

1. INTRODUCTION

This submission addresses Rail Reform issues as they relate to the provision of rail transport in Queensland. The submission has been prepared by Queensland Transport with input by Queensland Treasury. It records those policy reforms introduced in Queensland to provide effective, competitive and socially responsible rail transport services in support of the State's economy and community.

Rail Reform in Queensland embraces the spirit of the Competition Principles Agreement (CPA) in its approach to corporatisation of Queensland Rail. It is also premised on the principle of open competition under an effective regulated third party access regime.

In pursuing these objectives Queensland has chosen to retain Queensland Rail as a vertically integrated Government Owned Corporation (GOC).

It is understood that Queensland Rail will make a separate submission to the Commission. The views and comments of Queensland Rail do not necessarily represent those of the Queensland Government.

It is further understood that the Commission has access to the Queensland Government submission to the House of Representatives Standing Committee on Communications, Transport and Micro Economic Reform Inquiry into the "Role of Rail in the National Transport Network", and the subsequent findings and recommendations of the Committee documented in its report entitled *Tracking Australia*, July 1998.

This submission does not seek to reiterate the information provided in the Queensland Government submission to that Inquiry. It does, however, seek to comment on and give emphasis to some of the issues which have underpinned rail reform.

What is the rationale for each of the reform initiatives?

The themes underpinning the rationale for reform across rail in Queensland include:

- greater transparency in railway accounts;
- structures set in place to facilitate access to infrastructure;
- reducing rail deficits and Government service funding requirements;
- enhancing inter modal competitiveness;
- greater contestability; and
- establishing uniform and independent economic and safety regulatory regimes

2. INDUSTRY STRUCTURE AND COMPETITION

What structural changes have affected the rail industry in Queensland?

Until early 1991, Queensland Rail's organisation followed traditional functional lines with separate hierarchies responsible for marketing, terminals, yard and train operations, rollingstock and infrastructure. This structure overlaid a regional and district organisation, resulting in a complex corporate structure where the lines of accountability and responsibility were less than clear.

A major review of Queensland Rail's organisation was undertaken in 1989. This review recognised that a traditional railway functional form of organisation was incompatible with the demands of a modern transport business operating in a highly competitive environment. As a result, the functional organisation was abandoned in March 1991 and replaced by a vertically integrated business structure, reporting to a Chief Executive and a commercial Board and, in turn, to the relevant Government Minister was set in place in 1991.

Initially, three business groups were created - Freight, Coal & Minerals and Passengers. Each was headed by a Group General Manager who directly reported to the Chief Executive and who had direct control over all marketing, operations, rollingstock and infrastructure maintenance activity associated with the relevant business group. Within the new structure a separate Network Access Group was established, set up to deal and negotiate with third party access and the development of organisational policy. In 1995 the Passengers Group was further separated into Citytrain and Traveltrain.

Following a further review of corporatisation of Queensland Rail in 1997-98 the Queensland Government chose to maintain Queensland Rail as a fully integrated rail provider. The Network Access Unit was structurally separated from the above rail operational divisions of Queensland Rail - namely the commercial Coal and Mainline Freight Group and the Metropolitan and Regional Services Group.

The following provides a snapshot of reform initiatives affecting Queensland Rail since 1991:

1993-94 Review of the Government's export coal royalty - rail haulage policy, resulting in a phased removal of 'de-facto' royalties collected through rail freight rates to be completed by 2000. Collections of "de-facto" royalties will be reimbursed to Government.

Transparent funding of CSOs introduced.

1995-96 Queensland Rail corporatised, becoming subject to a tax equivalent regime and receiving explicit funding for CSOs.

Network access unit established independent of existing business groups, responsible for all dealings with third party operators and the development of organisational policy.

1997-98 Review of Corporatisation which further distinguished the commercial activities from the CSO services and third party access functions of Queensland Rail.

3. CORPORATISATION AND COMMERCIALISATION

Queensland Corporatisation Model

The Queensland corporatisation model is outlined in the *Government Owned Corporations Act 1993*. The model is framed around these principles ((s.15-s.19) of the Act):

Corporatisation is a structural reform process for nominated Government entities:

- that changes the conditions and (where required) the structure under which the entities operate so that they operate as far as practicable on a commercial basis and in a competitive environment;
- provides for the continued public ownership of the entities as part of the process; and
- allows the State, as owner on behalf of the people of Queensland, to provide strategic direction to the entities by setting financial and non-financial performance targets and community service obligations.

