undertaken on a commercial basis.

An advantage of the duplicated road/rail network, applying the principles of competitive neutrality, is that capacity investment decisions can be based on a rational economic decision making process where mode is not necessarily important. For example, investment in increased capacity in the rail freight network has the advantage of minimising ongoing road maintenance costs and delaying capacity investment in road, where it is more costly to do so and vice versa. Rail also has the capacity to bypass road bottlenecks therefore reducing congestion.

[1] Movement of heavy vehicles through Latrobe limits viable road transport for cement from Railton to the Port of Devonport.

Current Role of Rail in the Freight Transport Task

In 2007/08 approximately 2.6 million tonnes of freight per year was carried on the rail freight network which represented 6.5% of the total State freight task. The freight transport industry often considers tonne kilometres as an industry measure. On this basis, approximately 409.6 million tonne kilometres was transported by rail in 2007/08 representing 13.5% of the total State-wide freight task.

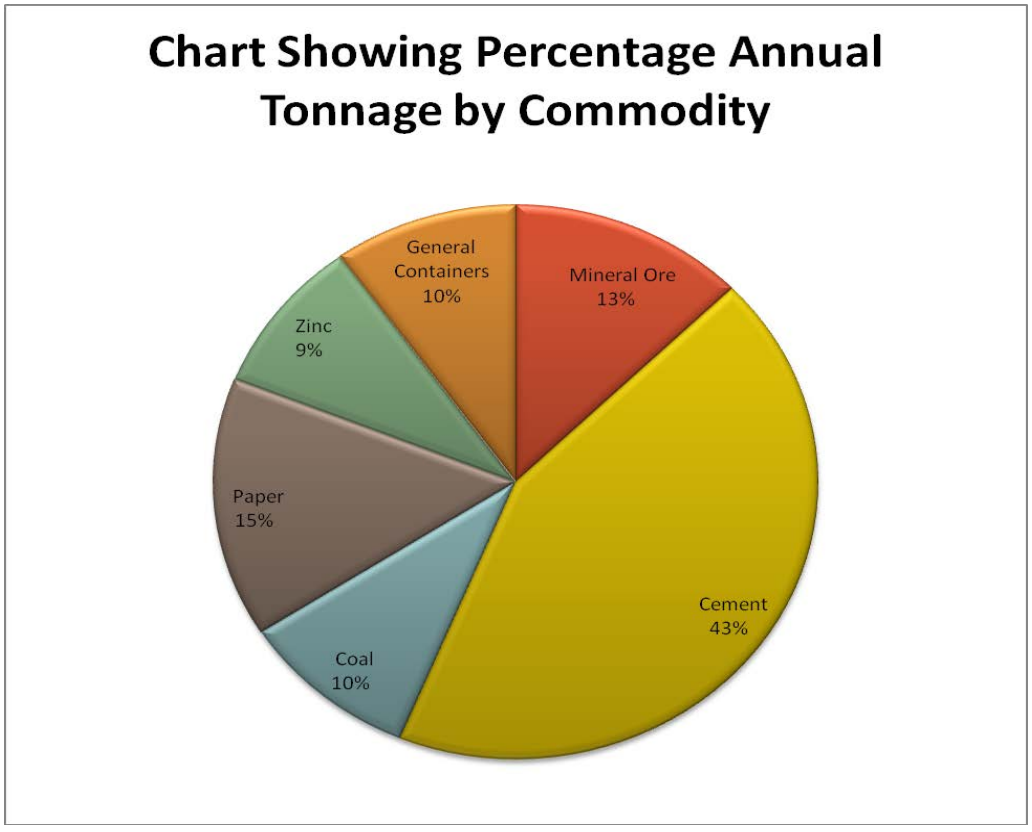
Rail freight operations are split into two broad markets: 'bulk' and 'intermodal'.

Bulk freight consists of cement (transported from Railton to Devonport), mineral ore concentrates (transported on the Melba Line) and coal (transported from Fingal to Railton). In 2007/08, bulk freight constituted approximately 1.74 million tonnes which represents 4.3% per cent of the total State freight task in terms of gross tonnage or 2.8% in terms of tonnes kilometres.

Intermodal freight consists of containerised goods – for example paper products, zinc ingots and retail products, primarily transported on the main north-south line between Hobart and the northern ports.

In 2007/08, intermodal freight constituted approximately 0.9 million tonnes per which represents 2.2% per cent of the total State freight task in terms of gross tonnage or 11.2% percent in terms of tonne kilometres.

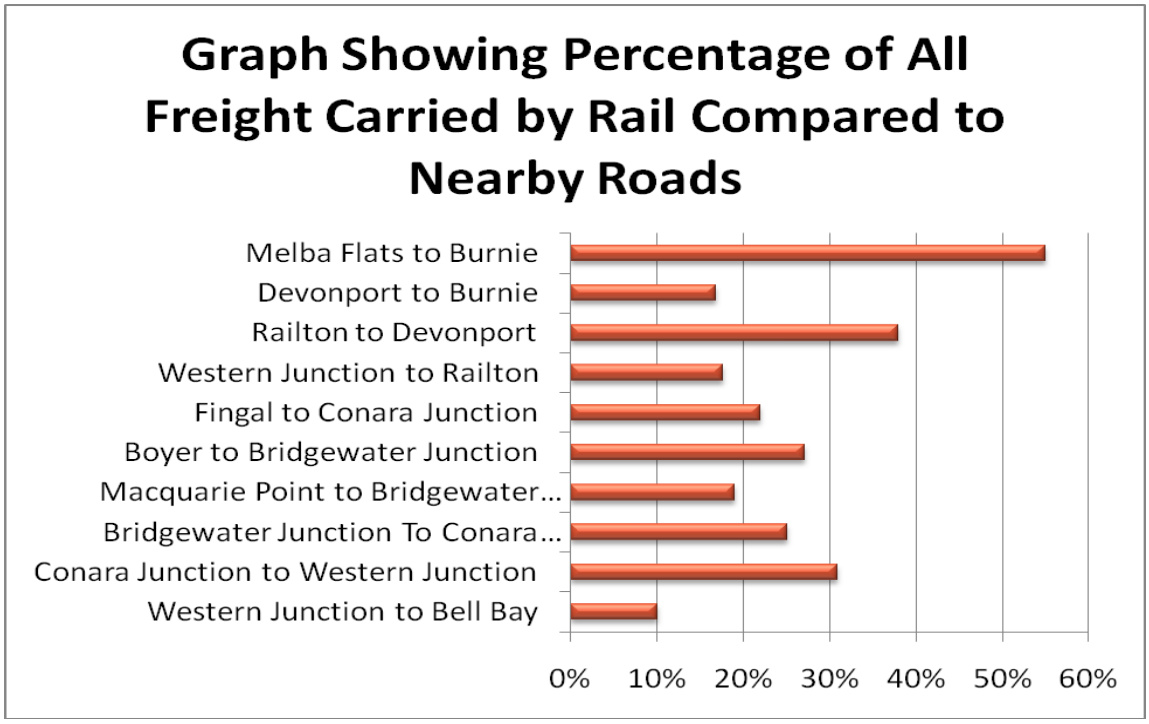
Typically, in Tasmania bulk freight is moved over shorter distances as is the case of cement from Railton to Devonport (21 km) and mineral ore West Coast to Burnie (average distance 112 km). The average distance which coal moves from the Final valley to either Railton or Burnie is approximately 200 km[2]. In contrast intermodal freight is often moved longer distances and from Hobart and Boyer to the ports of Burnie and Bell Bay. The average distance such freight moves has been calculated at approximately 335 km.



[2] Note that in early 2010 PaperLinx ceased operations in Burnie resulting in the coal task being reduced to Railton services only.

