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**REVIEW OF THE WESTERN AUSTRALIAN RAIL ACCESS REGIME
DRAFT DECISION PAPER**

Introduction

SCT Logistics welcomes the consultation process that has been adopted by the Department in the process of reviewing the Western Australian Rail Access Regime. We understand this is a significant piece of State Infrastructure and more broadly the part it plays in the wider National rail network. Obviously, there are a diverse range of operators and interests to consider in the efficient use of this infrastructure.

SCT Logistics is the largest private rail operator moving general freight on the interstate rail network. Over the years we have seen the demand for the efficient use (both cost and service) of this network grow. Our customer base has evolved their supply chains to a point where the vast majority of the general freight market operates 'just in time' inventory levels. Service delivery of products to the retailers' shelves and ultimately the end consumer is paramount. The use of the rail network is a key component to achieving this. Additionally, cost elements associated with each piece of the supply chain are critical as we all seek to produce a good or service at the most competitive price for the ultimate consumer.

Feedback on Draft Recommendations

As a point of clarification, we note the Executive summary focuses on minerals or grains and getting product from remote areas of Western Australia to market. This appears to ignore the importance that the railway plays in the broader National general freight interstate network and the connection of the Western Australian market to the broader national economy. We would suggest this Executive Summary be expanded to include this key fact.

We have restricted our feedback to the draft recommendations that we feel require amendment or further guidance within the Assessment. For the purpose of clarity, we are comfortable with all other draft recommendations not specifically referred to.

Recommendation 1A – Change the asset valuation methodology to a building block based on an initial DORC valuation and align the floor and ceiling cost calculations with the DORC method.

Whilst we broadly support this recommendation we feel there are elements of either implied interpretation or lack of absolute clarity on what we see as key issues. These include:

- The return on assets and asset depreciation have an implied operating efficiency or level of use when being calculated. In practice this could become challenging and pose significant commercial risk in any negotiation. In our view, history has shown that the railway access seekers have had very little negotiating flex with the railway owner. We seek that further clarity is provided within the Assessment to deal with existing latent capacity or new capacity arising from an alternate operator modifying their use. As we currently read the recommendation, it is invariably implied that the DORC which ultimately builds into the floor and ceiling prices assumes the recovery shortfall to the railway owner will be made whole by the remaining access seekers.

It is our understanding that the existing avenues an access seeker has to mitigate the risk of making whole the recovery shortfall to the railway owner is to firstly rely on the commercial negotiation process to determine the right and fair price between the floor and ceiling, or an arbitration process. We are not confident the commercial negotiation process will achieve the desired outcome due to the competing objectives of each party. In respect to an arbitration process, the arbitrator will be focused on ensuring that as a minimum the railway owner recovers their cost. This is likely to lead to differences in opinion over the prospects and efforts taken to fulfil this capacity and therefore the determination of this on the appropriate price between the floor and ceiling.

- The calculation of a RAB for an existing railway asset requires the railway owner to determine the Gross Replacement Value (GRV). Therefore, they would assess existing assets, optimise the network to meet current and future expected demand and ultimately determine the replacement cost for this. We have concerns that this assessment process is somewhat controlled by the railway owner and as such may have a distinctly different view as to what is required to meet the current and future expected demand. They could be incentivised to set this as high as possible as it ultimately creates a higher RAB. We accept the ERA will accordingly undertake their independent process to calculate the RAB. We would therefore encourage the ERA to consult with access seekers and alternate railway owners where there are differing views to the existing railway owner.
- The calculation of an RAB for an existing railway does not clearly have regard to improvements made to an existing railway for which the access seekers have self-funded or contributed

towards. The determination of the GRV implies these were part of the initial investment or funded along the way by the railway owner. This may ultimately lead to a higher RAB which could result in an access seeker having to pay again for this infrastructure via the mechanics of the floor and ceiling prices.