The objectives of corporatisation are to improve Queensland's overall economic performance and the ability of the Government to achieve social objectives by:

- improving the efficiency and effectiveness of Government Owned Corporations (GOCs); and
- improving the accountability of GOCs.

The objectives are to be achieved by application of the four key principles of corporatisation: clarity of objectives; management autonomy and authority; strict accountability for performance; and competitive neutrality. In specific, a GOC is a Government entity that is established as a body corporate under an Act or the Corporations Law; and declared by regulation to be a GOC. GOCs can be either a:

- statutory GOC (established as a body corporate under an Act and not registered under the Corporations Law); or
- company GOC (incorporated or registered under the Corporations Law).

There is no specific link in the Act between the degree of commerciality and competitiveness of a GOC's operations and whether it is to be a statutory or company GOC, but in general company GOCs would be expected to be operating in more competitive markets than statutory GOCs and be more commercially focused.

A statutory GOC must have only two shareholders, a board of directors, and a share capital and issued shares. A company GOC must be a public company, and a company limited by shares within the meaning of the Corporations Law. It must have only five shareholders, two of whom must be voting shareholders and three non-voting.

The shareholders in a statutory GOC are the GOC minister (at present, the Treasurer) and the relevant portfolio minister. For a company GOC, the shareholders are the GOC minister, portfolio minister (voting members) and three other (non-voting) ministers appointed by the Premier. An independent board of directors is appointed for both statutory and company GOCs.

Government as owner, provides strategic direction over GOCs through a combination of specific mechanisms in the Act and the more general influence of ownership. Key mechanisms are:

- board appointments;
- approval of a GOC's statement of corporate intent (the annual contractual document between the shareholding ministers and the GOC board establishing the operating framework and key performance targets) and to a lesser extent a corporate plan; and
- statutory approval processes (eg. for GOC acquisitions and divestment).

Aside from this strategic direction by the Government, GOCs operate as far as practicable as a normal commercial business.

Queensland Rail as a GOC

Queensland Rail was corporatised on 1 July 1995 as a statutory GOC. QR's structure and operations are similar to other statutory GOCs: it has shareholding ministers (the Treasurer and Minister for Transport and Main Roads) who provide strategic direction through the mechanisms above, it has an independent board and management to run the business and it operates as far as practicable as a commercially focused entity.

Governance Arrangements

The Board of Queensland Rail is accountable to the ministers for the strategic direction and commercial performance of Queensland Rail. Queensland Rail's management run the enterprise on a daily basis.

The Government does not intervene in the internal management of its GOCs – one of the key corporatisation principles is management authority and autonomy - and Queensland Rail is best placed to comment on its internal management policies; the degree of freedom and autonomy managers have; and internal management accountability arrangements.

4. COMMUNITY SERVICE OBLIGATIONS

What is the nature of CSOs provided through railways?

Queensland Rail currently receives payment from the State budget for certain rail transport and employment services generally identified as Community Service Obligations (CSO). Broadly speaking Queensland Rail receives CSO payments in respect of its passenger services (Citytrain, Traveltrain and the Brisbane to border portion of interstate services) and some freight services (low volume routes and Q-Link operations). CSO payments to Queensland Rail include reimbursement for any operating shortfall (after depreciation) plus a rate of return on assets employed.

Other direct payments are made from various Queensland Government departments as reimbursement for concessions provided to senior citizens, pensioners and school children, are recorded as sales revenue.

Queensland Transport is presently developing policy designed to establish a Purchaser Provider regime for the contracted purchase from Queensland Rail of specified rail services. Four transport contracts are being contemplated to formalise and enhance the existing arrangements whereby the Government funds Queensland Rail for undertaking non-commercial rail transport services. It is envisaged that the contracts would cover the provision of operating services with respect to Citytrain (suburban and interurban passengers), Traveltrain (long distance passenger and tourist services) and regional freight services (small freight services) as well as the management of non-commercial rail infrastructure throughout the State.