Future Freight Task and the Challenges for our Transport System

As discussed above, in tonne kilometre terms, freight transported by rail in 2007/08 represented only 13.5% of the total freight market. However, when comparing freight carried on rail and freight transported on major roads near rail, the effective market share for rail is closer to 25%. In considering this market share, it should be noted that since 2002/03 there has been a decline in freight carried by rail of around 20%. The loss of freight has been primarily associated with the loss of general container task and coal of which each has fallen by one third and the complete loss of logs and timber transported by rail.



The decline in rail freight transport is likely caused by a number of factors, including the independent business decisions of the former rail operator and customers, in addition to the decline in infrastructure reliability due to continued underinvestment. At the same, time there has been significant investment in the road network and improvements in higher productivity vehicle access has enabled continued productivity improvements for road transport. While using road transport offers speed and flexibility and lower associated costs, rail transport has a cost advantage when the freight task is of sufficiently large size to capture economies of scale. Rail is also more generally suited to tasks that are less time sensitive.

In planning to meet Tasmania's projected freight growth, the road and rail networks should not be considered in isolation of or in opposition to each other. Any land freight network must be thought of in holistic terms with freight being transported by either rail, road or in combination.

Further, co-ordinated intermodal investment is fundamental to improving the efficiency of freight transport in Tasmania. The proposed Bell Bay intermodal access upgrades (total project cost $9.1 million funded by the Tasmanian and Australian Governments and the George Town Council) will improve the efficiency and safety of operational access to wharf infrastructure facilitating a reduction in turn-around times of trains at Bell Bay. Similarly, the Brighton Transport Hub (total project cost $79 million) will be an integrated road/rail and road/road intermodal facility improving transport efficiencies. For rail, relocation of the southern terminal from Hobart Port to Brighton Hub will result in shorter and more efficient operations between Hobart and the northern ports.

Passenger Trains

In the past, heritage train operators (using heritage locomotives and rolling stock) have run occasional train services on the rail network. The Tasmanian Government has commissioned a Tourism Rail Strategy investigating the potential for brand-aligned heritage tourism experiences within the State. This would include tourist orientated passenger rail services operating on the rail network.

While infrastructure investment is prioritised on the current operational network, the investment profile is also prioritised to rehabilitate the capacity of the network to an appropriate freight standard (similar to road network guidelines, these are expressed in terms of travel speed, axle weight and train length). A higher quality of rail infrastructure and safe-working systems would be required for regular passenger services. For regular passenger services (particularly over longer distances), the capacity of the network in terms of travel time prohibits an effective service in both transport and cost terms. Due to these factors, there is currently insufficient demand to justify any regular passenger rail service. The cost of infrastructure and safe-working system upgrades to accommodate shorter travel times are significant and would need to be considered in balance with other transport options and supported by a cost benefit analysis.

Regulatory and Operating Framework

Rail Infrastructure Act 2007

The *Rail Infrastructure Act 2007,* which defines the rail network, sets out the obligations and responsibilities of the rail infrastructure manager in respect of the rail network and guides the relationship between the rail infrastructure manager and adjoining landowners.

Rail Safety Framework

The *Rail Safety Act 1997* establishes a regulatory framework for the safe operation of railways in Tasmania. This framework is based on a co-regulatory approach whereby each accredited railway is responsible for having the competence and capacity to manage the risk of running its railway as far as is reasonably practicable.

The Rail Safety Regulator is responsible for awarding rail safety accreditation and the ongoing monitoring of compliance against the requirements of the Act.

Rail Access Framework

In 2007, the rail network (excluding the Melba Line and workshop facilities at the Launceston terminal) was declared open access under Part IIIA of the *Trade Practices Act 1974 (Cth).* The RMMD prohibited the Crown from making any application to the National Competition Council (NCC) for the Melba Line to be declared open access. Following termination of the RMMD, the Tasmanian Government is able to make an application to the NCC in respect of the Melba Line if it considers it is prudent to do so.

In the interim, in November 2009 the Tasmanian Treasurer and then Minister for Infrastructure (as the Shareholder Minister's of TasRail) endorsed a transitional access framework to apply from 1 December 2009, including access prices to be charged. As far as practicable, the access arrangements agreed in the RMMD form the basis of the transitional arrangements as these constitute existing government policy. Access to the rail network by third party freight service operators will need to be on reasonable terms and conditions and be no more onerous than TasRail's operational use of the rail network.

Future Policy Considerations:

In conjunction with TasRail and other key stakeholders, further consideration needs to be given to:

- The explicit role of potential subsidies to rail infrastructure and possibly rail services; a framework for evaluation and monitoring subsidies and outcomes; and appropriate delivery mechanisms.

- Key performance indicators for rail infrastructure and rail services.

- The role of independent regulation in determining efficient infrastructure expenditure and access prices.

- The need to develop transparent access arrangements and charges for intermodal transfer (ports and Brighton Hub).

Tasmanian Railway Pty Ltd (TasRail)

TasRail is a State-owned Company established under the *Rail Company Act 2009* and operates the rail business on a commercial basis. TasRail owns, maintains and manages the rail network (operational and non-operational lines) and undertakes rail freight services. TasRail is responsible for providing access to the rail network to accredited third party access seekers and is the Track Infrastructure Manager for the rail network under the R*ail Infrastructure Act 2007 (Tas).*

Role of the Portfolio Minister and Treasurer

The Minister for Infrastructure (as Portfolio Minister) and the Treasurer are the Shareholder Ministers of TasRail.

Department of Infrastructure Energy and Resources (DIER)

DIER is responsible for:

- administering the *Rail Company Act 2009*, the *Rail Infrastructure Act 2007* and the *Rail Safety Act 1997*.

- providing independent transport planning and policy advice to the Minister for Infrastructure.

- providing independent advice to the Minister for Infrastructure on TasRail's business performance in achieving the Governments transport policy outcomes.

- administers on behalf of the Tasmanian Government the Australian Government's rail infrastructure funding under the Nation Building Program 2008-09 to 2013-14.

- the Rail Safety Regulator is responsible for accrediting rail operators. DIER (the Rail Safety Unit) is responsible for monitoring the safety performance of the rail industry.

Department of Treasury and Finance (Treasury)

Treasury is responsible for providing independent advice to the Treasurer on TasRail's financial performance including returns to government though dividends, income tax equivalents and guarantee fees, borrowings and capital investment by the company. Treasury is also responsible for advising the Treasurer on funding contributions requested by TasRail.

Investment in the Rail Freight Network

Existing network first

Historically, Tasmania's rail network has received limited investment compared to road. While privately owned and operated, infrastructure investment was considered a matter for the infrastructure owners. While under Commonwealth ownership between 1978 and 1997, rail modal share was protected under regulation resulting in a disincentive to invest in a productive and efficient infrastructure network. However, since the transfer of the rail track infrastructure (excluding the Melba Line) back to the Tasmanian Government on 1 January 2007, significant funding has been allocated to the entire rail network to address the deferred maintenance task.

Rail Rescue Package (excludes the Melba Line)

Following a request for funding from Pacific National Tasmania, the 'Rail Rescue Package' was announced in June 2006. Under the package, the Australian Government committed $78 million towards capital upgrades and the Tasmanian Government committed $44.8 million over ten years toward rail track maintenance. The Rail Rescue Package was administered under the RMMD. The capital upgrade funding is expected to be expended by the end of 2010.

National Building Program 2008-09 to 2013-14 (formerly the AusLink Agreement)

The Australian Government has committed $205.3 million to Tasmania's rail network under the Nation Building Program. This investment will fund the following projects:

- Rail Rescue Package $78 million
- Rail capacity improvements at Rhyndaston $24 million
- Upgrade of the Burnie to Western Junction line $28.9 million
- Upgrade of the Hobart to Western Junction Line $20.3 million
- Main north-south line rail capacity improvements $31.6 million
- Upgrade of the Fingal line $5.7 million
- Upgrade of the Boyer Line$1.1 million
- Upgrade of the Melba Flats to Burnie Line $15.7 million

In July 2009, funding previously allocated to the non-operational sections of the Derwent Valley and Wiltshire Lines was reprioritised in order to keep the core of the network, including the Melba Line, operational. Projects on the non-operational line have been deferred until after the existing operational network is strengthened.

