



OFFICE OF THE RAIL ACCESS REGULATOR

ANNUAL REPORT 2003



Submitted to the Hon Eric S Ripper BA DipEd MLA
Deputy Premier, Treasurer, Minister for Energy

29 August 2003

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Hon Eric S Ripper BA DipEd MLA

Deputy Premier; Treasurer; Minister for Energy

In accordance with the *Railways (Access) Act 1998* and Section 62 of the *Financial Administration and Audit Act 1985*, I hereby provide for your information and presentation to Parliament the second Annual Report of the Office of the Rail Access Regulator, covering the period 1 July 2002 to 30 June 2003.

This report, prepared in accordance with the above Acts, deals with issues arising from my powers, duties and functions as the accountable officer and includes matters arising from the administration of the Office.

A full set of financial statements together with the Auditor General's verification is included in the report.

A handwritten signature in black ink that reads "Ken Michael".

Dr Ken Michael AM, CitWA

Acting Rail Access Regulator

29 August 2003

I am pleased to present the Office of the Rail Access Regulator's 2003 Annual Report.

2002-03 has been an extremely busy year due to the continuing demands in establishing the office and the introduction of the Regime. We have faced an intensive twelve months developing the regulatory approaches to rail access issues, in the form of the Regulator's Determinations, that are required in the *Railways (Access) Act 1998* ("the Act") and *Railways (Access) Code 2000* ("the Code").

The Regime, which came into effect on 1 September 2001, was set up to ensure that businesses seeking rail access from the two State railway owners – WestNet Rail (WNR) and the Western Australian Government Railways Commission (WAGR) – are treated fairly through an open and transparent system of regulation overseen by the independent Rail Access Regulator. It also provides for disputes between

the railway owner and the access seeker to be resolved by arbitrators and mediators operating under the *Commercial Arbitration Act 1985*.

During the year, the required Determinations and final approvals were completed for:

- WNR's segregation arrangements, costing principles, over-payment rules, train management guidelines, train path policy, key performance indicators and the weighted average cost of capital.
- WAGR's segregation arrangements, costing principles, train management guidelines, train path policy, and the weighted average cost of capital.

In all the Determinations, I have sought and taken into account stakeholder comments to ensure that the differing needs and interests of the community, access seekers and railway owners are appropriately addressed.

Significant progress was made during the latter half of the financial year in calculating the floor and ceiling costs for nominated routes on the freight network. It is anticipated that these costs will be finalised in early 2003-04.

Other Determinations scheduled for 2003-04 include the over-payment rules and key performance indicators for WAGR. We also propose auditing the WAGR access pricing model and calculating the floor and ceiling costs for nominated routes on the urban passenger network. These Determinations, when completed, should establish a solid foundation for the negotiation of effective access agreements between the two railway owners and access seekers in the State.

With the Determinations required under the Code and the Act nearing completion, increasing emphasis will be placed in 2003-04 on the compliance monitoring and enforcement requirements of the Act and Code. A significant

effort will be required to establish the necessary framework within the Office to oversee this work. Planning is well advanced to implement this framework.

Special credit should be given to the Acting Executive Director, Bruce Chan, and members of his team for their hard work and dedication. The results of this year have involved tremendous effort and commitment by the team, which has experienced a significant staff turnover during the year. My sincere thanks to Joe Lunghitano and Chrissy Christianopoulos who, during the year, returned to the Department for Planning and Infrastructure after having been involved in establishing the Office and implementing its procedures.

I would also like to acknowledge the continuing corporate support services provided to the Office by the Department for Planning and Infrastructure.

The Office of the Rail Access Regulator will be incorporated into the Economic Regulation Authority (ERA) when it is established. I have no doubt that consolidating the State's economic regulatory functions into one agency will benefit rail access regulation by increasing the pool of available expertise to deal with rail access matters, by providing consistency with other utility regimes and by ensuring that there is a continuing exchange of knowledge and ideas in the approach to regulation across the utilities.

In accordance with the Act, a review of the Code will be required in 2004. Although, in my view, the Regime needs more time to demonstrate its effectiveness, this review may be timely in association with the establishment of the ERA and the processes relating to other utilities.



Dr Ken Michael AM, CitWA

Acting Rail Access Regulator

29 August 2003

During the first full year of operation, the Office of the Rail Access Regulator has focused all of its resources on the preparation and release of the Regulator's Determinations on a number of issues including:

- Segregation Arrangements;
- Train Path Policy;
- Train Management Guidelines;
- Costing Principles; and
- Over-payment Rules.

RAILWAY OWNERS' SUBMISSIONS RECEIVED

In December 2002, WNR submitted to the Regulator its Floor and Ceiling Costs for certain routes as a requirement under Clause 9, Schedule 4 of the Code. On 24 December 2002, the Regulator called for public submissions on the WNR proposed costings. Seven submissions were received.

In March 2003, the Regulator received from WAGR the Costing Principles that would apply to the urban passenger network. There was no

public consultation on WAGR's Costing Principles as they were deemed similar to those prepared by WNR, which were submitted and approved on 23 December 2002 by the Regulator.

DETERMINATIONS BY THE REGULATOR

- On 11 November 2002, the Regulator released the findings of the second audit undertaken by PricewaterhouseCoopers (PwC) on WNR's Access Pricing Model, which is used to determine the floor and ceiling costs on WNR's major rail routes.
- On 23 December 2002, the Regulator approved WNR's revised Costing Principles. This followed the release of the Draft Determination on 28 June 2002 for public consultation and the release of the Final Determination on 27 September 2002.
- On 27 February 2003, the Regulator approved WNR's revised Train Path Policy and Train Management Guidelines. This followed the release for public consultation of the Draft Determination for both documents on 15 August 2002 and the subsequent release of the Final Determination on 31 October 2002.
- On 17 March 2003, the Regulator approved WAGR's revised Train Path Policy and Train Management Guidelines. This followed the release of the Final Determination on both documents on 6 December 2002. No Draft Determinations were prepared on WAGR's originally submitted Train Path Policy and Train Management Guidelines as there were no public submissions on the two documents.
- On 8 April 2003, the Regulator approved WNR's revised segregation arrangements following his Final Determination on the original segregation arrangements proposed by WNR in November 2001.
- On 11 April 2003, the Regulator approved WAGR's revised segregation arrangements following his Final Determination on the original segregation arrangements proposed by WNR in December 2001.

- On 30 April 2003, the Regulator approved WNR's revised Over-payment Rules. This followed the release for public consultation of the Draft Determination on 28 June 2002 and the subsequent release of the Final Determination on 27 October 2002.
- On 11 April 2003, the Regulator approved WAGR's revised Costing Principles.
- On 26 June 2003, the Regulator issued a set of Key Performance Indicators (KPIs) which will be used to monitor the compliance of WNR's operations with the Act and Code. It is intended that some of these KPIs will be reported by the Regulator on an annual basis in the Regulator's Annual Report for the period 1 July 2003 to 30 June 2004.
- On 30 June 2003, the Regulator derived the weighted average cost of capital (WACC) for the i) urban passenger and ii) freight railway infrastructure. The Determination, which was released on 1 July 2003, included a review of the methodology and the parameters that should apply in calculating the WACC for the period 1 July 2003 to 30 June 2004.

- During the year, the Regulator's staff and consultants completed field audits on WNR's four main railway routes and several secondary railway routes as part of the floor and ceiling cost calculations for these lines.

OTHER WORKS IN PROGRESS

Progress was also made on the following Determinations and reviews:

- Determination of the floor and ceiling costs for the four main railway routes in the freight network;
- Determination of the floor and ceiling costs for the Worsley railway route;
- Determination of the floor and ceiling costs for several grain railway routes;
- Determination of the Over-payment Rules for WAGR;
- Determination of the floor and ceiling costs for the urban passenger network;
- Development of Key Performance Indicators to monitor WAGR;

- Development of process and procedures to ensure the compliance and enforcement role of the Regulator is instituted;
- A review of WNR's and WAGR's proposed standard access agreements; and
- A study on the appropriate productivity measure (CPI-X) that should apply to the WA rail industry.

PANELS OF ARBITRATORS AND MEDIATORS

Panels of arbitrators and mediators were updated by the Regulator based on the recommendation of the Chairman of the WA Chapter of the Institute of Arbitrators and Mediators Australia. A workshop was held to brief members of the Institute on the various Determinations completed by the Regulator on 12 November 2002.

ACCESS NEGOTIATIONS

Although no access agreements were finalised in 2002-03, a number of negotiations commenced between railway owners and access seekers.

In April 1995, the Commonwealth, State and Territory Governments committed to implement reforms, which included the provision for third party access to nationally significant infrastructure.

The Commonwealth Parliament enacted Part IIIA of the *Trade Practices Act 1974*, establishing a national regime by which access may be sought to a range of monopolistic infrastructure, including certain railway networks, electricity grids and water and gas pipelines.

Under the national regime, businesses, individuals or other organisations have a legal right to use the services of these infrastructures, and they must be offered under reasonable terms and conditions of access, including a fair price.

