

## RAIL COMPANY BILL 2009

### SECOND READING SPEECH

Mr Speaker

I move that the Bill now be read a second time.

The Government is committed to an efficient and effective rail system in the State, contributing to a safe and reliable land transport system.

This will be best achieved if accountabilities and responsibilities are clear, there is a strong commercial focus and transparent governance arrangements are in place.

Consistent with this commercial focus and appropriate governance structure, the Bill before this House provides for the establishment of a new State-owned Company – Tasmanian Railway Pty Ltd – to own and operate rail services in the State.

The *Rail Company Bill 2009* also provides for the Company to act as the nominee of the Crown under the Business Sale Agreement with Pacific National; to allow the transfer of rail infrastructure and assets, liabilities and contracts between the Crown and the Company; to provide for the transfer of employees from the Crown to the Company; and also provides the authority for the future sale of all or part of the Company.

As with all State-owned Companies, Tasmanian Railway Pty Ltd will be registered with the Australian Securities and Investment Commission and be subject to the *Corporations Act 2001*.

The adoption of the State-owned Company model will ensure that the business is operated as a commercial entity consistent with other private sector operators in the transport industry.

The overall objective of the Company will be to promote the efficient and effective delivery of rail transport services in Tasmania.

In doing so the Company will be run in a commercial manner and undertake its activities in accordance with sound commercial practice.

To this end, the Company will need to:

- prudently manage its assets and liabilities;
- endeavour to ensure its long term financial viability; and
- endeavour to ensure that it acts as a successful going concern.

The Bill contains similar provisions to the enabling legislation of other State-owned Companies, including provisions relating to:

- the Constitution of the Company;
- the Auditor-General being the Company's auditor;
- borrowings being obtained through the Tasmanian Public Finance Corporation;
- the imposition of guarantee fees on borrowings;
- the inclusion of the Company in the National Tax Equivalent Regime; and
- superannuation matters.

The Members of the Company are the Treasurer and the Minister for Infrastructure who hold the shares of the Company in trust for the Crown.

As a vertically integrated business, the Company will have two primary roles, that is the management of the below rail assets – the track infrastructure and associated systems, and the operation of the above rail business – the rolling stock and freight transport business.

The below rail operations will have the core functions of:

- management of the rail network infrastructure;
- train control and scheduling; and
- coordinating maintenance and planning of the rail network, including the development of proposals for capital works.

The above rail operations will:

- provide bulk and intermodal rail freight services to customers; and
- own and operate the rolling stock.

The Board and management of the Company will determine the business structure. The Bill provides for the creation of subsidiaries, if necessary. A search is currently being carried out to find suitably qualified and experienced Directors for the Board of the Company.

This process is being undertaken under the Government's recently adopted Director appointment process which involves the use of an external executive search consultant to identify suitable candidates for consideration by the Members.

As with all Government businesses, transparency and accountability are of paramount concern for the Government.

The Corporations Act, together with the Rail Company Act, the Constitution of the Company, Shareholders' statements of expectation, the Treasurer's Instructions and guidelines issued by the Department of Treasury and Finance will provide the necessary governance framework.

The Company will be accountable to its Members and Parliament and ultimately the people of Tasmania through the publication and tabling in Parliament of the Company's Constitution, annual financial reports, directors' reports and auditor's reports.

In addition, the Company is required to submit its annual Corporate Plan to the Members.

Mr Speaker

Some rail operations around the country have been known to be difficult to sustain on a truly commercial basis.

For this reason, the Bill also provides for the Members to direct the Company to engage in rail services which may not be commercially viable but are in the public interest.

In such circumstances, appropriate compensation can be paid to the Company, as determined by the Treasurer.

The Bill provides for the Company to act as the nominee of the Crown for the completion of the purchase under the Business Sale Agreement.

As I have previously indicated in the Second Reading of the *Emu Bay Railway (Operation and Acquisition) Bill 2009*, a number of title issues were discovered during the due diligence undertaken by the Government in negotiating the Business Sale Agreement.

It has been identified that sections of the Melba Line may not lie within the rail corridor.

As a result, the Bill contains specific authorisation for the Company to operate on any such sections of the Melba Line, in the same manner as Pacific National Tasmania currently does, until the title issues are resolved.

Mr Speaker

While the State is acquiring Pacific National's rail operations, it currently holds rail infrastructure assets in the form of the Tasmanian Rail Network, excluding the Melba Line.

These assets currently vest with the Department of Infrastructure, Energy and Resources.

Once the Company is established it may be desirable to transfer these assets to the Company.

Consequently, the Bill contains transfer provisions to enable the transfer of rail infrastructure and related assets between the Crown and the Company.

In addition, the Crown is currently party to a number of contracts relating to the operation of the rail network which may be necessary to transfer to the Company.

Therefore the transfer provisions also allow for the transfer of liabilities and contracts.

The provisions allow transfers to and from the Company to provide flexibility to ensure that the appropriate assets, liabilities and contracts remain with the Company so that it can operate in an optimal manner.

A number of State Service personnel are currently involved in the administration of the State's rail assets and whose skills and knowledge would be extremely valuable to the new Company.

These employees will be given the opportunity to transfer to the Company on similar terms and conditions as they are currently employed with all their existing entitlements preserved.

No State Service employee will be transferred to the Company without their agreement.

Mr Speaker

The Government does not see itself as a long term rail freight operator.

For this reason, the Bill contains provisions relating to the future sale of all or part of the Company.

Provided commercial contracts can be entered into and open access arrangements are in place to use the rail network, there is no reason why a private operator could not take over the rail freight business.

Once the Company has undertaken a strategic assessment of its business and developed an appropriate capital works program to bring the rail network and rolling stock to the desired level to ensure the provision of uninterrupted services, consideration will be given to the future ownership options for the Company.

Mr Speaker

The Consolidated Fund Appropriation (Supplementary Appropriation for 2009-10) Bill 2009 provides for the funding to acquire the rail operations and business of Pacific National Tasmania.

An amount of \$34 million is being appropriated for the purchase and to meet associated transaction and transition costs.

While the appropriation covers the purchase of the rail operations, it does not cover any further equity contributions which may be required to strengthen the Company's capital structure to ensure that it can operate in a viable manner.

These matters will be given further consideration once the Company has undertaken a full evaluation of its assets and capital requirements going forward.

Mr Speaker

The Government is committed to ensuring the continued operation of rail services in the State.

While Government ownership of the rail business was not the first choice of the Government, it quickly became the only option available to meet this objective.

It is pleasing to note that there has been widespread public and industry support for the Government's decision to purchase PNT's rail business and assets to prevent the cessation of rail operations in Tasmania.

The successful passage of the *Rail Company Bill 2009* will ensure an appropriate governance model is adopted to best manage the State's rail interests.

I commend the Bill to the House.