Nation Building Economic Stimulus Program

The Australian Government has provided $3.9 million in funding for high risk rail crossings under the Nation Building Economic Stimulus Program for 13 locations across the State, 10 of which are on the Tasmanian Rail Network.

Tasmanian State Budget 2010-11 and Forward Estimates

In the 2010 State Budget, the Tasmanian Government committed $130 million over four years to upgrade rolling stock assets. At the same time, the Government committed $70.8 million over the same period towards maintenance and administration. This funding, in addition to ensuring the stability of continued business operations, will enable TasRail to upgrade and replace wagons and locomotives, implement a new positive train control system, undertake essential environmental and structural maintenance works on the Burnie Ship Loader and invest in new high-rail vehicles and workshop equipment.

Additional Infrastructure Funding

Infrastructure funding outside the existing Tasmanian and Australian Government commitments will be assessed by TasRail on a commercial basis. Where a project is not supported by a commercial model and if the project demonstrates broader economic value satisfying the Tasmanian Government's transport objectives, these projects will be evaluated within the land transport planning system and Government funding determined as appropriate within fiscal limitations.

Links to Key Strategies and Reform Processes

National Transport Policy Framework

In May 2008 the Australian Transport Council (ATC) agreed to develop a National Transport Policy Framework to underpin the development of reforms that will result in a more consistent approach to the regulation of transport modes and an investment and pricing framework that will provide better signals to guide both the supply and demand for transport infrastructure and services.

National Transport Commission Rail Productivity Review

In August 2009 the National Transport Commission (NTC) released the Rail Freight Productivity Review to the ATC. This Review focused on the investment and regulatory frameworks that underpin the rail freight industry to determine where these cause a barrier to rail businesses investing in more productive technology, assets and business practices. The review took into account the current road and rail reforms as agreed by the Council of Australian Governments (COAG).

The NTC's issues paper highlighted many issues and challenges that rail faces that are relevant in Tasmania. The key findings and recommendations of the Review, where applicable to the Tasmanian context, have been incorporated into the governance arrangements for TasRail, the investment framework and in developing the key objectives and priority areas identified in this Strategy.

Tasmanian Infrastructure Strategy

The Tasmanian Infrastructure Strategy guides future infrastructure priorities and decision-making for the planning, provision, use and maintenance of infrastructure in Tasmania. The Strategy sets out the vision for infrastructure in our key economic sectors of transport, water, energy and digital and acknowledges the central role the planning system plays in Tasmania.

The Tasmanian Infrastructure Strategy specifically acknowledges heavy reliance of the State economy on the ability of our transport system to move freight from producers to processors and on to markets – within Tasmania, nationally and internationally. The linkages to Tasmania's northern ports are critical as the departure points for the majority of the State's exports and entry point for imports. Efficient rail freight services play a key role in maintaining these links.

To this end, the Tasmanian Infrastructure Strategy identifies the Tasmanian Ports, Freight and Rail Strategies as key activities to complete alongside essential projects concerning maintenance and capital upgrades of rail infrastructure. Rail orientated projects highlighted in the strategy include:

- Committed rail infrastructure spending.
- Develop principles and objectives of a fair rail network access and a pricing framework.
- National rail productivity as well as safety reforms.
- Construction of Brighton Transport Hub.
- Realignment of rail at Bell Bay Port and potential Bell Bay intermodal expansion.
- Potential Burnie Port upgrade to prime bulk goods port with roll on roll off capacity.
- Access pricing based on costs associated with rail use.

- Investigate options to privatise above rail operations in the longer term.
- Objectives and actions to guide future priorities and decision-making.

Tasmanian Government Freight Strategy

The development of a state-wide freight strategy is identified as a priority project in the Tasmanian Infrastructure Strategy. This project will analyse the existing and future freight transport demand and identify targeted improvements to key freight networks across road, rail and port infrastructure. This will include a long-term infrastructure investment strategy to promote efficient freight transport including the relationship between road and rail infrastructure where the two networks coincide.

Tasmanian Framework for action on Climate Change

Tasmania has committed to reduce our greenhouse gas emissions to at least 60 per cent below 1990 levels by 2050. This target has been established in legislation through the *Climate Change (State Action) Act 2008*. Transport is one of the eight priority action areas to reduce emissions. It is also imperative that rail infrastructure planning and investment decisions consider the future impact of climate change on our environment.

The Tasmanian Government's Objectives for the Rail Freight Network

Safety: The safe operation and use of the rail network, including interaction with the broader community.

A safe transport system is the key priority for the Tasmanian Government. Rail services operate within a legislated safety framework established by the *Rail Safety Act 1997.*

The *Rail Safety Act 1997* promotes the safe construction, maintenance and operation of a railway as part of a national approach to rail safety regulation. All railway organisations in Tasmania are required to be accredited in accordance with the Act. This system of accreditation requires the railway to demonstrate that it has the competency and capacity to operate safely.

The Rail Safety Regulator is responsible for monitoring the safety performance of the rail industry and for conducting compliance audits and inspections.

Rail safety is a national transport reform priority area endorsed by the Council of Australian Governments (COAG). Along with other jurisdictions, DIER continues to work with the National Transport Commission towards the implementation of best practice model rail safety legislation that will form part of a system of nationally consistent rail safety laws and with the Australian Transport Council to establish a single national system for rail safety regulation and investigation by 2013.

Safe rail operations

The Australian and Tasmanian Governments funding commitments will improve the condition of the rail track and this should lead to a reduction in the incidence of infrastructure being a contributing factor to running line derailments.

The first priority for the newly established TasRail business has been safety with operation wide safety audits and implementation of resulting actions. A key safety initiative is the implementation of a positive train control system that utilises GPS technology to ensure that the location and progress of each train or track vehicle on the network is monitored. The Tasmanian Government provided funding in the 2010 State Budget forward estimates for this project.

Safe communities

A key element of rail safety is the safe interaction between road and rail at level crossings. Under the Australian Government's 'Nation Building and Jobs Plan', Tasmania has received funding of $3.9 million for safety improvements to 13 high risk rail crossings, 10 of which are on the Tasmanian Rail Network. Four rail crossing sites will be upgraded from Passive to Active Control, while another nine active control rail crossings will be augmented with Advanced Active Warning Systems.

Road safety benefits of rail transport

Safety benefits of rail, in terms of reduced truck numbers, are incorporated into the externality benefit that is the basis for the Tasmanian Governments contribution to rail maintenance funding under the Rail Rescue Package.

The Tasmanian Government's Objectives for the Rail Freight Network

Environment: A greater proportion of Tasmania's growing freight task is transported by rail.

Analysis suggests that rail is up to three times more fuel efficient, has less noise impacts and has greater safety outcomes than road transport. These societal advantages may be calculated as an externality benefit of rail transport over road transport that forms the basis of the Tasmanian Government's maintenance funding contribution to rail infrastructure under the Rail Rescue Package ($4 million per annum – excludes the Melba Line). The calculated value of the externality benefit quantifies values for gas emissions, road crash costs, air pollution, water pollution and noise.

It is acknowledged that the current state of the rail network has deteriorated following years of underinvestment by previous owners. This means that many of the environmental and safety benefits are not being realised as well as they could be. A priority action is the investment of committed funding by the Tasmanian and Australian Government's into the rail track infrastructure over the next five years.