THE WESTERN AUSTRALIAN LEGISLATION

In 1998, Western Australia proceeded to develop its legislative reforms governing access to its railway infrastructure in support of the national reform process.

The *Government Railways (Access) Act 1998* was enacted by Parliament in November 1998 to establish a rail access regime that will encourage the efficient use of, and investment in, railway facilities by facilitating a contestable market for rail operations within the State.

This Act was subsequently amended and renamed the *Railways (Access) Act 1998* to more accurately reflect the circumstances that have prevailed since the sale of Westrail's freight business in December 2000 under the provisions of the *Rail Freight System Act 2000*.

The *Government Railways (Access) Amendment Act 2000* further amended the Act to provide for the establishment of the Office of the Rail Access Regulator to oversee, monitor and enforce compliance by the railway owners with the provisions of the Rail Access Regime.

The development of the *Railways (Access) Code 2000* is a requirement of the Act. The Code, which is subsidiary legislation, was gazetted in September 2000.

Thus, the Rail Access Regime is made up of the Act and the Code. Both became fully effective on 1 September 2001 when the regime commenced.

THE REGIME

The aim of the Rail Access Regime is to establish and implement a framework that ensures effective, fair and transparent competition on Western Australia's railway network to achieve a net public benefit to the State.

The mechanism available to achieve this aim is through negotiation of access agreements between the railway owners and the access seekers, with negotiations based on regulated policies and practices established under the Act and Code.

Under the Regime, any person who can meet certain commercial requirements is legally entitled to negotiate access with a railway owner on the rail infrastructure under their control.

The Regime ensures that businesses seeking rail access are treated fairly, and provides for disputes between the railway owner and the access seeker to be resolved by arbitrators and mediators operating under the *Commercial Arbitration Act 1985*.

An access seeker can be anyone wishing to enter into a commercial access agreement with the railway owner in respect of a particular route. However, once access has been provided under an access agreement, the access seeker must obtain accreditation under the *Rail Safety Act 1998* to operate a service or engage the services of an accredited rail operator to carry on the proposed rail operations.

COVERAGE OF REGIME

The rail network and types of infrastructure subject to the Regime are defined in the Code.

As specified in Schedule 1 of the Code, the railway network covered by the regime comprises about 5,000 route kilometres of track in the south-west of Western Australia. This generally comprises all standard and narrow gauge track and associated infrastructure west of Kalgoorlie.

Not included in the Regime's coverage are the Pilbara region railway lines, the track east of Kalgoorlie (which is owned by the Commonwealth Government and controlled by the Australian Rail Track Corporation) and other privately operated tracks.

RAILWAY OWNERS

In December 2000, the Government announced that the freight business of the WAGR, trading as Westrail, had been sold to the Australian Railroad Group Pty Ltd (ARG). ARG is a company owned 50:50 by Wesfarmers Ltd and international rail operator, Genesee & Wyoming Inc.

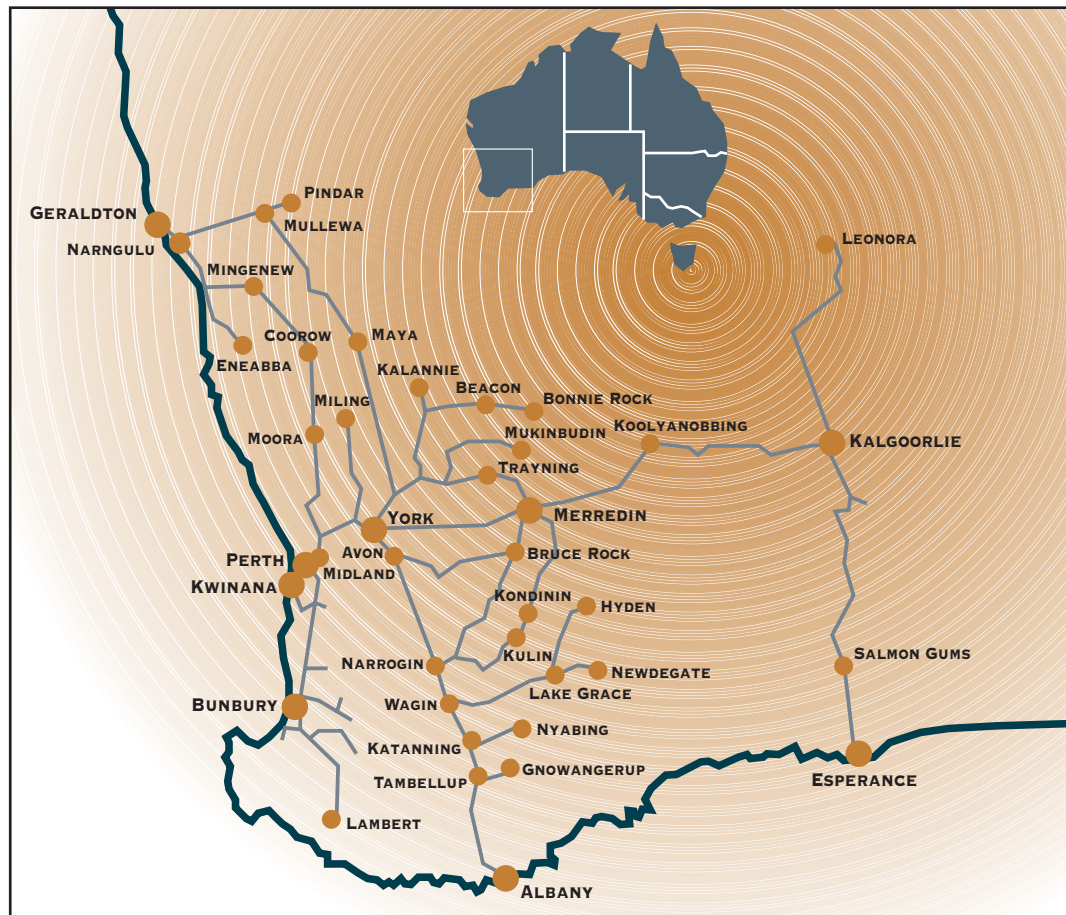
As part of the sale, WNR, a subsidiary of ARG, has been granted a 49-year lease of the non-urban rail network infrastructure.

While the State Government is still the ultimate owner of the track infrastructure, WNR is the lessee of the track under the sale agreement. Accordingly, for the purposes of access arrangements under the *Railways (Access) Act 1998*, WNR is the railway owner for the non-urban rail network.

The balance of the rail network subject to the access regime remains under the control of WAGR for the provision of urban passenger services. WAGR operates this service as an integral part of the Transperth system.



RAILWAY NETWORK COVERED BY THE CODE



THE ROLE OF THE RAIL ACCESS REGULATOR

The Regulator is appointed by the Governor and, in regard to regulatory duties, is independent of direction or control by any Minister, public servant or industry.

The Regulator's main role is to oversee, monitor and enforce compliance with the Act and the Code. The Regulator is required to:

- Approve and/or determine the Costing Principles and Over-payment Rules that should underpin third party access charges (Section 46 and 47 and Schedule 4 of the Code);
- Approve and/or determine the floor and ceiling costs that should apply to certain routes, on a segment by segment basis as specified by the railway owner (Clause 9, Schedule 4 of the Code);

- Approve and/or determine the “ring fencing” or segregation arrangements that should apply to the railway owners (Section 28 - 34 of the Act);
- Approve and/or determine the Train Management Guidelines (Section 43 of the Code) and Statement of Train Path Policy (Section 44 of the Code) that should apply to the railway owners; and
- Review and, if appropriate, approve the negotiation of access arrangements that may preclude other entities from access (Section 10 of the Code).

Prior to approving or determining the floor and ceiling costs, segregation arrangements, Train Management Guidelines, Train Path Policy and approving the negotiation of access that may preclude other entities from access, the Regulator must publish public notices and seek public submissions.

Other duties of the Regulator include the need to:

- Provide advice, on request, to access seekers that the price offered is consistent with access prices charged to the railway owner or its associates;
- Maintain a public register of access arrangements (although the access arrangements themselves are not public);
- Obtain information and documents from the railway owners and in so doing the Regulator has power of entry, if required;
- Release information that will benefit negotiations (other than commercially confidential information), if appropriate;
- Determine the weighted average cost of capital, annually as at 30 June of each year;
- Apply penalties for breaches of the Act; and
- Upon recommendation of the Chairman of the WA Chapter of the Institute of Arbitrators and Mediators, establish panels of arbitrators who can be appointed to

resolve disputes that may arise during the negotiation of an access agreement. Although not directly involved in the arbitration process, the Regulator may provide information or advice to the arbitrator, if requested.

THE RAIL ACCESS PROCESS

Any business or individual seeking access to the railway system should apply in writing to the railway owner seeking information on the available rail track capacity, the price and terms of use, technical information (eg. track condition, curves and gradients), and other information such as timetables and existing or proposed train paths.