These new arrangements represent a major step forward with respect to the manner in which the Government funds the provision of non-commercial rail services, bringing the rail arrangements more in line with developments in other States and with arrangements between Queensland Transport and the other modes of transport in Queensland.

Based on clear transport objectives, the rail contracts will explicitly specify the minimum service levels and standards which Queensland Rail must provide on behalf of the Government. Importantly, these minimum service levels and standards have been developed on the basis of consolidating the Government's commitment to the provision of services across the State.

Queensland Transport is focusing on negotiating rail service contract prices based on the achievable efficient costs of Queensland Rail's transport operations over the period of the contracts.

How is the requirement to provide particular CSOs specified, for example, through legislation or ministerial direction?

The *Government Owned Corporations Act 1993* specifies that the CSO of a GOC are obligations to perform activities that the GOC board establishes to the satisfaction of the Shareholding Ministers:

- (a) are not in the commercial interests of the GOC to perform;
- (b) arise because of a direction, notification or duty to which this section applies;
- (c) do not arise because of the application of the following key principles of corporatisation (and their elements)
 - (i) Principle 3- Strict accountability for performance
 - (ii) Principle 4 - Competitive neutrality

5. ACCESS REGIMES AND REGULATION

Queensland's Access Regime

The Queensland access regime (which is a general regime) permits access to rail infrastructure which has been declared (ie all of Queensland Rail's rail transport infrastructure). Any other rail infrastructure could be declared under the regime if it meets the access criteria set out in the Act. These criteria are similar to those under Part IIIA of the Trade Practices Act (the Commonwealth regime).

General regimes allow consistency of treatment of access across all types of infrastructure. It sends consistent signals on pricing and, therefore on investment, thus minimising the potential for distortion in investment decisions and the allocation of resources across the economy.

General regimes can be tailored to address specific infrastructure types and to provide greater detail on access terms and conditions to specific infrastructure. For example, the Queensland regime allows for the making of access codes which would address access issues which are peculiar to a certain class of infrastructure. The Queensland regime also provides for the preparation of access undertakings which spell out the detail of terms of access to a declared service. It should be noted that there is no intention to make an access code for rail infrastructure at this point. However, Queensland Rail is preparing an access undertaking.

Access Pricing and Arbitration

Access prices are determined by the access provider under the Queensland regime. These prices are subject to negotiation and, should negotiations fail, to compulsory arbitration by the QCA. The access undertaking which Queensland Rail is preparing will describe the pricing principles which will underpin rail access pricing regarding infrastructure managed by Queensland Rail. This undertaking must be approved by the QCA.

The QCA has power to arbitrate when parties cannot agree on terms. In making a determination, the QCA must take into account the competing interests of parties, including: the access provider's legitimate business interests and investment in the facility; the legitimate business interests of the persons who have rights to use the service; and the public interest including the benefit to the public in having competitive markets. It will be a matter for the QCA to strike the balance between creating the incentive for investment and earning a reasonable return on investment, and the need to set prices which will permit access to new entrants.

There are obligations in the Act on access providers to provide information to access seekers to allow seekers to negotiate on an informed basis. There are also provisions which prohibit an access provider from providing access to its own operations on more favourable conditions than a competitor.

The Act (Part 7) requires the QCA to hold arbitration hearings in private unless the parties agree otherwise. The QCA is also required to consider commercial confidentiality and must not disclose commercial-in-confidence information. The Act requires the QCA to keep a public register of its access determinations.

6. PUBLIC AND PRIVATE SECTOR OWNERSHIP AND INVESTMENT

Is there a need for additional investment in rail infrastructure?

To what extent is new investment required to upgrade the existing network or extend the network into new areas?

Efficient long distance land freight is essential to continued economic development and export growth due to the long distances between rural commodity based products to its economy and export base. Rail has less impact on the environment. It is energy efficient and a low pollution mode of transport.

A need for a national approach to the maintenance and future funding of the national rail network has been comprehensively covered in the *Tracking Australia* report.

Economic and regional growth within Queensland will facilitate investment in the existing network in the form of duplication of tracks and new infrastructure into growth areas.

Queensland Rail has recently completed a \$590 million mainline upgrading program and will be considering further investment as part of its continuing program of infrastructure upgrading to increase the efficiency of its commercial freight operations.

