11 March 2019 **Our Ref: 05-006-02-0005\ID:id**

Ms C Cuevas
Manager, Regulatory Reform
Department of Treasury
Locked Bag 11, Cloisters Square
PERTH WA 6850

Dear Ms Cuevas

Western Australian Rail Access Regime Review

I refer to the Review of the Western Australian Rail Access Regime Draft Decision Paper published in December 2018. The Association would like to commend the Treasury for initiating and undertaking the review and providing opportunities for consultation and engagement with stakeholders during the process.

The WA Local Government Association welcomes the recommendations made and with some refinement believes that these proposals will support the objective of Local Governments to have freight moved on rail wherever possible and that cost structures in the supply chain enable export industries to be globally competitive.

We would particularly like to commend the recommendations made in relation to service quality indicators, timeframes and considering agreements made outside the Code in assessing whether unfair discrimination has occurred in relation to an agreement within the Code.

Service Quality Indicators

We believe that requiring railway owners to regularly publish service quality indicators will not only improve the opportunity for operators to consider rail more easily, but also provide increased accountability for the public investment that has historically been made in rail infrastructure. This will also assist in enabling more informed debate about the steps needed to ensure that rail freight remains competitive in an environment of constantly improving road freight productivity.

Timeframes

As highlighted in submissions to this review, Local Governments are concerned about the length of time negotiations between railway owners and access seekers have taken under the regime and the impacts of breakdown in these negotiations, including the risk of removing trains from the network. The proposal to add timeframes to obligations under the Code where these do not currently exist is welcomed.

ONE70
LV1, 170 Railway Parade, West Leederville, WA 6007
PO Box 1544, West Perth, WA 6872
T: (08) 9213 2000 F: (08) 9213 2077 info@walga.asn.au
www.walga.asn.au

Unfair Discrimination

Given that to date there are no agreements negotiated within the Code we believe that the recommendation made to consider the terms of agreements made outside the Code in assessing unfair discrimination is at least a minimal step in facilitating agreements between the parties.

Pricing Mechanisms

The proposed change from a gross replacement value (GRV) to a depreciated optimised replacement cost (DORC) based approach appears to address the concern raised by Local Governments that the current pricing mechanism does not necessarily ensure a strong link between access charges and service levels and does not necessarily encourage re-investment in the rail network where this is economically viable.

Local Governments have identified particular concern with ensuring that the rail access regime facilitates on-going access to and reinvestment in old rail lines, particularly the grain network. As has been identified, the GRV methodology assumes assets are in ‘as new’ condition and as such the capital costs assigned under GRV do not reflect the asset’s current condition or the economic value a user may expect to extract from the asset. The risk of duplication of infrastructure would seem highly unlikely in these circumstances. However, it is important to ensure that the pricing mechanism provides a competitive return on investment to ensure that these lines continue to provide an efficient level of service.

On this basis, the Association supports the proposed move from the GRV methodology to one based on DORC. However, we believe that there are three matters that require particular attention.

Transition Arrangements

If implementation of the new regulations leads to a situation where the ceiling price calculated using the DORC is less than the ceiling price using GRV and the infrastructure owner was earning a return above the DORC calculated ceiling price, then transition arrangements should be provided. The railway owner should be required to demonstrate that the actual return on capital will be constrained as a result of the change in methodology. The opportunity to earn an additional return on capital should not arise as a result in a change to the ceiling price alone. Based on the principles described, it is likely that newer assets are more likely to be affected by the proposed change from GRV to DORC, and in these cases the value of the asset is likely to be more easily able to be calculated.

Fully Depreciated Assets

Valuation of existing assets and particularly old assets is one of the more challenging issues facing regulatory economics. In order to encourage the most economically efficient operation of rail lines and provide appropriate incentives for future investment, a modified DORC approach that places a zero value on assets with an expired life expectancy should be considered. An unmodified DORC valuation could provide the below rail operator unexpected windfall gains, but more importantly act as a barrier to continued utilization of these rail assets.

Competitive Imputation Pricing Principle

The guidelines for the determination of the maximum price should reference the efficient cost of the actual above rail operation, not the efficient line haul cost of using an alternate mode of transport. Reference to the cost of alternate modes will not readily encourage improvements in above rail efficiency, as these gains would be realised by the below rail operator who is not bearing the costs and risks associated with seeking these gains.

For enquiries please contact Ian Duncan, Executive Manager Infrastructure, on 9213 2031 or by email to iduncan@walga.asn.au.

Yours sincerely

Wayne Scheggia
Acting Chief Executive Officer