The railway owner must provide this information within 14 days.

Once received, if the access seeker wishes to proceed, a formal proposal needs to be submitted to the railway owner, specifying the route and associated railway infrastructure, the times when access is required, and the nature of the rail operations. It must also show that the proposed

operations are within the capacity of the route and that the access seeker has managerial ability and sufficient financial resources.

Within seven days of receiving the proposal, the railway owner must advise when the draft agreement will be ready and provide both "floor" and "ceiling" prices, including the route section costs on which the floor and ceiling prices have been calculated.

Within the next 23 days, the railway owner must provide a draft agreement, unless the proposal seeks additional access from that previously indicated.

During this time, the Regulator may be asked to approve access if the request results in the track capacity being fully utilised and, if so, must conduct a minimum 30-day public process to assess the request. The Regulator also determines and advises both parties of the acceptability of the proposed "floor" and "ceiling" prices, using similar public processes (providing the access seeker is prepared to extend the time line).

Once the access seeker has indicated a readiness to begin negotiations, the railway owner and the access seeker must agree to a negotiation period, which must be no more than 90 days, unless both parties agree to extend the time line.

During the negotiation process, the access seeker may ask the Regulator to assess whether the price offered is fair in relation to that which other parties are paying.

If negotiations cannot be finalised within 90 days or both parties agree that an impasse has been reached, the matter can proceed to mediation and/or arbitration.

If mediation fails and/or formal arbitration is sought by the access seeker through the Regulator, a preliminary conference must occur within ten days, after which the formal arbitration hearing takes place. During the preliminary conference, both parties will be expected to agree to a timetable for the arbitration to take place.

During this process, the arbitrator may ask the Regulator for comment or advice.

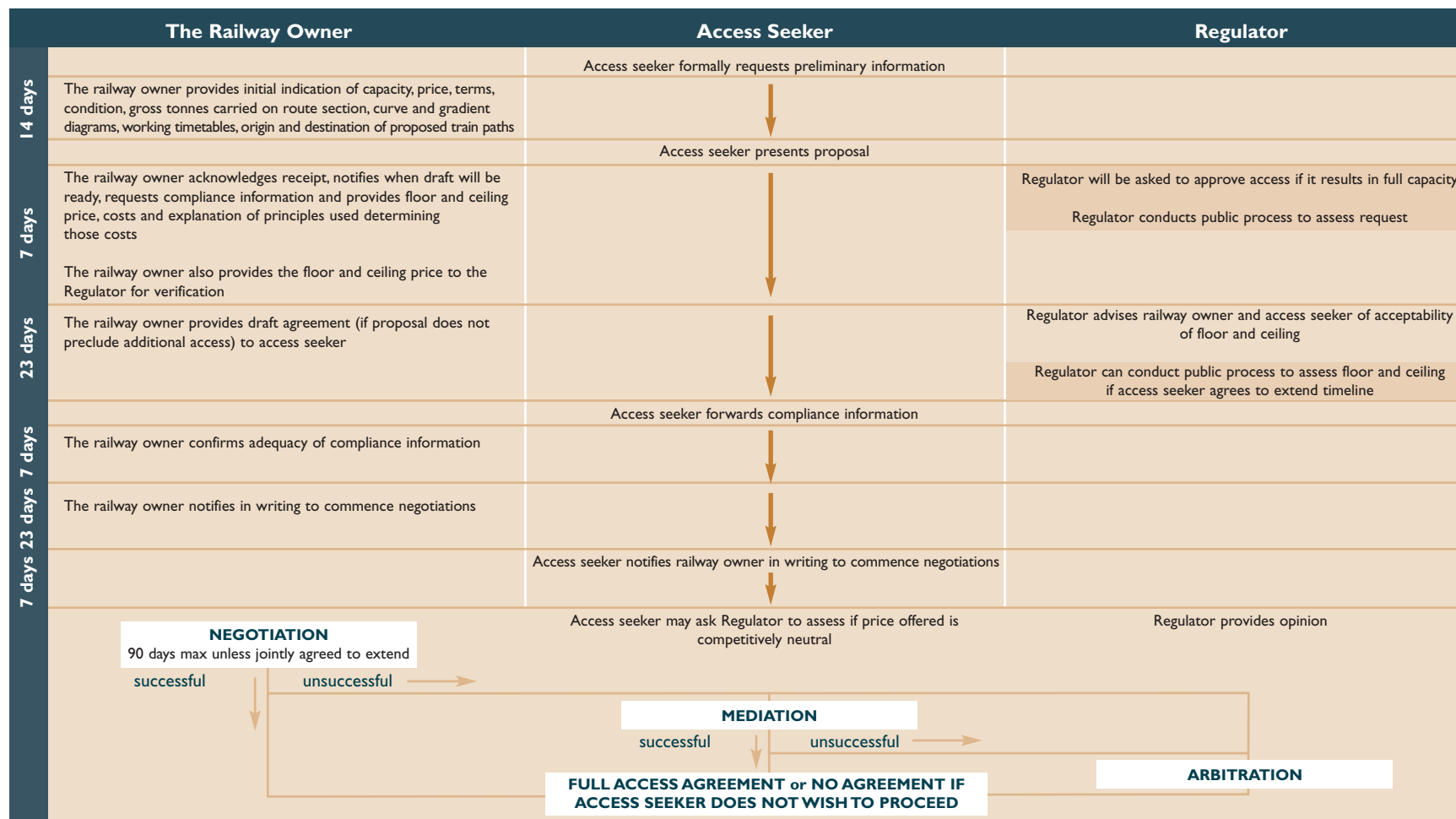
An arbitrated decision is binding on both parties, except when the access seeker decides not to obtain access under the arbitrated terms.



THE WA RAIL ACCESS REGIME (cont'd)

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MAIN STEPS OF THE RAIL ACCESS PROCESS



ENABLING LEGISLATION

The Office of the Rail Access Regulator is established under the *Railways (Access) Act 1998*. Its function is to monitor, enforce and administer the implementation of the Act and the *Railways (Access) Code 2000*.

The Code is subsidiary legislation and a requirement of the Act. It regulates the Rail Access Regime by establishing the rights and obligations of the railway owner and users of rail infrastructure in relation to third party access to the rail system.

RESPONSIBLE MINISTER

The responsible Minister for the Act and Code is the Treasurer.



INDEPENDENCE OF THE OFFICE

The Rail Access Regulator is independent of direction or control by the Crown or any Minister or Officer of the Crown in the performance of the Regulator's functions.

Under Section 20A of the Act, the Treasurer may give directions in writing to the Regulator only to the extent that they relate to general policies in matters of administration, including financial administration.

The text of a direction must be tabled in both Houses of Parliament no later than 14 sitting days after it has been given and is to be included in the Regulator's annual report.

AMENDMENTS TO THE ACT OR CODE

During the year, while preparing the various Determinations, the Regulator identified a number of changes that were required to be made to the Code to improve its effectiveness.

These amendments to the Code were discussed extensively with the railway owners, and officers from the Department of Treasury and Finance, Department for Planning and Infrastructure and Parliamentary Counsel's Office. The National Competition Council has also been briefed on the proposed changes. As required under the Act, public comment will be sought prior to finalising and incorporating these amendments into the Code during 2003-04.

Section 12 of the Act requires the Regulator to carry out a review of the Code as soon as is practicable after the third anniversary of its commencement. The review is to assess the suitability of the Code's provisions to give effect to the Competition Principles Agreement in respect of the railway industry to which the Code applies. It is the Regulator's intention to commence the review of the Code in the latter part of 2003-04.

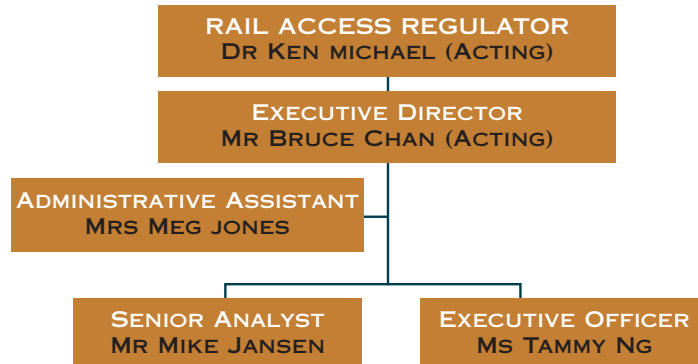
ORGANISATION OF THE OFFICE

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STAFFING

As at 30 June 2003, the Office of the Rail Access Regulator comprised five staff.

The Regulator was appointed by the Governor on 27 August 2001. He is the Chief Employee under the *Public Sector Management Act 1994*. However, the Office of the Rail Access Regulator is not an office in the Public Service and is not included in the Senior Executive Service. Staff of the Office are appointed or made available under Part 3 of the Act to enable the Regulator to perform the required functions.