Tasmania's Climate Change Targets

The Tasmanian Framework for Action on Climate Change targets reducing our greenhouse gas emissions to at least 60% below 1990 levels by 2050. This target is established in the *Climate Change (State Action) Act 2008*.

Rail as a viable alternative to road transport will take pressure off road use by higher productivity vehicles. Increased utilisation of rail to transport a greater proportion of the growing freight task, will contribute to Tasmania's emissions targets.

Mitigation and Adaptation – Infrastructure Investment

The impacts of climate change on our environment create new challenges around infrastructure planning and investment decisions. The predicted seasonal variations in Tasmania as a result of climate change include increases in annual rainfall on the west coast and central areas; temperature increases in the north east; and more frequent occurrences of extreme events such as flash flooding and heatwaves. These changes are likely to impact on rail infrastructure performance and durability, for example days of extreme temperatures are already a significant factor in buckling of rail track infrastructure and the north coast rail line is vulnerable to long term sea level rises.

The safe operation of the rail network is also important in reducing environmental impacts, particularly through damage and/or contamination arising from derailment events. The committed investment in the rail network is aimed at improving safety and has direct environmental benefits in this regard.

Future reviews of this paper will incorporate the results of the Tasmanian Government's interim emissions reduction targets by industry sector. It will also incorporate the Australian Government's emissions trading scheme once it is developed.

The Tasmanian Government's Objectives for the Rail Freight Network

Viability: A viable rail network for the long term.

The Tasmanian Government's vision is that rail is a viable option in the land transport system. A sustainable rail network for the long term means certainty of future rail track investment, efficient investment in rolling stock and certainty of demand from industry. Transport investment decisions need to take into account road and rail networks to find the best solution for the freight task.

A key priority is the utilisation of existing spare rail track infrastructure capacity

Better utilisation of rail track infrastructure spare capacity should reduce the cost of road maintenance and construction as freight that would otherwise be transported by road is transported by rail. A greater proportion of the freight task transported on rail will have direct environmental benefits through reduced greenhouse gas emissions and reduced externality costs.

Plan, deliver and fund network infrastructure in a timely manner

The Australian Government has committed significant funding to the Tasmanian Rail Network through the Nation Building Program 2008-09 to 2013-14. Projects funded through this program are identified on page 14 of this Strategy. It is anticipated that this project funding will be expended over the next five years, resulting in improved safety and reliability outcomes.

The Australian and Tasmanian Governments have jointly committed to strengthen the existing core network before starting on non-operational lines. TasRail may invest in additional projects on a commercial basis, where the cost of infrastructure investment is recovered from the market.

Rail network is available to third party train operators, including a pricing mechanism that is transparent in funding and charging. Rail customers should pay for use of rail just as road pricing include both access and utilisation charges.

In 2007, the rail network (excluding the Melba Line and workshop facilities at the Launceston terminal) was declared open access under Part IIIA of the *Trade Practices Act 1974 (Cth).* In November 2009 TasRail's Shareholder Minister's endorsed a transitional access framework to apply from 1 December 2009, including access prices to be charged.

An important component of an open access network is the transparency in infrastructure funding and recovery of costs from end users. It is important that access prices are set to ensure recovery of costs from the market as far as possible without making rail uncompetitive in the freight transport market. It is not appropriate or sustainable for governments to provide funding for costs which are appropriately borne by the market. Under the Transitional Access Framework, access prices do not recover from the market investment by the Tasmanian and Australian Governments.

Identify and protect freight network options where necessary to ensure future capacity, flexibility and certainty

TasRail is responsible for managing the non-operational lines and will be responsible for the reserved rail corridor between Melba Flats and Zeehan on the west coast. These corridors have been identified as having strategic value to the network and will be protected for future rail use.

Previously committed funding (dependent on a business case for the transport of logs by rail to the proposed pulp mill) has been redirected to the operational network to keep the core network open for use. Consideration of projects on the non-operational lines has been deferred until the existing network is strengthened.

Develop a reference framework (Tasmanian Freight Strategy) for investments made in the rail network

Future government investment in the rail network will be based on a cost benefit analysis across a broad range of economic, social and environmental criteria/considerations, rather than solely commercial criteria. Investment decisions should ultimately be based on competitive neutrality between road and rail to demonstrate that rail is not disadvantaged in comparison to road and vice versa.

The Tasmanian Government's Objectives for the Rail Freight Network

Economic Development: A cost effective and efficient transport system.

The Tasmanian Government's primary transport objective is to create a safe and efficient land transport system. This includes the integration of road, rail and intermodal transfer (either between road/rail or ports/road/rail). Improving the efficiency, reducing the cost of transport and ensuring access to larger interstate markets through ports is fundamental to supporting our economic growth and prosperity.

In Tasmania, the freight task is forecast to increase by approximately 1.8% per annum. Over 99% of Tasmania's export movements are by sea. Over the past two decades, the pattern of trade to and from Tasmania has changed. The three northern ports now account for the majority of the State's freight import/exports. Meeting the increase in the north-south and west coast freight tasks will require the optimal use of Tasmania's road and rail infrastructure, if productivity is to be maximised in the longer term. Long term improvements to rail infrastructure and intermodal facilities will provide rail with the potential to compete for a greater share of the contestable freight task on the north-south freight route.

Tasmania is a net exporter, with a significant focus on bulk commodities. Rail is a key mode in the intrastate movement of some bulk commodities (e.g. mineral ore concentrates and cement). It is critical in providing an alternative transport mode to road, supporting competitive transport options for both existing industries and potential major projects such as proposed mines and manufacturing facilities. Over the longer term, and as part of a strategic transport system, the Tasmanian Government considers rail to be an essential element in meeting the needs of Tasmania's growing freight task.

Transport productivity improvements are important in a value-add bulk commodity exporter such as Tasmania, particularly to the mining industry, where cost savings in the transport of goods increase the scope for competitive pricing. As an export oriented state, Tasmania faces major challenges in a carbon and oil constrained future due to distance from export markets and the cost of importing retail goods.

The proposed Bell Bay intermodal access upgrades (total project cost $9.1 million funded by the Tasmanian and Australian Governments and the George Town Council) will improve the efficiency and safety of operational access to wharf infrastructure facilitating a reduction in turn-around times of trains at Bell Bay.

Similarly, the Brighton Transport Hub will be an integrated road/rail and road/road intermodal facility improving transport efficiencies. For rail, relocation of the southern terminal from Hobart Port to Brighton Hub will result in shorter and more efficient operations between Hobart and the northern ports.

Upgrading the Tasmanian rail network

Significant historical underinvestment in the rail network has contributed to a loss in market confidence due to reliability issues. Maintaining a viable rail network is a key priority for the Tasmanian Government and is the basis for the 'existing network first' investment approach. The commercial benefits of this investment will accrue to rail freight demanders and associated environmental benefits of transporting freight by rail to the community as a whole.

Following the rehabilitation of the existing network, funding for network extensions or service improvements (primarily relating to travel time) will be subject to business case assessments.

It is important to understand that future track investment and the efficient investment in rolling-stock needed to improve rail efficiency is linked to market demand for rail, not only in terms of contestable volumes but also industry commitment through long-term service arrangements.

Optimise the efficiency of the land transport network

While some freight tasks are origin to destination (for example cement is transported on rail directly from point of manufacture to point of export), most are part of a broader land based logistics chain. With over 99% of the freight task either imported/exported by sea, and primarily through our three northern ports, an integrated land transport network is imperative to improve transport efficiency and underpin future economic growth.

This approach requires integrated transport infrastructure planning, investment and operation. Intermodal transfer hubs act as inland ports to facilitate cost effective and timely transfer between modes.

It is important that the Government plans for the future as well as making improvements for today. The non-operational lines will be managed by TasRail and re-opening will be considered based on business case.