Is there a role for private sector investment in rail infrastructure?

Queensland is actively supporting work on identifying any existing barriers to private investment and how to facilitate more effectively such investment on both interstate and intrastate rail infrastructure.

In November 1996, the Queensland Government called for Expressions of Interest for private sector development of infrastructure in the Surat Basin and Dawson Valley region located in the southern section of Central Queensland. The Expression of Interest process included reference to a potential rail link between Wandoan and Theodore and the upgrade of the Theodore to Moura line linking the region to Gladstone, a major export port. In March 1998 the Queensland Government announced a private consortium, SUDAW, as the preferred developer of a dam and of new transport infrastructure (including rail). The development of this infrastructure is to be undertaken with little or no Government assistance and support.

The Queensland Government is working with a private consortium (within an exclusive mandate) for the provision of a privately funded and operated rail link to the Brisbane Airport.

These examples demonstrate the potential to enhance the competitiveness of the rail industry.

Who should provide leadership in identifying the need, if any, for new investment?

Queensland supports the Commonwealth in developing (in consultation with the States) a future transport framework for the nation which considers national outcomes and priorities and takes account of broader economic benefits as well as ensuring national consistency or mutual recognition of regulations, standards, access regimes and operating practices.

Are existing guidelines for private involvement in the provision of public infrastructure appropriate?

The provision of transport networks by Governments is based on objectives that encompass system efficiency, social justice, safety and environmental sustainability.

Future investment in rail in Queensland should be encouraged within a commercial framework, underpinned by competitive neutrality on both an intra and inter modal basis.

The Queensland Government recognises that significant gains can accrue to the community from involving the private sector on a competitive basis in some or all of the elements of public infrastructure and service delivery. To facilitate greater private participation the Queensland Treasury in 1997 issued a policy framework for "Private Sector Involvement in Public Infrastructure and Service Delivery". This framework has been developed to encourage and formalise processes for private sector participation in the delivery of public infrastructure and services.

In the event of major cross-border rail infrastructure projects there will be a need for Commonwealth and States' cooperation to establish a single legislative and regulatory framework to facilitate such investment.

In what ways can the private sector become involved in providing rail infrastructure?

Private sector participation in the national rail network has commenced and further public sector involvement is desirable. There is a large range of potential opportunities for private sector participation in rail including, but not limited to:

- operating a separate rail service on Government owned track, either in competition with
 - operating a separate rail service on its own tracks;
 - purchasing equity in a Government owned railway;
 - purchasing a Government owned railway;
 - providing funding for specific rail infrastructure;
 - engaging in a joint venture with a Government railway;
 - provision of rail infrastructure;
 - provision of infrastructure maintenance; and
 - provision of rollingstock or rollingstock maintenance.

Do existing taxation arrangements, including the infrastructure rebate, affect the availability of private capital for rail projects?

The Income Taxation Assessment Act (ITAA) does not recognise Tax Equivalent Regime (TER) entities as tax paying entities. Queensland Rail is still an exempt body under the ITAA. Section 51AD affects the deductibility of costs attributable to the ownership of property in dealings with tax exempt bodies. The question here is whether a tax exempt body controls service or goods produced by the taxpayer.

This section makes it difficult/unprofitable for the private sector to directly finance and own a major railway deviation. The costs for private railway owners may not be deductible if the railway operators using the track are tax exempt bodies and are deemed to control the use of the railway. This may discourage private sector rail infrastructure owners from allowing open access to their infrastructure.

This could prove to be a major constraint in achieving infrastructure standards on a par with allocative efficiency.

7. COMPETITIVE NEUTRALITY

One of the key principles in the Government Owned Corporatisation Act is competitive neutrality. The corporatisation of Queensland Rail has removed most of the advantages and disadvantages that Government ownership brought. Queensland Rail complies with the Queensland Government Tax Equivalents Regime, which while mirroring the Federal legislation, requires tax equivalents to be paid to the State Government.

It would be expected that as Queensland Rail continues to become a more commercially focused corporation and as third party access to its infrastructure becomes more prevalent that remaining advantages and disadvantages will be removed.