SUMMARY OF EMPLOYEES BY CATEGORY ADDITIONAL TO THE REGULATOR

Position Title	Classification	Number of Employees
Executive Director	Level 9	1
Senior Analyst	Level 6	1
Executive Officer	Level 4	1
Administrative Assistant	Level 3 (part-time)	1

VISION

An efficient and competitive rail industry in Western Australia.

MISSION

To establish a rail access regime that encourages the efficient use of, and investment in, railway facilities by facilitating a contestable market for rail operations.

OBJECTIVES

- To facilitate competition and fair market conduct within a safe operating environment;
- To prevent misuse of monopoly power by the State's railway owners;
- To ensure that users and consumers benefit from competition and efficiency;
- To provide rights and fairness of access to rail operators seeking access to the State's railway network; and
- To ensure a fair Weighted Average Cost of Capital on the railway infrastructure.

OUTPUTS

- Establish principles, policies, rules and practices for access as required under the Act and Code;
- Provide regulatory oversight of all rail access activities;
- Monitor and enforce compliance by all parties with Act and Code requirements;
- Provide information to assist railway operators in their access negotiation with the railway owner(s); and
- Advise arbitrators on access-related matters, if requested.

CUSTOMER SERVICE CHARTER

The Office of the Rail Access Regulator will aim to provide exceptional service to its stakeholders at all times.

To attain this goal, it will:

- Listen carefully to stakeholders;
- Ensure stakeholders' views are taken into account;

- Ensure clear, open, fair and friendly communication; and
- Provide an open and transparent regime of regulation.



SEGREGATION ARRANGEMENTS AND DETERMINATIONS

Segregation refers to the separation of access-related functions from other activities, in particular train (or above rail) operations. Section 28 of the Act requires the railway owner to make arrangements to segregate its access-related functions from its other functions and to have appropriate controls and procedures to ensure that the arrangements are complied with and operate effectively.

As a minimum, a railway owner's Segregation Arrangements must:

- Protect confidential information (Section 31 of the Act);
- Ensure that relevant officers have no conflict of interest in duties between the performance of access-related functions and other business of the railway owner (Section 32 of the Act);
- Ensure a duty of fairness to all access seekers (Section 33 of the Act); and

- Maintain separate accounts and records to enable all income, expenditure, assets and liabilities relating to access-related functions to be distinguishable from the railway owner's other functions (Section 34 of the Act).

Under Section 29(3), the Regulator can either approve or amend the railway owner's Segregation Arrangements. Prior to exercising this power, the Regulator must seek public comments on the railway owner's segregation proposal under Section 42 of the Code.

THE WNR PROPOSED SEGREGATION ARRANGEMENTS

WNR had submitted its proposed Segregation Arrangements to the Regulator in November 2001. In accordance with Section 42 of the Code, public comments were sought. Ten public submissions were received.

While not required to do so, the Regulator issued a Draft of the Determination on WNR's segregation proposal and sought further public comments. Six submissions were received.

The Regulator's Final Determination on 6 June 2002 required WNR to make a number of amendments to its proposed Segregation Arrangements and to submit the revised arrangements by 8 July 2002 for the Regulator's approval.

After extensive discussions and further amendments, WNR's revised Segregation Arrangements were approved on 8 April 2003.

THE WAGR PROPOSED SEGREGATION ARRANGEMENTS

WAGR's proposed Segregation Arrangements were submitted to the Regulator in December 2001. Public comments were sought, but the submissions did not raise any segregation issues.

Subsequently, the Regulator issued a Draft Determination on WAGR's segregation proposal and sought public comments. The only comment came from WAGR.

The Regulator's Final Determination on 6 June 2002 required WAGR to make a number of amendments to its proposed Segregation Arrangements and to submit the revised arrangements for approval.

In accordance with the Final Determination, WAGR submitted revised Segregation Arrangements, which were approved on 11 April 2003.

COSTING PRINCIPLES

The Costing Principles provide the basis for setting the ceiling and floor costs for any given route section. The ceiling and floor represent the upper and lower boundaries of the negotiation range between an access seeker and the railway owner for the latter to allow access to its railway infrastructure.

THE WNR PROPOSED COSTING PRINCIPLES

In November 2001, WNR submitted its proposed Costing Principles to the Regulator for approval under Section 46(1) of the Code. Under Section 46(3), the Regulator can either approve or amend these principles.

Although not required to do so, the Regulator sought public comments. Twelve submissions were received.

In June 2002, the Regulator sought public comments on the Draft Determination on the Costing Principles to apply to WNR. Five submissions were received. The Draft Determination required WNR to make a number of amendments for resubmission to the Regulator within 30 days of the receipt of the Determination.

The Regulator's Final Determination on 27 September 2002 required WNR to amend its proposed Costing Principles and to submit the revised arrangements by 28 October 2002 for the Regulator's approval.

The WNR revised Costing Principles were approved on 23 December 2002.

THE WAGR PROPOSED COSTING PRINCIPLES

In March 2003, WAGR submitted its proposed Costing Principles to the Regulator. The Regulator decided against calling for public submissions as the WAGR proposed Costing Principles incorporated many of the issues that had been addressed in the WNR Costing Principles, and the latter had gone through an extensive public consultation phase prior to its approval three months earlier.

Following some changes requested by the Regulator, WAGR re-submitted the revised Costing Principles on 9 April 2003, which the Regulator approved on 11 April 2003.

OVER-PAYMENT RULES

Section 47(1) of the Code requires the railway owner to prepare and submit a statement of rules (the Over-payment Rules) that are to apply where breaches of the ceiling occur. Under Section 47(3) of the Code, the Regulator can either approve or amend the statement.

The Over-payment Rules provide a mechanism to calculate the revenue that exceeds the ceiling and reimburse operators in the event of an excess.

THE WNR PROPOSED OVER-PAYMENT RULES

In October 2001, WNR submitted a proposed set of Over-payment Rules. The Regulator sought public comments on WNR's submission. The Draft Determination, released on 28 June 2002, concluded that WNR's Over-payment Rules required modifications and the Regulator sought further comments from stakeholders.

Following receipt of four submissions, the Regulator released his Final Determination on 27 September 2002, which required WNR to make some changes to the proposed Over-payment Rules. The Regulator approved WNR's amended rules on 30 April 2003.

THE WAGR PROPOSED OVER-PAYMENT RULES

WAGR did not submit its proposed Over-payment Rules during 2002-03.

CALCULATION OF FLOOR AND CEILING COSTS ON SPECIFIED ROUTES

Clause 9, Schedule 4 of the Code allows the Regulator to determine the ceiling and floor costs on those routes that he considers are most likely to be the subject of an access application.

In September 2001, the Regulator sought from WNR the ceiling costs for the following four routes on a section-by-section basis as determined by WNR:

- Forrestfield to Kalgoorlie;
- Kwinana to Bunbury;

- Leonora to Kalgoorlie; and
- Kalgoorlie to Esperance.

A fifth route, from Brunswick to Premier, was added to the review in January 2002 at the request of Worsley Alumina.

Prior to submitting floor and ceiling costs, the Regulator commissioned PwC to undertake an audit of the WNR Access Pricing Model (APM) used to develop the floor and ceiling costs. PwC undertook two audits in April 2002 and November 2002 before they were satisfied with the APM.

In December 2002, WNR submitted the proposed floor and ceiling costs, for the nominated routes, to the Regulator. The Regulator called for public submissions on the WNR proposed costs and five submissions were received from access seekers. Several meetings were held with some access seekers to discuss issues raised in submissions.

PwC was requested to prepare a report to the Regulator indicating the veracity of the WNR proposed floor and ceiling costs. As part of this exercise, the consultants and Office staff

undertook field inspections, in March 2003, of the nominated rail lines. PwC completed its report to the Regulator in early July 2003 and the Regulator is expected to release his Determination in the first quarter of 2003-04.

Field inspections of nominated narrow gauge rail lines were undertaken in May by the consultants and Office staff as a precursor to developing floor and ceiling costs for the rest of the WNR's narrow gauge network (ie. the grain network).

It is the Regulator's intention to determine WAGR's floor and ceiling costs for the following routes on a section-by-section basis during the first half of 2003-04:

- Perth to Midland;
- Fremantle to Perth;
- Robb Jetty to Leighton; and
- The spur line between Leighton and North Fremantle.

TRAIN MANAGEMENT GUIDELINES AND TRAIN PATH POLICY

Section 43(3) of the Code requires that the railway owners prepare and submit to the Regulator a statement of the Train Management Guidelines (TMG) that are to apply to the railways network. The Regulator can either approve or amend such arrangements under Section 43(4) of the Code.

Section 44(2) of the Code requires the railway owners to prepare and submit to the Regulator the Train Path Policy (TPP) arrangements that they will apply to the allocation of train paths and the provision of access to train paths that have ceased to be used. Under Section 44(3) of the Code, the Regulator can either approve or amend the TPP.

WNR submitted its TMG and TPP proposals in November 2001 and WAGR did so the following month.

Prior to the Regulator issuing a determination on either the TMG or the TPP, Section 45(1) requires public comments to be sought on the railway owners' proposals.