- The calculation of an initial RAB for an existing railway does not clearly have regard to previous investment which has depreciated to nil cost base. It is likely in this situation that the railway owner would have recouped their investment costs and return via the previous use of the railway and as such should not be able to 'double dip'. We accept the RAB roll forward process will manage this concern into the future however, the initial RAB may bring some of these costs into the opening base.
- The RAB roll-forward process requires asset appreciation to be added to the RAB. We understand this is a consistent methodology applied in other jurisdictions covering railway access. Although we may not be directly opposed to this we would like to understand some practical examples of these and how they lead to the RAB for each year. Taking the principle of cost recovery on capital investment, we believe the recovery of cost should be on the historical cost of investments made and not future investment cost. Similarly, to the above we want to ensure an access seeker is not having to pay for elements where the railway owner has not made efficient investments for improvement to the railway.
- The depreciation forming part of the RAB roll forward is to be based on asset lives and depreciation methodology accepted by the ERA. Whilst on the face of it this guidance is reasonable, there are examples where some assets may not have an effective life and should therefore have nil depreciation. Has the ERA contemplated this and will they adopt the view that there is the possibility of certain assets or capital expenditure having an indefinite life. An example of this is siteworks for establishment of a site for a new railway or part thereof.

We recommend that each of these points be specifically covered off within the decision paper to ensure there are no interpretation irregularities moving forward.

Recommendation 1B – Allow for flexibility in the assessment of historical depreciation to manage transitional impacts on existing railway owners.

The transitional arrangements aim to deal with some anomaly situations which may arise due the proposed move in valuation methodology. Whilst we understand the Department may be able to address these concerns by adjusting the timing of cashflows in certain circumstances it is very difficult to fully support the recommendation as we are unsure of the quantified associated impact, if any. It is our view that it appears reasonable for the annuity depreciation profile to be limited to a 5-year term and following this the ordinary principles of depreciation and RAB roll forward are followed. What is not absolutely clear to us (although somewhat implied) is whether post the 5-year term,

depreciation is adjusted to a level that would render the overall recovery of the railway owners cost as limited to the initial RAB value over the assets' life. Additionally, following this initial 5 year term, will the return on assets be modified to compensate for this annuity depreciation profile and for what period, such that the access seeker ultimately pays no more over the medium to long term.

We would encourage the ERA to consult with access seekers when an application is made by the railway owner to apply the transitional rules as we want to ensure any impacts are equitable.

Recommendation 2 – Require railway owners to publish a standing offer for defined rail tasks when required by the ERA

We support this recommendation however we feel it is implied that the standing offer will be set by the railway owner having regard to the costing and pricing principles of the DORC and RAB methodologies as outlined within this review. For the avoidance of doubt, we feel this should be clearly outlined as one could read that the standing offer does not have to have any regard for these elements.

Furthermore, we have some concerns that this standing offer may ultimately lead to a price anchor being set that is not consistent with the principles of the code.

Recommendation 3 – Introduce a competitive imputation pricing principle as a part of the pricing principles set out in Clause 13, Schedule 4 of the Code

The narrative to the recommendation refers to road as a competitive alternative to rail. Although it is implied that an arbitrator will refer to all competitive alternatives, we are strongly of the view that sea should also be incorporated in the wording.

We have some level of concern that a railway owner may utilise the competitive imputation pricing principle to establish a new ceiling for railway access as opposed to solely setting the price where the cost of railway access is not competitive with other modes of transport. This could be for both a particular railway or more broadly to the railway network. As this is to be included only as guiding principle with no formal process we have reservation if the recommendation will achieve the sole purpose for which it is designed. Our suggestion would be for the Department to consider whether an element of formal process is required for the Railway owner to identify when they are applying this principle and for which section of the railway. This identification process should also establish the business case as to why. We feel by including this minimum due process will ensure the principle is only applied in instances for which it was designed.

Conclusion

SCT Logistics broadly supports the majority of the draft recommendations published. We have highlighted above our key concerns and areas where we feel the draft recommendations require further explanation with the Assessment.

We would support a follow up workshop with all operators or individual operators to work through the feedback provided and any necessary redrafting of the recommendations.

Yours sincerely



Michael Fiteni
Company Secretary