Competitive neutrality between the road and rail networks

An efficient land transport system also requires competitive neutrality between road and rail transport. This means that there is neutrality between the Government-owned above rail service operator and private sector road transport operators in terms of infrastructure access and pricing; and there is neutrality within government in respect of the land transport system, between road and rail infrastructure particularly in making infrastructure investment decisions.

Objectives, Priorities and Key Initiatives

Objectives	Priority Areas for Action	Key Initiatives
Safety The safe operation and use of the rail network, including interaction with the broader community.	•Nationally consistent rail safety regulation. •Improved safety measures at railway crossings. •Implementation of positive train control.	*Complete:* •Nationally consistent rail safety legislation (*Rail Safety Act 1997*). •Independent Rail Safety Regulator. *Current:* •$3.96 million investment for high risk rail crossings across 13 locations, 10 on the Tasmanian Rail Network. •Significant investment in rail track infrastructure which will enhance safety outcomes. •Funding in the 2010 State Budget for positive train control. *Future:* •National Rail Safety Regulator by 2013. •National Rail Safety Investigator by 2013 •Monitor safety improvements.
Environment A greater proportion of Tasmania's growing freight task transported by rail.	•Rehabilitate the rail network to an appropriate standard to realise environmental and societal advantages of rail transport. •Reduced environmental damage and/or contamination resulting from derailment events. •Reduced greenhouse gas emissions in the transport sector by 2050. •Market environmental benefits to rail freight demanders.	*Complete:* •Recognising the environmental benefits of rail transport by basing rail maintenance funding under the Rail Rescue Package on externality benefits to the community. *Current:* •Infrastructure investment to enhance rail network safety and capacity improvements on the north-south line. •Planning and investment decisions that consider the future impact of climate change on our environment. *Future:* •Incorporate the Tasmanian Government's emissions targets for rail.

Objectives	Priority Areas for Action	Key Initiatives
Viability A viable rail network for the long term.	•Priority investment in existing operational network. •Utilisation of existing spare rail network capacity. •Deliver rail network funding in timely manner. •Open access network. •Transparency in funding and charging. •Protect rail network options to ensure future capacity and flexibility •Develop a land transport investment reference framework.	*Complete:* •Ownership and operation of the rail network and provision of train service by a State-Owned-Company. •Rail network is managed in accordance with the *Rail Infrastructure Act 2007* and the *Rail Company Act 2009*. •Rail network declared open access. •Transitional access framework endorsed. *Current:* •Nation Building Program project funding/Tasmanian Government funding under Rail Rescue Package. •Strategic non-operational lines and land corridors preserved. *Future:* •Determine future funding requirements and sources. •Develop Rail Access Framework.
Economic Development A cost effective and efficient transport system to underpin economic development.	•Competitive neutrality between the road and rail networks. •Optimise the efficiency of the land transport network. •Upgrading the Tasmanian rail network. •Investment in intermodal terminals to facilitate efficient freight transfer.	*Complete:* •Establishment of Tasmanian Railway Pty Ltd and acquisition of PNT's rail assets. •Rail network declared open access. *Current:* •Efficient funding for rail infrastructure and rolling stock. •Nation Building Program project funding/Tasmanian Government funding under Rail Rescue Package. *Future:* •Brighton Transport Hub and potential Bell Bay Intermodal expansion. •Develop Tasmanian Freight Strategy as investment framework in road and rail. •Development of Tasmanian Ports Strategy linked to the land transport network.

Measuring Objectives

Measure the progress towards achieving the objectives of this strategy to inform prioritisation and future reviews. Key performance indicators will measure performance towards outcomes on an annual basis.

Key Result	Measures of Performance
Improved rail safety and reliability.	Reduction in the number of network related occurances.
More freight carried by rail.	Increased tonnage, increased tonne kilometres and increase in contestable freight market share.
Improved network performance.	Closing the gap between design standard travel speeds and available travel speeds.
Transport infrastructure to deliver economic growth.	Increased rail's share of contestable freight market.

Infrastructure Strategy Division
Department of Infrastructure
Energy and Resources

GPO Box 936, Hobart 7001
Visit:www.dier.tas.gov.au

Appendix C

MEMBERS' STATEMENT OF EXPECTATIONS

MARCH 2012

TASMANIAN RAILWAY PTY LTD

This Members' Statement of Expectations is jointly approved by:

David O'Byrne MP
Minister for Infrastructure
Member

Lara Giddings MP
Premier
Treasurer
Member

Date: 18 APR 2012

Contents

1. INTRODUCTION 2

2. PURPOSE AND STRATEGIC EXPECTATIONS 2

2.1 Principal Purpose 2

2.2 Principal Commercial Objective 2

2.3 Strategic Expectations 3

2.4 Compliance with Government Policies 4

3. NATURE AND SCOPE OF OPERATIONS 4

3.1 Core Business 4

3.2 Business Presence Outside the State 4

3.3 Non-commercial Activities 4

4. FINANCIAL AND COMMERCIAL MANAGEMENT EXPECTATIONS 5

4.1 Financial Performance 5

4.2 Customer Service 5

4.3 Reporting 5

4.4 Pricing 5

4.5 Borrowings and Investment Activities 6

4.6 Capital Asset Management 6

4.7 Risk Management 6

5. OTHER 7

5.1 Director Appointment Process 7

5.2 Employee and Industrial Relations 7

5.3 Integrity and Ethics 7

5.4 Significant Developments 7

5.5 Provision of Information 7

SCHEDULE 1 8

1. INTRODUCTION

- This Statement of Expectations has been prepared by the Minister for Infrastructure and the Treasurer (the Members), following consultation with Tasmanian Railway.

- The Statement sets out the Government's broad policy expectations and requirements for Tasmanian Railway.

- The *Corporations Act 2001* and the Constitution of Tasmanian Railway govern the operation of the Company.

- This Statement should be read in conjunction with the following Acts:

  - *Rail Company Act 2009;*

  - *Rail Safety Act 2009;*

  - *Rail Infrostructure Act 2007; and*

  - *Government Business Enterprises Act 1995.*

- This Statement takes effect from the date it is signed and remains in effect until it is amended or revoked.

- The Statement is to be tabled in Parliament by the Minister for Infrastructure and published on the website of Tasmanian Railway.

2. PURPOSE AND STRATEGIC EXPECTATIONS

2.1 Principal Purpose

- The principal purpose of Tasmanian Railway is to provide rail freight services in Tasmania.

2.2 Principal Commercial Objective

- Pursuant to legislative requirements, the Members expect Tasmanian Railway to:

  - be a successful company by operating in accordance with sound commercial practice and as efficiently as possible; and

  - achieve a sustainable rate of return on its commercial operations in accordance with its corporate plan having regard to the social and economic objectives of the State, as agreed in writing with the Members.

2.3 Strategic Expectations

- In undertaking its core business, the Portfolio Minister and the Treasurer expect Tasmanian Railway to:
  - provide a safe, reliable and efficient rail freight service in Tasmania;
  - ensure the safety and security of the public and the Company's employees through the implementation and compliance with best practice operating procedures including compliance with the Rail Safety Act;
  - maintain the safety and efficiency of the rail track infrastructure through appropriate maintenance and capital improvement programs;
  - develop and implement strategies to create a strong corporate identity and grow the business through a focus on quality customer service;
  - develop and implement strategies to increase the Company's share of the Tasmanian freight market;
  - undertake related activities such as the operation of intermodal transport hubs, freight loading equipment and storage sheds;
  - only undertake expansion activities where supported by commercial outcomes or where approved by the Portfolio Minister and the Treasurer;
  - upgrade the network for specific third party access only where funded from the party seeking access;
  - ensure that the rolling stock matches the characteristics of the rail track infrastructure and the transport task by developing an appropriate maintenance and capital program;
  - use its best endeavours to undertake any necessary remedial action to resolve any environmental issues as may be required by the Environment Protection Authority, noting that in the event that the Company has insufficient funds to undertake the required remedial works, the Government would give consideration to a request for additional funds on a case by case basis;
  - manage financial performance and business risk; and
  - actively pursue and implement cost reduction strategies and efficiency gains while attracting and retaining staff in key skill shortage classifications to ensure the Company is adequately resourced to deliver efficient rail services.