Twelve public submissions were received on WNR's TMG proposal and eleven on the TPP proposal. In relation to the WAGR's proposals, three public submissions were received on each.

The Regulator released Draft Determinations on each of the TMG and TPP proposals by WNR on 15 August 2002 taking into consideration the issues raised in the public submissions and called for further submissions on the Draft Determination. A further five submissions were received including one from WNR. The Regulator's Final Determinations were released on 31 October 2002. They required WNR to make further amendments and submit the revised TMG and TPP proposals within 30 days. WNR resubmitted the proposals incorporating the amendments sought and the Regulator approved both documents on 27 February 2003.

In regard to the WAGR's TMG and TPP proposals, the Regulator released the Determination on 6 December 2002 requiring WAGR to make some changes to the proposals. Following satisfactory completion of these changes, the Regulator approved WAGR's revised TMG and TPP proposals on 17 March 2003. In

this instance, the Regulator decided against releasing a Draft Determination as there were relatively few comments in the public submissions on WAGR's original proposals.

WEIGHTED AVERAGE COST OF CAPITAL

Clause 3(1)(a), Schedule 4 of the Code requires the Regulator to determine the WACC for both the urban passenger and freight railway infrastructure as at 30 June in each year.

Clause 3(2)(a), Schedule 4 of the Code requires the Regulator to engage in public consultation when determining the WACC for 30 June 2003. As this was the first full review of the WACC since the regime was established, the Regulator commissioned the Network Economics Consulting Group (NECG) to review the calculation of the WACC as applied to the WA rail industry and recommend the appropriate methodology and parameters that should be used.

NECG's draft report was released for public consultation in April 2003. Four submissions were received. The final NECG report was

released in June 2003. The report recommended that the Regulator adopt a post-tax nominal approach to calculating the WACC, with the capital asset pricing model used to determine the cost of equity. The report also outlined parameters to be used in the calculation of the WACC.

The Regulator considered the comments in the submissions and the views expressed in the consultant's report in preparing his Determination, which was released on 1 July 2003. The Regulator decided to continue with the pre-tax real approach to calculating the WACC, but adopted most of the parameters recommended by NECG, with the exception of a lower market risk premium and a higher gearing level. The WACC to apply to the urban passenger and freight rail infrastructure for the period 1 July 2003 to 30 June 2004 are 5.8 per cent and 6.9 per cent pre-tax respectively.

KEY PERFORMANCE INDICATORS

The Regulator has indicated that KPIs will be developed in consultation with the railway owners in relation to:

- Segregation Arrangements;
- Costing Principles;
- Over-payment Rules;
- Train Path Policy; and
- Train Management Guidelines.

The Regulator commissioned NECG to prepare a report on the KPIs for WNR, a draft of which was released for public consultation in October 2002. Four submissions were received and the final report was published in April 2003. On 26 June 2003, the Regulator issued a set of KPIs, which will be used to monitor the compliance of WNR's operations with the Act and Code generally, and the various Determinations specifically. The Regulator will report on the performance of these indicators in the Regulator's Annual Report in 2003-04 and subsequently.

The KPIs for WAGR will be developed as soon as the WAGR Over-payment Rules are approved by the Regulator. It is expected that there will be many similarities between the KPIs developed to monitor WNR's operations and those of WAGR.

CPI-X REPORT

In May 2003, the Regulator commissioned the Institute for Research into International Competitiveness (IRIC) to undertake a review of productivity measures that would apply to regulated infrastructure businesses in the rail industry.

The purpose of the review was to assess whether the CPI-X escalation measure was an appropriate measure of productivity to apply when escalating ceiling revenues. The report indicated that economic regulators around the world use the CPI-X as the appropriate measure and suggested using a combination of total factor productivity and engineering and economic analysis methodologies to determine the relative productivity of a regulated business. The report outlined an approach that could be used to determine the relative productivity of regulated infrastructure companies.

It is intended to test the approach by developing a model to calculate the CPI-X escalation in the first half of 2003-04.

ESTABLISHMENT OF THE ECONOMIC REGULATION AUTHORITY (ERA)

A Working Group, chaired by the Regulator, was established to report on the transitional and administrative issues associated with the establishment of the ERA. Following completion of its initial phase of identifying organisational and procedural matters relevant to the ERA, the Working Group proceeded with the further development of such matters with a view to assisting with their implementation towards the establishment of the ERA.

AUDIT ON COMPLIANCE

The Regulator requested that an end-of-year independent audit be undertaken in relation to compliance by the railway owners of the following:

- All segregation requirements as approved by the Regulator under Division 3, Part 4 of the Act; and
- Sections 7, 9, 12, 48 and Schedule 2 of the Code.

WNR was audited by Ernst & Young and WAGR was audited by Hall Chadwick. There was no breach of compliance reported in the audit findings.



THE OFFICE

The office experienced a significant staff turnover when the Personal Assistant and Senior Analyst positions became vacant during the year. The changeover of staff diverted a significant amount of time and resources to ensure that the ensuing recruitment process was effective in selecting the most suitable and qualified replacements for the vacancies, and was conducted as quickly as possible.

The Personal Assistant position was also reviewed when it became vacant. The position was changed to that of Administrative Assistant. Office management responsibilities (previously assigned to the Executive Officer) were added to enable the Executive Officer to assume more operational responsibilities.

Staff of the Office, who were all employed under the Workplace Agreement, transferred to the Public Sector General Agreement 2002 on 1 January 2003.

SERVICE AGREEMENT

The Office entered into a Service Agreement with Department for Planning and Infrastructure (DPI) for the provision of

contracts management, internal audit, finance, human resources and information services. This agreement allowed the Office to concentrate on operational issues while benefiting from the expertise and experience of the department.

INTERNAL AUDIT

An internal audit was performed on the Office's financial control functions in accordance with the requirements of *Financial Administration and Audit Act 1985* and associated Treasurer's Instructions. It was found that adequate controls are in place surrounding the finance functions at the Office. A minor finding from the audit has been addressed.

RISK MANAGEMENT PLAN

A risk management plan was developed following close consultation with staff and a review of the office's operations and procedures. Areas of risk have been identified and strategies are in place to minimise risk exposure for the Office. All staff are aware of the strategies and their respective responsibilities in implementing the risk management plan.

OUTSOURCING ACTIVITIES

The Office is supported by various consultants working in both the operational and administrative areas. A panel of contractors was established in September 2001 to provide advice on rail costing, pricing and operational analysis, as well as administrative arrangements on railway issues for a term that expired in March 2003. The Office, having reviewed the consultancy needs, has decided not to call for a new panel contract and will be seeking quotations or calling for tenders on an 'as needed' basis. Other areas where consultancy services were sought during the year included internal audit, legal advice and web site development.

Under the Service Agreement with DPI, the Office is responsible for daily management of the contracts, while the department is responsible for the quotation and tendering processes. The Office adheres to State Supply Commission policies for the supply of goods and services.

WEB SITE RE-DEVELOPMENT

Highway 1 was awarded the contract for the re-development and hosting of the Office's web site, which came on-line in April 2003. The web site allows for self-maintenance within the Office whereby documents can be released on-line as soon as they are ready. The Office recognises that the web site is the most important medium for the public to access relevant and updated information relating to rail access issues. Information, including the Regulator's Determinations, railway owners' proposals, public submissions, discussion papers, Annual Reports and the information on the office operations can be found on the web site.

SERVICE TO THE MINISTER

The Office provided the Treasurer and the Government with advice and reports as required and complied with all Government policies.

There were no Ministerial directives during the year.

FEES AND CHARGES

The Office does not apply any fees and charges for its services.

STAFF DEVELOPMENT

The Office has a commitment to the development of its employees. During the year, staff were given opportunities to attend courses and conferences that would improve skills and knowledge in their area of expertise.

WASTEPAPER RECYCLING

The Office is committed to the Government's recycling program with waste paper collected regularly during 2002-03.

DECLARATION OF INTERESTS

Staff are required to declare details of conflict of interests that they may have with the role of the office. No such interests were declared during the year.



The following information sheets are available by telephoning **(08) 9486 4606** or downloading the information from the web site at **www.railaccess.wa.gov.au** or by e-mailing the Office at **orar@railaccess.wa.gov.au**

These publications are also available in alternative formats for people who are unable to read this format. Please telephone **(08) 9486 4606** for assistance.

In addition, railway owners' and public submissions received by the Regulator are posted on the web site.

PUBLICATIONS

The Office released the following publications during the year:

- *Determination of the Weighted Average Cost of Capital to apply to WNR and WAGR as at 30 June 2002.*
- *A comparison of the WA Rail Access Code approach to calculating ceiling cost with the conventional Depreciated Optimised Replacement Cost (DORC) methodology.*
- *Final Determinations on WNR's Costing Principles, Overpayment Rules, Train Management Guidelines and Train Path Policy.*
- *Second audit review of WNR access pricing model.*
- *Final Determinations on WAGR's Costing Principles, Train Path Policy and Train Management Guidelines.*
- *Report on Key Performance Indicators for the Rail Access Regime.*
- *Information and Key Performance Indicators to be provided by Regulator.*
- *Report on the review of Weighted Average Cost of Capital for rail infrastructure operated by WNR and WAGR.*
- *Annual Report 2001-02.*

The Office of the Rail Access Regulator has also published a series of Information Sheets that explain the operation of the Rail Access Regime.

