



Transport Administration Amendment (New South Wales and Commonwealth Rail Agreement) Bill.

Second Reading

Mr JOSEPH TRIPODI (Fairfield—Parliamentary Secretary) [8.16 p.m.], on behalf of Mr Craig Knowles: I move:

That this bill be now read a second time.

In September last year the Minister for Transport Services, and Deputy Prime Minister announced a historic agreement under which the Australian Rail Track Corporation [ARTC] would lease the New South Wales interstate and Hunter Valley lines. The Transport Administration Amendment (New South Wales and Commonwealth Rail Agreement) Bill represents the culmination of more than 100 years of evolution of the Australian rail network. It provides the framework by which management of the New South Wales rail network will become integrated with the rest of the national rail network. It is the last major plank in the national network's realignment.

At the time of Federation the State's rail systems had been developed as a series of stand-alone networks, radiating from the major ports to serve the hinterland and bringing rural produce and passengers to the major cities along the coast. Three separate track gauges were adopted by the States, effectively making their networks incompatible. The founders of Federation had the foresight to recognise explicitly their role in the Constitution, giving the Commonwealth the explicit power to deal with railways. Construction of the transcontinental railway was instrumental in bringing Western Australia into the Commonwealth and represented the beginning of the Commonwealth's direct involvement in the nation's railways.

After a long pause the involvement of the Commonwealth increased from the 1960s, as it pushed for a common gauge for the national rail network. Over the next two decades Melbourne, Perth and then Adelaide were linked to Sydney and Brisbane on the uniform gauge network. This network was completed in the mid 1990s with the standardisation of the Melbourne to Adelaide line. Management of the network also increasingly recognised the need for integration across State borders.

The Commonwealth take-over of the South Australian railways and improved co-operation between the State rail networks through the 1980s gave way to the creation of a single interstate rail freight operator, National Rail, in the 1990s. At the time of its establishment it had been expected that National Rail would also take over the national track network. The emergence of national competition policy in the early 1990s led instead to a recognition that the future of freight operations lies in competition between rail freight operators, which necessarily required the separation of the management of the track. The Commonwealth and New South Wales both followed this path, effectively precluding the take-up of the track by National Rail. In its place the Commonwealth established the Australian Rail Track Corporation, consistent with a 1997 intergovernmental agreement between mainland States and the Commonwealth.

The ARTC was established as a Corporations Law company with its shares wholly owned by the Commonwealth. It initially took on the railways then owned by the Commonwealth, and shortly afterwards took a lease of the interstate lines in Victoria. It subsequently entered into an arrangement to provide access for operators to the interstate lines in Western Australia. Importantly, this network is under the control of the Commonwealth, through the ARTC. During the past five years growth in general freight on the New South Wales rail network has been in excess of 30 per cent. This is a strong endorsement of the policies put in place by this Government. It is a tangible demonstration that the Government's strategy of separation and the introduction of private sector competition into rail freight operations have delivered genuine gains to the community.

However, to sustain this impressive growth requires change in the underlying management structure of the rail freight network. The long-term freight transport trend is away from the traditional hinterland to port pattern and toward interstate flows. The Commonwealth is well placed to provide the national context required to effectively manage this evolving transport pattern. Similarly, the Commonwealth holds primary responsibility for funding the national highway system. It is appropriate that it also take primary financial responsibility for the national rail system. The integration of the New South Wales rail network represents the last major piece in creating a true national rail network, managed as an integrated whole.

This Government believes that such integration is logical and sensible public policy, and the bill provides the framework for that integration. The three key features of the agreement with the Commonwealth and the ARTC are a 60-year lease to the ARTC of the non-metropolitan interstate main lines and the Hunter Valley; management by the ARTC of the country regional network; and the majority of country rail staff remaining employees of New South Wales. New South Wales remains vitally interested in intrastate trade flows and in ensuring that the freight needs of rural communities are met. To provide for the continued integrated management of the rural New South Wales network it has been agreed that the country regional network, that is, branch lines and non-interstate main lines, will be managed

by the ARTC on behalf of New South Wales.

This network will be managed through an alliance contract between New South Wales and the ARTC. The Rail Infrastructure Corporation [RIC] will retain ownership, and New South Wales will retain funding responsibility for these lines. An alliance board will be established to oversee these lines through the setting of key performance indicators. The Labor Council will be represented on the alliance board. The majority of country infrastructure maintenance and train control staff are to remain employees of the RIC and the State Rail Authority [SRA], though they will work for the ARTC. The ARTC will directly employ its New South Wales management, administrative staff, train control managers and infrastructure team managers or leaders. It is proposed that the ARTC lease and management arrangements will commence on 1 July 2004.

There are a number of other significant elements of the proposed arrangements. The Sydney metropolitan freight lines will be leased to the ARTC on similar terms to the lease of the interstate and Hunter Valley lines. It is proposed that this will commence on or after 1 January 2006, and conclude on the same date as the interstate lease. The ARTC is to undertake a five-year infrastructure investment program of \$818 million on the New South Wales network, plus a further \$52 million program on the Albury to Melbourne line in Victoria. This will include a contribution by New South Wales of \$61.9 million.