2.4 Compliance with Government Policies

- In pursuing the strategic objectives in the context of the Government's directions, and undertaking its functions and exercising its powers, Tasmanian Railway shall act in accordance with:
  - the governance framework for Government businesses;
  - Treasurer's Instructions and guidelines that are applicable to Tasmania Railway; and
  - Government policies specifically applying to Tasmanian Railway as advised by the Members.

3. NATURE AND SCOPE OF OPERATIONS

3.1 Core Business

- The core business of Tasmanian Railway is the:
  - provision of rail and associate freight services in Tasmania;
  - provision of train control services;
  - management of freight terminals, including bulk handling and loading; and
  - maintenance of, and upgrades to, the rail network infrastructure in Tasmania.

3.2 Business Presence Outside the State

- Tasmanian Railway must only operate its core business in Tasmania.

3.3 Non-commercial Activities

- Tasmanian Railway's non-commercial activities are:
  - any activity that has been declared a community service obligation by the Treasurer; and
  - any activity that the Members agree would be non-commercial and direct Tasmanian Railway to perform.
- Non-commercial activities are listed in Schedule 1 of this Statement.
- Where Tasmanian Railway is required to perform non-commercial activities, those activities are to be:
  - performed in an efficient and effective manner; and

- costed and funded in accordance with arrangements as agreed with the Treasurer. If no arrangement is in place, the non-commercial activity is to be funded by the company.

4. FINANCIAL AND COMMERCIAL MANAGEMENT EXPECTATIONS

4.1 Financial Performance

- The Members expect Tasmanian Railway to:
  - meet its financial and commercial targets, including target dividends, as set out in the annual Statement of Corporate Intent. Target dividends are to be agreed during the corporate planning process;
  - implement the business strategies contained in the Corporate Plan in order to meet the agreed long term performance targets for the organisation, consistent with the Government's expectations;
  - be proactive in identifying and implementing operational efficiencies and productivity measures to enhance financial performance; and
  - keep the Members, and the Department of Treasury and Finance (Treasury), as principal financial advisor, informed of any significant issues impacting on the company, especially its financial performance targets.

4.2 Customer Service

- In delivering its services, the Members expect Tasmanian Railway to take account of contemporary practice and other management developments in the industry in which Tasmanian Railway operates and the commercial sector generally.
- Tasmanian Railway is to have in place a customer service charter which is to be publicly available.

4.3 Reporting

- The Members expect Tasmanian Railway to comply with any relevant reporting requirements specified in any guidelines issued by Treasury.
- The Members expect the Company to consider its reporting structure to ensure the appropriate separation of accountability and transparency between the above rail and below rail operations. Below rail infrastructure access fees must be transparent and levied on above rail operations of the Company in the same manner as imposed on third parties in accordance with the approved Tasmanian Rail Access Framework.

4.4 Pricing

- The Members expect Tasmanian Railway to set prices, fees and charges which:
  - meet the objectives of efficiency, and financial sustainability;

- represent fair value to its customers;
- encourages, as far as practical, increased usage of the rail network; and
- to the extent possible, move towards a commercial return on assets employed as set out in the annual Statement of Corporate Intent.

- The Members expect Tasmanian Railway to manage access arrangements, including pricing, to all access seekers (including itself) in accordance with the Tasmanian Rail Access Framework issued from time to time by the Portfolio Minister.

- Access fees approved under the Tasmanian Rail Access Framework are to be charged as the company's internal transfer price.

4.5 Borrowings and Investment Activities

- The Members expect Tasmanian Railway's borrowings to be consistent with any direction given under the *Tasmanian Public Finance Corporation Act 1985.*

- When investing any surplus funds, Tasmanian Railway should provide the Tasmanian Public Finance Corporation the opportunity to offer its services.

- Capital structure and debt levels should be maintained at a level that is consistent with the overall strategic portfolio objectives of the Government.

4.6 Capital Asset Management

- The Members expect Tasmanian Railway to:
  - develop Asset Management Plans reflecting prudent commercial practice;
  - regularly review its asset holdings with the aim of identifying surplus non-performing and non-core assets; and
  - subject any capital investment proposal to rigorous and considered analysis prior to any decision to commit resources.

- The Members and Treasury, as principal financial adviser, are to be notified of any proposed major new capital investments.

- All major capital investment decisions must be approved in writing by the Members prior to any significant expenditure being incurred.

4.7 Risk Management

- The Members expect Tasmanian Railway to have in place risk mitigation strategies that recognise the Government is a long-term risk-averse investor, identify business and financial risks, and provide for their ongoing management in a manner that is commensurate with the risk profile of the Government.

5. OTHER

5.1 Director Appointment Process

- The Members expect Tasmanian Railway to work cooperatively with relevant Director Selection Advisory Panels to ensure that the appointment process results in a balance of renewal and continuity of Board membership.

5.2 Employee and Industrial Relations

- The Members expect Tasmanian Railway to:
  - adhere to any Government policy guidelines in regard to Executive remuneration including bonuses or other forms of rewards; and
  - be cognisant of any Government policy in regard to employee remuneration, consistent with contemporary public sector wages policy.
- The Members are to be notified of any significant changes to the employee relations policy of Tasmanian Railway, including the finalisation of any workplace or enterprise agreements.

5.3 Integrity and Ethics

- The Members expect the Board, management and employees of Tasmanian Railway to exhibit the highest level of integrity and professionalism in undertaking their duties.

5.4 Significant Developments

- The Members are to be kept informed of any matters of significance. Specifically, the Members expect to be notified of any adverse developments which may:
  - prevent the achievement of financial performance objectives; or
  - significantly affect the financial viability or operating ability of Tasmanian Railway; or
  - significantly impact on Government policy, client relations and environmental issues.

5.5 Provision of Information

- The Members expect to be:
  - informed as soon as practicable of any material or significant events, transactions or other issues relating to the company; and
  - provided with any information or reports requested, in an accurate and timely manner.

SCHEDULE 1

NON-COMMERCIAL ACTIVITIES

The following non-commercial activities, as defined under Clause 3.3, shall be performed by Tasmanian Railway:

- upgrades, maintenance and operation of the rail track network in Tasmania.

Appendix D

Declaration of the service provided by means
of the Tasmanian Railway Network
under Part IIIA of the *Trade Practices Act* 1974

Statement of Decision and Reasons

I, the Hon Paul Lennon MHA, Premier of Tasmania, as the designated Minister for the purposes of Part IIIA of the *Trade Practices Act* 1974 (the "Act"), make the following declaration in relation to the service provided by means of the Tasmanian Railway Network.

NCC Recommendation

Section 44F of the Act provides that the designated Minister, or any other person, may make a written application to the National Competition Council ("NCC") asking the NCC to recommend that a particular service be declared. After receiving the application, the NCC must, after having regard to the objects of Part IIIA of the Act and matters specified in section 44G, recommend to the designated Minister either that the service be declared or that the service not be declared.

On 14 August 2007, the NCC made its recommendation to me in relation to the application made by the Rail Unit of the Tasmanian Department of Infrastructure, Energy and Resources on 2 May 2007 seeking declaration in respect of the use of the rail tracks and associated infrastructure that comprise the Tasmanian Railway Network for the purpose of operating a rail service on the Tasmanian network.

The NCC's recommendation was that this service be declared for a period of 10 years.