Information Sheet 1: *The Access Seeker (Functions and Responsibilities).*

Information Sheet 2: *The Railway Owner (Functions and Responsibilities).*

Information Sheet 3: *The Regulator (Functions and Responsibilities).*

Information Sheet 4: *The Arbitrator (Functions and Responsibilities).*

Information Sheet 5: *Pricing Principles (Principles applicable to the Access Regime).*

Information Sheet 6: *Access Information Requirements (Information available to the Access Seeker during negotiations).*

Information Sheet 7: *Public Consultation (Issues where the Regulator or the Treasurer must or may consult publicly).*

Information Sheet 8: *Enforcement Mechanisms (including penalties).*

DISABILITY SERVICE ACT 1993

The Office complies with Section 29 of the *Disability Services Act 1993*.

Over 2002-03, the DPI Disability Service Plan was adopted and applied internally. While the Office provides very limited services directly to people with disabilities, their families and carers, the Office is committed to ensuring services and facilities are fully accessible to people with disabilities, where applicable.

ELECTORAL ACT 1907

Section 175ZE of the *Electoral Act 1907* requires the publication of details of certain classes of expenditure in Annual Reports. The following details comprise the Office's statement of expenditure in accordance with the Act.

In accordance with the disclosure requirements of Section 175ZE of the *Electoral Act 1907*, the Office incurred expenditure to 30 June 2003 on the following:

Advertising Agencies	\$ Nil
Market Research	\$ Nil
Direct Mail	\$ Nil
Media Advertising	
Marketforce Production	\$4,145
Media Decisions	\$8,098

EQUAL OPPORTUNITY ACT 1984

The Office adopts DPI's Equal Employment Opportunity Management Plan in promoting equal opportunity in employment. All human resource policies and procedures including recruitment, selection and training based on equal opportunity principles. There were no breaches of the *Equal Opportunity Act 1984* during the year.

FINANCIAL ADMINISTRATION AND AUDIT ACT 1985

Accounting procedures, records, budgets and reports complied with the Act and associated Treasurer's Instructions. An internal audit on the Office's financial control functions was found to be adequate, with one minor finding that has been addressed.

Treasurer's Instruction 903 requires disclosure of shares in any subsidiary body of the agency held as a nominee or held beneficiary by a Senior Officer of the agency. There were no such shares.

Treasurer's Instruction 903 also requires particulars of any interest in any existing or proposed contract which a Senior Officer, or a firm of which a Senior Officer is a member, or an entity in which a Senior Officer has a substantial financial interest, has made with the agency or any related or affiliated body. There were no such interests.

FREEDOM OF INFORMATION ACT 1992

During the year, the Regulator released a number of Determinations. These documents along with railway owners' proposals and public submissions can be obtained from the Office's web site (www.railaccess.wa.gov.au) free of charge.

No Freedom of Information requests were received during the year.

**INDUSTRIAL RELATIONS
ACT 1979**

There were no industrial issues during the year. Through the Human Resource section of DPI, staff have access to a confidential counselling service via the department's Employee Assistance Program for resolution of personal or work-related issues.

**OCCUPATIONAL HEALTH,
SAFETY AND WELFARE
ACT 1984**

There were no occupational health and safety issues during the year.

**OFFICIAL CORRUPTION
COMMISSION ACT 1998**

To 30 June 2003, the Office of the Rail Access Regulator made no report under the above Act.

**PUBLIC SECTOR MANAGEMENT
ACT 1994**

Principles, procedures and policies of public administration and management were applied in accordance with the *Public Sector Management Act 1994*.

The Rail Access Regulator is responsible for ensuring the Office complies with these standards and has adopted the DPI policies, guidelines and processes to address compliance requirements within the Office.

There was no breach of the standards during the year.

**STATE SUPPLY COMMISSION
ACT 1991**

The Office operated under the *State Supply Commission Act 1991* in arranging the supply of goods and services for its administration. All purchases of goods and services followed requirements set down by DPI policies developed in line with those of the State Supply Commission.

**WORKERS COMPENSATION AND
REHABILITATION ACT 1981**

There were no workers' compensation and rehabilitation issues during the year.



Section 23F(2) of the *Railways (Access) Act 1998* provides that the Western Australian Independent Rail Access Regulator's requirement to prepare performance indicators under Treasurer's Instruction 904 is limited to the Regulator's management functions (including financial management).

I certify that the performance indicators as presented are based on proper records that are relevant and appropriate for assisting users to assess the Regulator's performance and fairly represent the performance of the Regulator for the financial year ending 30 June 2003.



Dr Ken Michael AM, CitWA

Acting Rail Access Regulator

29 August 2003

To the Parliament of Western Australia
WESTERN AUSTRALIAN INDEPENDENT
RAIL ACCESS REGULATOR
PERFORMANCE INDICATORS FOR
THE YEAR ENDED JUNE 30, 2003

Audit Opinion

In my opinion, the performance indicators of the Western Australian Independent Rail Access Regulator are relevant and appropriate to help users assess the Regulator's performance in relation to his management functions and fairly represent the indicated performance for the year ended June 30, 2003.

Scope

The Regulator's Role

The Regulator is responsible for developing and maintaining proper records and systems for preparing performance indicators.

Section 23F of the *Railways (Access) Act 1998* provides that the Regulator prepare performance indicators in relation to only his management functions (including financial management). The performance indicators consist of key quality, timeliness and cost measures of the Regulator's management functions.

Summary of my Role

As required by the *Financial Administration and Audit Act 1985*, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.



D D R Pearson

Auditor General

October 31, 2003

The Office of the Rail Access Regulator was set up to establish, monitor and enforce a rail access regime that encourages the efficient use of, and investment in, railway facilities by facilitating a contestable market for rail operations.

Under the Act, the performance of the Regulator's independent statutory functions is not subject to evaluation by way of performance indicators. Section 23F(2) provides that the Regulator is required only to prepare performance indicators in respect of management functions, including financial management.

The outcome of the Office for the Regulator's management functions has been identified as:

To provide quality and efficient management services to the Regulator.

Quality management services are measured by integrity and conformance to standards indicators. Efficient management services are measured by timeliness and cost indicators.

1. "INTEGRITY AND CONFORMANCE TO STANDARDS" INDICATORS

FINANCE

Objective: The Office's accounting systems and processes conform to the *Financial Administration and Audit Act 1985* and Treasurer's Instructions.

- a) Number of major and minor adverse findings of non-compliance reported by the internal audit and the annual audit process.

This indicator measures the Office's compliance with the requirements under the FAAA and Treasurer's Instructions – that accountability is maintained, controls over financial and administration matters are sound, and delegations are properly controlled and maintained.

Major adverse findings are considered as strategic risk that should be addressed immediately. Minor adverse findings are considered as minor risk that should be addressed as a matter of course.

2002-03	Target	Actual
Number of major adverse findings.	Nil	Nil
Number of minor adverse findings.	Nil	One

HUMAN RESOURCES

Objective: Office staff abides by the code of confidentiality.

b) Number of substantiated breaches of confidentiality.

This indicator measures the Office's compliance with the controls on the use and disclosure of rail access related matters that have been specified as confidential by stakeholders.

2002-03	Target	Actual
Number of substantiated breaches of confidentiality.	Nil	Nil

INFORMATION TECHNOLOGY

Objective: The Office web site is reliable at all times for stakeholders to obtain rail access related information.

c) Total number of days the web site is not operational.

This indicator measures the reliability and integrity of the Office web site, which is the most important source of information on the WA Rail Access Regime, determinations and submissions. The four days per year target is one percent of the total number of days in one year.

The Office web site was hosted by Highway 1 from April 2003. This service was provided previously by DPI. Therefore, the period in which this data was collected was April to June 2003.

2002-03	Target	Actual ⁽¹⁾
Total number of days the web site is not operational.	Less than four days per year	0 days

(1) From April to June 2003

2. "TIMELINESS" INDICATORS

FINANCE

Objective: The Office is timely in the processing of invoices and making payments.

During 2002-03, DPI provides the Office accounting services through a Service Agreement. While the accounting function is carried out mainly by DPI, the Office is responsible for incurring payments and inputting invoices into the prescribed accounting system. Two indicators have been developed to measure the two stages.

- a) Average number of working days for an invoice to be input by the Office into the accounting system.
- b) Average number of working days from when an invoice is input by the Office to the time when payment is made.

The first indicator measures the number of working days it takes for the Office to process an invoice. The second indicator measures the number of working days it takes after an invoice has been input until the time payment is made. Although the latter process is not directly under the Office's control, it is in the Office's interest to ensure payment is made within a reasonable timeframe.

