

EMU BAY RAILWAY (OPERATION AND ACQUISITION) BILL 2009

FACT SHEET

- This Bill and the accompanying *Rail Company Bill 2009* and *Consolidated Fund Appropriation (Supplementary Appropriation for 2009-10) Bill 2009* constitute a legislative package to support the Government's purchase of the Tasmanian rail business.
- The primary purpose of the *Emu Bay Railway (Operation and Acquisition) Bill 2009* is to address issues with the legal title to the Melba Line that were discovered during the negotiation of the Business Sale Agreement.
- The most significant issue relates to a debenture scheme established by The Emu Bay Railway Company Limited in 1925. Debentures are issued by companies as a means of obtaining credit; usually from a relatively large number of creditors.
- The scheme created a mortgage over part of the Melba Line and a charge over other assets of The Emu Bay Railway Company to secure the repayment of moneys owing to debenture holders.
- It appears that the scheme was not fully wound up, nor the securities discharged, before the sale of the Melba Line in 1998 by The Emu Bay Railway Company to Tasrail, which was later acquired by Pacific National.
- It also appears that there may be at least one outstanding debenture under the old scheme.
- The Government's legal advice is that the total amount owing on the outstanding debentures may be less than \$2,000 plus accrued interest.
- These historical legal issues require resolution before the Government can be certain that it will hold legal title for the Melba Line following the transfer of the business.

- The *Emu Bay Railway (Operation and Acquisition) Bill 2009* will have the effect of bringing to an end the securities created by the 1925 scheme as they relate to Melba Line and related assets.
- At the same time, the legislation will allow holders of outstanding debentures under the 1925 scheme to make claims for compensation in relation to their debentures.
- The Minister will make a determination on compensation claims put to him based on independent advice provided to him by the Valuer-General. If there are any disputes as to compensation will be treated the same way as a dispute under the *Land Acquisition Act 1993*. This process was chosen because it is well established and provides clear and appropriate appeal rights for claimants.
- The Government believes that this process is fair and appropriate in the circumstances and achieves the right balance in meeting both the private interests of remaining debenture holders and the wider public interest of the continuation of rail services in Tasmania.
- In addition to the rectification of the historic Melba Line legal title issues outlined above, the Bill also seeks Parliament's ratification of the Business Sale Agreement and contains a range of other provisions dealing with a number of technical legal and administrative matters necessary for the smooth transfer of the business to Government ownership and the continued operation of rail services.