In forming its recommendation, the NCC determined that all of the matters in subsection 44G(2) of the Act are satisfied, namely that:

(a) access (or increased access) to the service would promote a material increase in competition in at least one market (whether or not in Australia) other than the market for the service;

(b) it would be uneconomical for anyone to develop another facility to provide the service;

(c) that the facility is of national significance, having regard to:

  (i) the size of the facility; or

  (ii) the importance of the facility to constitutional trade or commerce; or

  (iii) the importance of the facility to the national economy.

(d) that access to the facility can be provided without undue risk to human health or safety;

(e) that access to the service is not already the subject of an effective access regime; and

(f) that access (or increased access) to the service would not be contrary to the public interest.

Decision

Section 44H of the Act provides that, on receiving a declaration recommendation, the designated Minister must either declare the service or decide not to declare the service. If the designated Minister declares the service, the declaration must specify the expiry date of the declaration.

Following consideration of the NCC's recommendation, I have decided to declare the service described below for a period of 10 years.

The declared service is the use of the rail tracks and associated infrastructure that comprise the Tasmanian Railway Network for the purpose of operating a rail service on the Tasmanian network, including, without limitation, loading and unloading freight, making up trains, shunting and other activities necessary for the efficient haulage of freight by rail.

The facility which is the subject of this declaration is:

(a) the infrastructure that comprises the Tasmanian Railway Network consisting of rail lines, crossing loops, sleepers ballast, cuttings, tunnels, embankments, bridges, culverts, rail tracks and yards on wharves, fastenings, points, poles, pylons, structures and supports, signalling equipment, overhead lines, platforms, railway stations, freight sheds and associated buildings (excluding terminals), workshops, electrical substations, train communications systems, plant, machinery and other fixed equipment; and

(b) the rail terminals at Burnie, Devonport, Launceston and Hobart.

The Tasmanian Railway Network comprises each of the following line segments (shown in green and red on the attached map):

- the Bell Bay line (being the railway line of approximately 57km running from the Western Junction to Bell Bay);
- the Derwent Valley line (being the railway line of approximately 71km running from Bridgewater to Maydena);
- the Fingal line (being the railway line of approximately 55km running from Conara Junction to Fingal Coal Washery);
- the South line (being the railway line of approximately 199km running from the Hobart Rail Yard to Western Junction);
- the North-East line (being the railway line of approximately 73km running from Coldwater Creek to Tonganah);
- the Western line (being the railway line of approximately 78km running from Western Junction to Wiltshire); and
- the Zinc Works line (being the railway line of approximately 3km running from Derwent Park to Risdon).

The facility does not include the Melba line (being the railway line of approximately 130km running from Burnie to Melba Flats shown in blue on the map attached as Schedule 1), nor the workshops and administration facility at Tamar Junction owned by Pacific National Tasmania.

Reasons

Section 44H of the Act provides that:

- in making his or her decision, the designated Minister must have regard to the objects of Part IIIA of the Act;
- in deciding whether or not to declare the service, the designated Minister must consider whether it would be economical for anyone to develop another facility that could provide part of the service (s 44H (2));
- the designated Minister cannot declare a service that is the subject of an access undertaking in operation under Division 6 of Part IIIA of the Act (s 44H(3));
- while a decision of the Australian Competition and Consumer Commission ("ACCC") is in force under subsection 44PA(3) approving a tender process for the construction and operation of a facility as a competitive tender process, the designated Minister cannot declare any service provided by means of the facility specified under 44PA(2)(a) (s44H(3)(a)); and
- the designated Minister cannot declare a service unless he or she is satisfied of all of the matters in paragraphs (a) to (f) of subsection 44H(4). These mirror the criteria that the NCC must consider in forming its recommendation (s44G (2) (a) to (f), outlined above).

In making my decision, I have had regard to the objects of Part IIIA of the Act, which are to:

(a) promote the economically efficient operation of, use of, and investment in the infrastructure by which services are provided, thereby promoting effective competition in upstream and downstream markets; and

(b) provide a consistent framework and guiding principles to encourage a consistent approach to access regulation in each industry.

Current rail freight volumes on the Tasmanian network are below the level that would represent an efficient usage of rail in Tasmania, in part due to underinvestment in infrastructure.

Declaration is an important part of the Tasmanian "Rail Rescue Package" designed by the Tasmanian and Federal Governments to remedy this situation and promote the economically efficient operation of, use of, and investment in, the Tasmanian Railway Network, with the expectation that the benefit of investment in improving the network infrastructure will be passed on to end customers via increased competition in the downstream market for rail services.

The service is not the subject of an access undertaking in operation under Division 6 of Part IIIA of the Act, nor is the facility specified in any application to the ACCC under section 44PA.

I agree with the NCC determination that the relevant criteria are satisfied. The reasons in relation to each matter specified in 44H(4) (a) to (f) and 44H (2) are addressed below:

- In relation to the criterion in paragraph (a), there is a clear functional separation between the upstream market for the service and the downstream market for rail line haul services. I agree with the NCC's conclusion that, because rail line haul services are dependent on the use of the service provided by the Tasmanian Rail Network, enabling access to the service will promote a material increase in competition in the downstream, dependent market of rail line haul services.
- In relation to paragraph (b), the Tasmanian Rail Network exhibits "natural monopoly" characteristics in that, although there are relatively low operating costs, developing another facility would involve significant capital investment and the existing and potential capacity of

the facility is sufficient to meet the foreseeable demand over the 10-year declaration period. I therefore agree with the NCC that it would be uneconomical for anyone to develop another facility to provide the service.

- Pursuant to subsection 44H (2), I have also considered whether it would be economical for anyone to develop another facility that could provide part of the service. Essentially this would involve duplicating part of the Tasmanian Railway Network, which, again, would be uneconomic given the spare capacity in relation to foreseeable demand.
- In addition, the rail terminals included within the facility are an integral part of the network infrastructure used by freight rail services and exhibit the same "natural monopoly" characteristics as rail tracks. The capital and maintenance cost relative to demand means that aggregating rail freight at these nodes through one common user terminal is more cost effective than multiple terminals.
- In relation to s44H (4)(c), I agree with the NCC that the facility is of national significance on the basis of its importance to constitutional trade or commerce, which is defined in the Act to include trade or commerce among States or between Australia and places outside Australia. This is recognised by both the amount of import and export traffic on the Tasmanian Railway Network, and the inclusion of the Tasmanian Railway Network in the AusLink Tasmanian Corridor.
- In relation to paragraph (d), the NCC found that the existing accreditation regime (which requires all rail operators to be accredited under the *Tasmanian Rail Safety Act* 1997), combined with a single operator, and the opportunity to negotiate and arbitrate the terms of access, will ensure the safe operation of the facility and provision of the service. Based on these factors, I agree that access to the facility can be provided without undue risk to human health or safety.
- In relation to paragraph (e), the NCC considered whether the Rail Management and Maintenance Deed (RMMD) between the Tasmanian Government and Pacific National Tasmania constitutes an effective access regime, having regard to the Competition Principles Agreement and objects of Part IIIA of the Act. I agree with the NCC's determination that, because a third party access seeker is not a party to the RMMD, and because the RMMD evidences the intention to seek declaration under the Act to establish an access regime, the RMMD itself does not constitute an effective access regime.
- In relation to the criterion in paragraph (f), the NCC concluded that the benefits of declaration outweigh any costs flowing from declaration and that accordingly access is not contrary to the public interest. I agree with this conclusion.

The Tasmanian Railway Network is primarily a freight system linking industry and ports. Rail plays an important role in Tasmanian supply chains especially in relation to interstate and international freight moving to and from Tasmania's three northern ports. Businesses make investment decisions in Tasmania based on options in rail, and road is not an efficient alternative.

There has never been "above rail" competition in freight rail services in Tasmania. Access to the Tasmanian Railway Network is essential to permit effective competition in rail services within Tasmania, with flow on effects for competition in the downstream markets for freight forwarding or logistics services to and from or within Tasmania.