These two indicators measure the efficiency in processing of invoices and is a good general indicator of the overall efficiency of the finance function.

2002-03	Target	Actual
1. Average number of working days for an invoice to be input by the Office into the accounting system.	Two days or less	2.7 days
2. Average number of working days from when an invoice is input by the Office to the time when payment is made.	Five days or less	6.2 days

HUMAN RESOURCES

Objective: The Office is timely in recruiting new staff to ensure minimal loss of knowledge and expertise as a result of staff turnover.

- c) Average number of working days required to recruit a new staff.

This indicator measures the efficiency in the recruitment process. This is particularly important for the Office given the small number of staff.

The recruitment period commences with the Office's request for the position to be advertised to the time when a recommendation is made.

2002-03	Target	Actual
Average number of working days required to recruit new staff member.	Less than sixty days	59.5 days

INFORMATION TECHNOLOGY

Objective: Changes to information presented on the Office web site is carried out in a timely manner.

- d) Average number of days required to publish an approved document on the web site.

This indicator measures the efficiency in keeping stakeholders informed of the Regulator's latest decisions and release of information.

During 2002-03, it took an average of less than two working days to release a document on-line. This measure is based on a comparison of the time a document is approved and subsequently released to the public with the time when the same document is published on the Office web site. A document includes notices, proposals from railway owners, submissions, discussion papers and Determinations.

2002-03	Target	Actual ⁽¹⁾
Average number of working days required to publish an approved document on the web site.	One day or less	1.9 days

(1) From April to June 2003

3. "COST" INDICATOR

CORPORATE OVERHEADS

Objective: Cost in administering corporate functions as a percentage of total expenditure is minimised.

a) Corporate overheads as a percentage of total expenditure

This indicator measures cost in carrying out the administrative functions in the Office. Corporate overheads are defined as costs not directly related to the operational activities but considered as expenditure to keep the office running. This includes office and vehicle rental, insurance, electricity, telecommunication and salary cost for the Administrative Assistant position. In addition, the DPI's Service Agreement charge on finance, human resource and information technology functions has been incorporated.

During 2002-03, the cost spent on corporate functions is 24 per cent of the total expenses for the Office. This year's figure will be set as the base year to compare against subsequent years.

2002-03	Actual
Corporate overheads as a percentage of total expenditure.	24%

CERTIFICATION OF FINANCIAL STATEMENTS

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

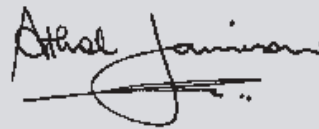
The accompanying financial statements of the Western Australian Independent Rail Access Regulator have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records to present fairly the financial transactions of the financial year ending 30 June 2003 and the financial position at 30 June 2003.

At the date of signing we are not aware of any circumstance which would render the particulars included in this statement misleading or inaccurate.



Dr Ken Michael AM, CitWA
Acting Rail Access Regulator

29 August 2003



Mr Athol Jamieson
Principal Accounting Officer

29 August 2003

To the Parliament of Western Australia
WESTERN AUSTRALIAN INDEPENDENT
RAIL ACCESS REGULATOR
FINANCIAL STATEMENTS FOR
THE YEAR ENDED JUNE 30, 2003

Audit Opinion

In my opinion,

- (i) the controls exercised by the Western Australian Independent Rail Access Regulator provide reasonable assurance that the receipt and expenditure of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Regulator at June 30, 2003 and its financial performance and cash flows for the year ended on that date.

Scope

The Regulator's Role

The Regulator is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the *Financial Administration and Audit Act 1985* (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and the Notes to the Financial Statements.

Summary of my Role

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.



D D R Pearson

Auditor General

October 31, 2003

FINANCIAL PERFORMANCE

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	NOTE	2002-03 \$000	2001-02 \$000
COST OF SERVICES			
Expenses from ordinary activities			
Employee expenses	2	365	332
Supplies and services	3	377	339
Depreciation expense	4	13	10
Administration expenses	5	38	39
Accommodation expenses	6	55	51
Other expenses from ordinary activities	7	25	27
Total cost of services		873	798
Revenue from ordinary activities			
Interest revenue		20	17
Total revenues from ordinary activities		20	17
NET COST OF SERVICES		853	781
REVENUES FROM STATE GOVERNMENT			
Output Appropriation	8	545	1,200
Assets assumed/(transferred)		0	71
Resources received free of charge		7	3
Total revenues from State Government		552	1,274
Change in net assets		(301)	493
Total changes in equity other than those resulting from transactions with WA State Government as owners		(301)	493

The Statement of Financial Performance should be read in conjunction with the accompanying notes.
The Office operated only for nine months during 2001-02.

FINANCIAL POSITION

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	NOTE	2002-03 \$000	2001-02 \$000
Current Assets			
Cash assets	16(a)	164	425
Receivables	9	32	28
Other assets	10	1	7
Total Current Assets		<u>197</u>	<u>460</u>
Non-Current Assets			
Computer, office equipment and refurbishment	11	69	70
Total Non-Current Assets		<u>69</u>	<u>70</u>
Total Assets		<u>266</u>	<u>530</u>
Current Liabilities			
Payables	12	28	25
Provisions	13	2	2
Other liabilities	14	44	10
Total Current Liabilities		<u>74</u>	<u>37</u>
Total Liabilities		<u>74</u>	<u>37</u>
NET ASSETS		<u>192</u>	<u>493</u>
Equity	15		
Accumulated surplus		<u>192</u>	<u>493</u>
Total Equity		<u>192</u>	<u>493</u>
TOTAL LIABILITIES AND EQUITY		<u>266</u>	<u>530</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

CASH FLOWS

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	NOTE	2002-03 \$000	2001-02 \$000
CASH FLOWS FROM STATE GOVERNMENT			
Output Appropriations		545	1,200
Net cash provided by Government		<u>545</u>	<u>1,200</u>
Utilised as follows:			
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Employee costs		(327)	(323)
Supplies and services		(372)	(311)
GST payments on purchases		(81)	(76)
Other payments		(112)	(114)
Receipts			
Interest received		19	15
GST receipts from taxation authority		79	47
Net cash provided by/(used in) operating activities	16(b)	<u>(794)</u>	<u>(762)</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of non-current physical assets		(12)	(13)
Net cash provided by/(used in) investing activities		<u>(12)</u>	<u>(13)</u>
Net increase/(decrease) in cash held		(261)	425
Cash assets at the beginning of the financial year		<u>425</u>	<u>0</u>
CASH ASSETS AT THE END OF THE FINANCIAL YEAR	16(a)	<u>164</u>	<u>425</u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

I. Significant accounting policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated these policies are consistent with those adopted in the previous year.

General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector; together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect, are disclosed in individual notes to these financial statements.

Basis of Accounting

The statements have been prepared on the accrual basis of accounting using the historical cost convention.

(a) Output Appropriations

Appropriations are recognised as revenues in the period in which the Regulator gains control of the appropriated funds. The Regulator gains control of appropriated funds at the time those funds are deposited into the Regulator's bank account.

(b) Acquisitions of assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition. Assets acquired at no cost or for nominal consideration are initially recognised at their fair value at the date of acquisition.

(c) Depreciation of non-current assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner that reflects the consumption of their future economic benefits.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

Depreciation is calculated on the straight line basis, using rates which are reviewed annually. Useful lives for each class of depreciable asset are:

Refurbishment	3 to 20 years
Office equipment	8 years
Computer Equipment	3 to 5 years

(d) Cash

For the purpose of the Statement of Cash Flows, cash includes cash assets. These include short-term deposits that are readily convertible to cash on hand and are subject to insignificant risk of changes in value.

(e) Accrued Salaries

Accrued salaries represent the amount due to staff but unpaid at the end of the financial year; as the end of the last pay period for that financial year does not coincide with the end of the financial year. Accrued salaries are settled within a few days of the financial year. The Regulator considers the carrying amount approximates net fair value.

(f) Interest

Interest revenues are recognised as they are accrued.

(g) Payables

Payables, including accruals not yet billed, are recognised when the Regulator becomes obliged to make future payments as a result of a purchase of assets or services. Payables are generally settled within 30 days.

(h) Employee benefits

Annual leave

This benefit is recognised at the reporting date in respect to employees' services to that date and is measured at the nominal amounts expected to be paid when the liabilities are settled.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

Long service leave

The liability for long service leave expected to be settled within 12 months of the reporting date is recognised in the provisions for employee benefits and is measured at the nominal amounts expected to be paid when the liability is settled. The liability for long service leave expected to be settled more than 12 months from the reporting date is recognised in the provisions for employee benefits and is measured at the present value of expected future payments to be made in respect of services provided by employees up to the reporting date. Consideration is given, when assessing expected future payments, to expected future wage and salary levels including relevant on costs, experience of employee departures and periods of service. Expected future payments are discounted using market yields at reporting date on notional government bonds with terms to maturity and currency that match, as closely as possible, the estimated future cash outflows.