8. INTERGOVERNMENTAL ISSUES

To what extent do operational and regulatory arrangements vary between jurisdictions, for example, in terms of communications and signalling systems, or safety and environmental regulations?

As the committee may be aware the rail industry has been the subject of other major reviews over the last two years.

At the Rail Summit in September 1997 and subsequent Australian Transport Council (ATC) meeting (November 1997), Ministers agreed to a set of rail reform proposals and priority issues. In particular, Ministers identified as a priority issue the development of uniform standards and operational procedures.

Ministers agreed to commission a study to the more important safety, technical and operational standards and requirements in use of the national rail system and how they differ as operators move through the interstate and intrastate networks.

The uniformity study titled "Study of Rail Standards and Operational Procedures" (Maunsell Report) completed in February 1998 identified a range of uniformity issues that need to be addressed and provided a set of implementation options.

Since this time work has been ongoing with progressing the uniformity issues. This is being progressed by working parties made up of industry and regulators which are progressing issues and reporting to the Standing Committee On Transport (SCOT) Rail Group which reports to SCOT and ATC.

Queensland Transport has provided input into the work undertaken by these groups.

This work is ongoing, with greater uniformity of the rail industry standards and procedures its goal.

Rail Safety Developments in Queensland

The *Transport Infrastructure Act 1994* was amended in 1995 in part to:

- provide a framework for access by other railway operators to the rail system;
- introduce a rail safety accreditation system; and
- provide generic rail legislation.

It was intended in view of railway managers and railway operators operating alongside Queensland Rail that there was a need for an independent rail regulator at arm's length from all operators. The Government gave this role to Queensland Transport.

To ensure appropriate safety standards, Queensland Transport will require that all operators must be accredited as operating a best practice safety management system. Further, each operator will demonstrate that it continues to meet the terms of its accreditation through regular reports enabling effective performance monitoring. The roles of rail safety policy, accreditation and performance monitoring will be carried out by the Rail Safety Accreditation Unit, within the Strategy Branch of the Land Transport and Safety Division of Queensland Transport.

Has mutual recognition of each jurisdictions' standards and regulatory requirements been implemented?

Queensland Transport as a signatory to the Intergovernmental Agreement (IGA) on Rail Safety has developed processes which enable mutual recognition of rail safety accreditation issued in other states.

Queensland Transport has mutually recognised seven interstate organisation's rail safety accreditation under the provisions of the IGA.

Queensland Transport has representation on the following:

- An Australian Accreditation Authorities Committee that regularly meets to discuss issues associated with the IGA and to ensure consistency in the approach to mutual recognition and the one stop shop approach to rail safety accreditation.
- The Rail Safety Committee of Australia which is a group of accreditation authority and industry representatives that regularly meet to discuss issues associated with the IGA. The focus of this committee is to ensure consistency in the approach to mutual recognition and the one stop shop approach to rail safety accreditation. This committee has recently developed draft national guidelines for accreditation to ensure this consistency is transparent. These draft guidelines have recently been sent to industry for comment prior to formally issuing the document.

9. PERFORMANCE OF THE AUSTRALIAN INDUSTRY RELATIVE TO OTHER COUNTRIES

Many issues affect productivity, including the quality of infrastructure, ownership structure, competition and community service obligations. International best practice is relevant, however, in terms of transport price and service differentials it should serve as a guide to further desirable transport reforms.

In general, international best practice has been characterised by primacy of the commercial objective, private sector ownership and separation of the regulatory function. The introduction of competition between GOCs with a commercial focus is likely to lead to significant improvements in performance of the rail industry. The inclusion of the private sector in that competition is likely to lead to even greater innovation and efficiency.

The Bureau of Industry Economics (BIE) has undertaken a number of reports into benchmarking the performance of Australia's business infrastructure service industries against those of international competitors. In some of these reports, Australian rail freight systems were found to be operating at below "best practice" in terms of price, service quality, operating efficiency (1992-1995).

International best practice for rail freight operations is primarily determined by benchmarking against that of certain Class 1 railroads of the United States (eg. Burlington Northern Santa Fe, Union Pacific, CSX, Norfolk Southern). In 1994 a National Transport Planning Taskforce report estimated that \$3 billion would be required to bring the national inter city network tracks towards US Class 1 technical standards.

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