Declaration under Part IIIA of the Act is an important part of the arrangements implementing the "Rail Rescue Package" designed by the Tasmanian and Federal Governments. These arrangements are aimed at removing impediments to the investment of public money in rail

infrastructure that is timely and well targeted, and at facilitating private investment and effective competition in rail services and supply chain solutions, in a manner that is consistent with the national approach to economic regulation of significant infrastructure.

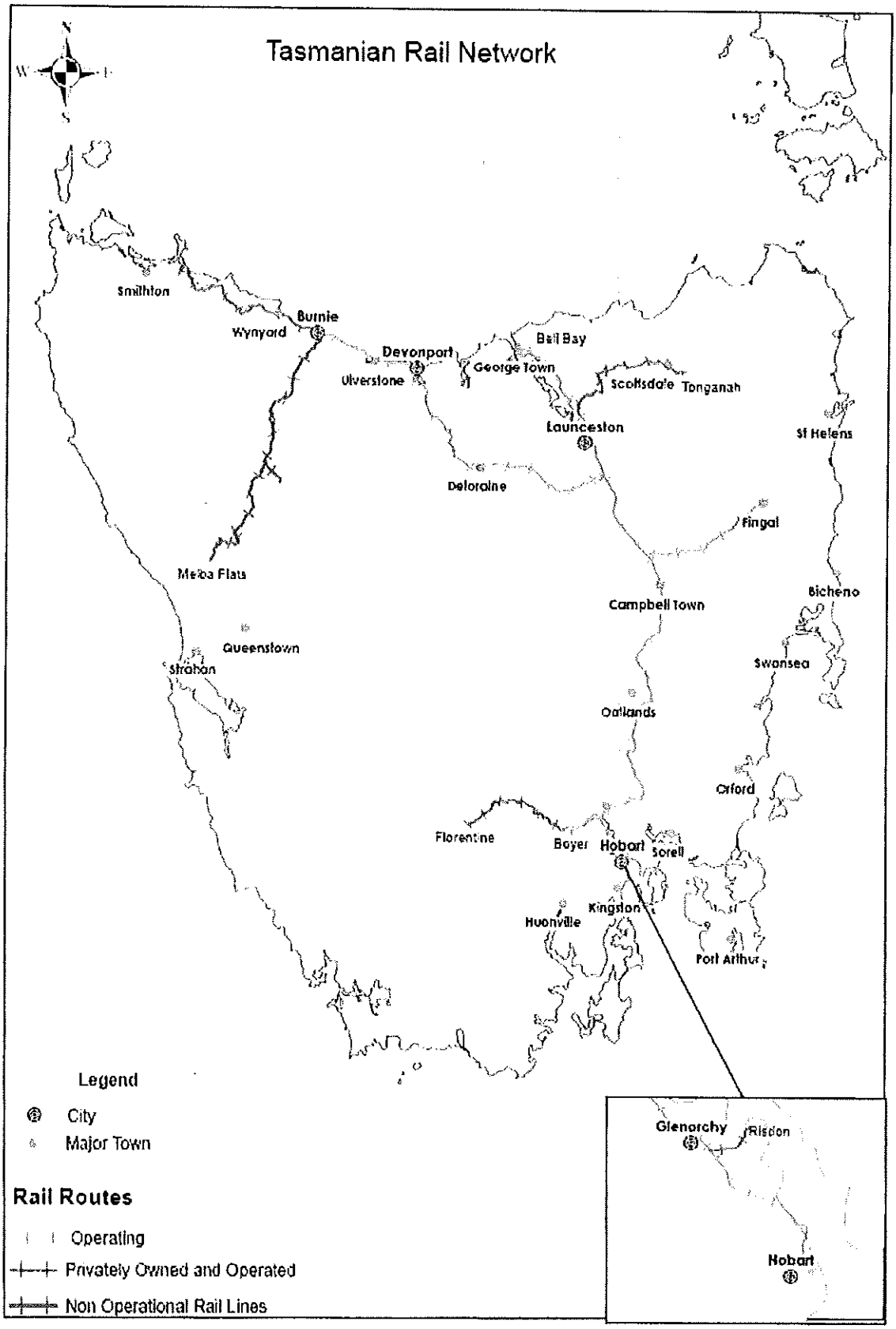
Publication of Decision and Reasons

Section 44HA of the Act provides that the designated Minister must publish, by electronic or other means, his or her decision on a declaration recommendation and his or her reasons for the decision.

This declaration decision and statement of reasons will be published today on the Tasmanian Government website and will begin to operate on 23 OCT 2007 being not earlier than 21 days after publication.

The Hon Paul Lennon MHA
Premier of Tasmania

- 2 OCT 2007


Tasmanian Rail Network
N
W
E
S
Smithton
Wynyard
Burnie
Devonport
Ulverstone
Bell Bay
George Town
Scottsdale
Tonganah
Launceston
St Helens
Deloraine
Fingal
Meeba Flats
Campbell Town
Bicheno
Queenstown
Strahan
Swansea
Oatlands
Orford
Florentine
Boyer
Hobart
Sorell
Kingston
Huonville
Port Arthur
Glenorchy
Risdon
Hobart
Legend
City
Major Town
Rail Routes
Operating
Privately Owned and Operated
Non Operational Rail Lines

Relevant Extracts from Part IIIA of the Trade Practices Act 1974

SECTION 44H Designated Minister may declare a service

(1) On receiving a declaration recommendation, the designated Minister must either declare the service or decide not to declare it.

(1A) The designated Minister must have regard to the objects of this Part in making his or her decision.

(2) In deciding whether to declare the service or not, the designated Minister must consider whether it would be economical for anyone to develop another facility that could provide part of the service. This subsection does not limit the grounds on which the designated Minister may make a decision whether to declare the service or not.

(3) The designated Minister cannot declare a service that is the subject of an access undertaking in operation under Division 6.

(3A) While a decision of the Commission is in force under subsection 44PA(3) approving a tender process, for the construction and operation of a facility, as a competitive tender process, the designated Minister cannot declare any service provided by means of the facility that was specified under paragraph 44PA(2)(a).

(4) The designated Minister cannot declare a service unless he or she is satisfied of all of the following matters:

(a) that access (or increased access) to the service would promote a material increase in competition in at least one market (whether or not in Australia), other than the market for the service;

(b) that it would be uneconomical for anyone to develop another facility to provide the service;

(c) that the facility is of national significance, having regard to:

(i) the size of the facility; or

(ii) the importance of the facility to constitutional trade or commerce; or

(iii) the importance of the facility to the national economy;

(d) that access to the service can be provided without undue risk to human health or safety;

(e) that access to the service is not already the subject of an effective access regime;

(f) that access (or increased access) to the service would not be contrary to the public interest.

(5) If the designated Minister declares the service, the declaration must specify the expiry date of the declaration.

(6) If the designated Minister does not publish under section 44HA his or her decision on the declaration recommendation within 60 days after receiving the declaration recommendation, the designated Minister is taken, at the end of that 60-day period, to have decided not to declare the service and to have published that decision not to declare the service.

SECTION 44HA Designated Minister must publish his or her decision

(1) The designated Minister must publish, by electronic or other means, his or her decision on a declaration recommendation and his or her reasons for the decision.

(2) The designated Minister must give a copy of the publication to:

(a) the applicant under section 44F; and

(b) if the applicant is not the provider of the service--the provider.

SECTION 44I Duration and effect of declaration

(1) Subject to this section, a declaration begins to operate at a time specified in the declaration. The time cannot be earlier than 21 days after the declaration is published.

(2) If an application for review of a declaration is made within 21 days after the declaration is published, the declaration does not begin to operate until the Tribunal makes its decision on the review.

(3) A declaration continues in operation until its expiry date, unless it is earlier revoked.