Superannuation

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's *Superannuation Guarantee (Administration) Act 1992*. All of these schemes are administered by the Government Employees Superannuation Board (GESB).

The liabilities for superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

(i) Resources Received Free of Charge or For Nominal Value

Resources received free of charge or for nominal value that can be reliably measured are recognised as revenues and as assets or expenses as appropriate at fair value.

(j) Comparative figures

Comparative figures are, where appropriate, reclassified so as to be comparable with the figures presented in the current financial year.

(k) Rounding

Amounts in the financial statements have been rounded to the nearest thousand dollars, or in certain cases, to the nearest dollar.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

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	2002-03 \$000	2001-02 \$000
2. Employee expenses		
Wages and salaries	323	297
Superannuation	33	25
Annual leave	0	2
Other related expenses	8	8
	<u>365</u>	<u>332</u>
3. Supplies and Services		
Consultants and contractors	354	317
Materials	10	7
Other	13	15
	<u>377</u>	<u>339</u>
4. Depreciation expense		
Computer equipment	5	3
Office equipment	2	1
Refurbishment	6	6
	<u>13</u>	<u>10</u>
5. Administration expenses		
Communications	14	16
Consumables	2	1
Maintenance	1	1
Other staff costs	21	21
	<u>38</u>	<u>39</u>
6. Accommodation expenses		
Lease rentals	53	49
Cleaning	2	2
	<u>55</u>	<u>51</u>

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	2002-03 \$000	2001-02 \$000
7. Other expenses from ordinary activities		
Minor equipment purchases	5	2
Catering and Entertainment	3	1
Library	4	0
Vehicle and Property Insurance	6	6
Vehicle and other lease charges	7	18
	<u>25</u>	<u>27</u>
8. Revenues from State Government		
Appropriation revenue received during the year:		
Output Appropriations (I)	545	1,200
	<u>545</u>	<u>1,200</u>
The following assets have been assumed from/(transferred to) other government agencies during the financial year:		
Refurbishments, Computer, Office Equipment	0	71
Total assets assumed/(transferred)	<u>0</u>	<u>71</u>
Resources received free of charge (II)		
Determined on the basis of the following estimates provided by agencies:		
Crown Solicitor's Office	1	0
Office of the Auditor General	6	3
	<u>7</u>	<u>3</u>
(I) Output appropriations are cash amounts reflecting the full cost of outputs delivered.		
(II) Where assets or services have been received free of charge or for nominal consideration, the Regulator recognises revenues equivalent to the fair value of the assets and/or the fair value of those services than can be reliably determined and which would have been purchased if not donated, and those fair values shall be recognised as assets or expenses, as applicable.		
9. Receivables		
Current		
GST receivable	32	28
	<u>32</u>	<u>28</u>

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

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10. Other assets

Current
Prepayments
Accrued Interest

2002-03 \$000	2001-02 \$000
0	5
1	2
1	7

11. Computer, office equipment and refurbishment

Computer equipment
At cost
Accumulated depreciation

31	19
(8)	(3)
23	16

Office equipment
At cost
Accumulated depreciation

14	14
(3)	(1)
11	13

Refurbishment
At cost
Accumulated depreciation

47	47
(12)	(6)
35	41
69	70

Reconciliations

Reconciliations of the carrying amounts of computers, office equipment and refurbishment at the beginning and end of the current financial year are set out below.

	Computers \$000	Office equipment \$000	Refurbishment \$000	Total \$000
Carrying amount at start of year	16	13	41	70
Additions	12	0	0	12
Disposals	0	0	0	0
Revaluation increments	0	0	0	0
Depreciation	(5)	(2)	(6)	(13)
Carrying amount at end of year	23	11	35	69

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

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	2002-03 \$000	2001-02 \$000
12. Payables		
Current		
Trade payables	28	25
	<u>28</u>	<u>25</u>
13. Provisions		
Employee Benefits		
Current		
Annual leave	2	2
	<u>2</u>	<u>2</u>
Employee Benefit Liabilities		
The aggregate employee benefit liability recognised and included in the financial statements is as follows:		
Provision for employee benefit:		
Current	2	2
	<u>2</u>	<u>2</u>
14. Other Liabilities		
Current		
Accrued expenses	6	4
Accrued salaries	38	6
	<u>44</u>	<u>10</u>
15. Equity		
Equity represents the residual interest in the net assets of the Regulator. The Government holds the equity interest in the Regulator on behalf of the community.		
Accumulated surplus		
Opening balance	493	0
Change in net assets	(301)	493
Closing balance	<u>192</u>	<u>493</u>

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	2002-03 \$000	2001-02 \$000
16. Notes to the Statement of Cash Flows		
(a) Reconciliation of cash		
Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:		
Cash assets	164	425
	<u>164</u>	<u>425</u>
(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities:		
Net cost of services	(853)	(781)
Non-cash items:		
Depreciation and amortisation expense	13	10
Adjustment for other non-cash items	7	3
(Increase)/decrease in assets:		
Current receivables	(4)	(28)
Other current assets	6	(2)
Increase/(decrease) in liabilities:		
Current payables	3	25
Current provisions	0	2
Other current liabilities	34	10
Net GST receipts/(payments)	(2)	(29)
Change in GST in receivables/payables	2	28
Net cash provided by/(used in) operating activities	<u>(794)</u>	<u>(762)</u>

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	2002-03 \$000	2001-02 \$000
17. Commitments for expenditure		
Lease commitments		
Commitments in relation to non-cancellable operating leases contracted for at the reporting date but not recognised as liabilities, are payable as follows:		
Within 1 year	61	51
Later than 1 year and not later than 5 years	173	187
	<u>234</u>	<u>238</u>

18. Contingent Liabilities

The Regulator has no contingent liabilities.

19. Events Occurring After Reporting Date

There is no event occurring after reporting date.

20. Explanatory Statement

(I) Significant variations between estimates and actual results for the financial year

Details and reasons for significant variations between estimates and actual results are detailed below. Significant variations are considered to be those greater than 10% or \$30,000 whichever is greater.

	2002-03 Actual \$000	2002-03 Estimates \$000	Variance \$000
Supplies and services	377	281	96

The variance is due to an approved carry-over of 2001-02 funds to complete a number of consultancies.

(II) Significant variations between actual results for the financial year and prior year actual

Details and reasons for significant variations between actual results for the financial year and prior year are detailed below. Significant variations are considered to be those greater than 10% or \$30,000 whichever is greater.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

OFFICE OF THE RAIL ACCESS REGULATOR ANNUAL REPORT 2003

	2002-03 Actual \$000	2001-02 Actual \$000	Variance \$000
Employee expenses	365	332	33
Supplies and services	377	339	38

The variances are due to the fact that the Office operated only for nine months during 2001-02.

21. Financial Instruments

(a) Interest Rate Risk Exposure

The following table details the Regulator's exposure to interest rate risk as at the reporting date:

FIXED INTEREST RATE MATURITY							
	Weighted Average Effective Interest Rate %	Variable Interest Rate \$000	Less than 1 Year \$000	1 to 5 Years \$000	More than 5 Years \$000	Non-Interest Bearing \$000	Total \$000
2002-03							
Financial Assets							
Cash assets	4.64	164	-	-	-	-	164
Receivables		-	-	-	-	32	32
		164	-	-	-	32	196
Financial Liabilities							
Payables		-	-	-	-	28	28
		-	-	-	-	28	28
2001-02							
Financial Assets	4.84	425	-	-	-	28	453
Cash assets		-	-	-	-	25	25

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

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b) Credit Risk Exposure

Receivable is the only financial instrument in which there is a credit risk exposure. The credit risk is represented by the carrying amount.

c) Net Fair Values

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in note 1 to the financial statements.

22. Remuneration of Members of the Accountable Authority and Senior Officers

Remuneration of Members of the Accountable Authority

The number of members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands is:

	2002-03	2001-02
\$50,001 – 60,000		1
\$70,000 – \$ 80,000	1	
The total remuneration of the member of the Accountable Authority is:	\$77,730	\$57,960

The superannuation included here represents the superannuation expense incurred by the Regulator in respect of a member of the Accountable Authority.

No member of the Accountable Authority is a member of the Pension Scheme.

NOTES TO THE FINANCIAL STATEMENTS (cont'd)

FOR THE YEAR ENDED 30 JUNE 2003

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Remuneration of Senior Officers

The number of Senior Officers other than senior officers reported as members of the Accountable Authority, whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands is:

	2002-03	2001-02
\$30,001 – 40,000		1
\$80,001 – 90,000		1
\$110,000 – 120,000	1	
The total remuneration of senior officers is:	\$113,650	\$120,211

The superannuation included here represents the superannuation expense incurred by the Regulator in respect of Senior Officers other than senior officers reported as member of the Accountable Authority.

No Senior Officer is a member of the Pension Scheme.

23. Segment Reporting

The Regulator has only 1 output therefore no segment report has been provided.