The centrepiece of the investment program is the construction by the ARTC of a new railway line, the southern Sydney freight line, within the existing railway corridor from Sefton Park near Chullora to Macarthur. This will allow segregation of freight and long-distance passenger services from electric suburban services in this corridor, and provide a dedicated freight track connecting the interstate rail network with Port Botany. The investment program will also provide for capacity and performance enhancement works on the interstate network to achieve Australian Transport Council targets, works for the Hunter Valley coal lines, and the upgrade and consolidation of train control and signalling systems.

Importantly, the ARTC has agreed to be bound by the New South Wales passenger priority principles. New South Wales will have the right to resume network control in cases of gross and persistent non-adherence by the ARTC to these obligations. The ARTC management of the network will be subject to New South Wales rail safety accreditation by the Independent Transport Safety and Reliability Regulator in accordance with the Rail Safety Act. The bill makes it clear that the ARTC is responsible for safety on the lease network and for seconded staff. The ARTC securing its accreditation is a condition precedent of the lease and other arrangements commencing.

The ARTC is currently part way through the necessary processes to secure its accreditation. Clear and achievable performance indicators are being established for performance under the contracts, including track performance and infrastructure condition. The track indicators will be directed at precluding a run-down of the asset. New South Wales is reserving the right to undertake capital works within the rail corridor, or to utilise the corridor for New South Wales Government purposes, such as laying of additional optic fibre or utility services.

An option has been provided for the ARTC to lease the Werris Creek to Boggabilla line to facilitate a Melbourne to Brisbane inland route, should the ARTC seek to proceed with this project. Any decision on the inland route will be a matter for the ARTC and the Commonwealth. There have been extensive discussions with the Commonwealth to ensure that New South Wales retains control in the event that the Commonwealth seeks to change the equity structure of the ARTC. It has been agreed that the Commonwealth will consult New South Wales in the event that it wishes to dispose of any of its interest in the ARTC. New South Wales will have an option to acquire back the ARTC's leasehold interest in the New South Wales rail network.

An important aspect of the implementation of the arrangements is the protection of the interests of current New South Wales employees. The original ARTC proposal was assessed by New South Wales against a set of 29 criteria developed in consultation with the unions. During the assessment of the proposal by New South Wales, an employee reference group was established to advise the unions of progress and provide a forum for feedback. In July 2003 the Labor Council was involved in, and signed-off on, 11 key objectives against which alternative models were considered to arrive at a preferred model.

Following extensive consultation with the unions and the Labor Council, it was agreed between New South Wales and the ARTC that most employees would remain employees of the New South Wales Government, rather than be transferred. This will allow staff to retain the benefits of being New South Wales public sector employees. In developing this model, the chairmen of the RIC and the ARTC undertook regular consultation with unions and the Labor Council. The ARTC will be recruiting approximately 290 staff, who will be direct employees of the ARTC. A transfer package has been put in place for country staff who resign from a New South Wales rail entity to take up employment with the ARTC.

No-one will be forced to apply for a position with the ARTC. The Government's policy of no forced redundancies applies to work force changes resulting from the ARTC lease. A joint consultative group with the Labor Council and rail unions has been established to provide a formal consultative mechanism during the implementation of the ARTC arrangements. I will flag, on behalf of the Government, that some amendments may be moved in the other place arising out of these ongoing discussions. We will further consult with the Labor Council and the ARTC in the coming weeks. Comprehensive arrangements have been put in place to preserve the existing conditions and entitlements of staff.

For infrastructure maintenance and train control employees working on the ARTC-managed lines, existing enterprise bargaining agreements [EBAs] and other industrial instruments will govern conditions of employment. Future EBAs will be negotiated with the RIC and the SRA, in consultation with the ARTC. Staff taking up positions with the ARTC will have a range of options for how to deal with their entitlements. Their options are set out in a comprehensive transfer package. Details of the transfer package are being communicated through their work force representatives and directly to staff through briefings and information packages. Country employees who resign from the RIC or the SRA to take-up employment with the ARTC will have a three-year employment guarantee.

The principal purpose of the bill is to give effect to the arrangements I have already set out. The bill enables the rail authorities to enter into each of the key agreements with the ARTC already outlined. It also makes a number of consequential changes to facilitate the agreements, including adjustments to the functions and objectives of the authorities and an amendment to the Conveyancing Act. The bill includes a number of provisions to ensure that New South Wales policy objectives are met. The ARTC is explicitly required to maintain the linear continuity of the network being leased to it. Its powers to deal in the land and infrastructure have been limited, including its ability to grant certain financial securities. This is primarily directed at ensuring that the ARTC cannot withdraw services from the network, and that there can be no indirect transfer of the network to a private sector entity. The bill precludes the ARTC from becoming involved in above-rail operations in New South Wales to preserve the New South Wales policy that rail freight operations should be separated from track ownership. The bill ensures that this industry structure is preserved.

As previously outlined, the arrangements provide strong protections for the New South Wales policy of passenger priority. New South Wales recognises that with such a long-term arrangement it is important to provide flexibility to deal with changes in circumstances. The bill provides clarity of the ability of New South Wales to acquire the ARTC's interest in the leased area, applying the principles of the Land Acquisition (Just Terms Compensation) Act. This will allow New South Wales to regain control of part of the lease network if there is a policy need to do so at some time in the future, for example, if New South Wales wanted to extend electrified commuter operations.

In the absence of legislative change, the ARTC would not be subject to any planning regulation. The bill creates a framework for the application of the Environmental Planning and Assessment Act to the ARTC to avoid this regulatory vacuum. This framework will allow a State environmental planning policy and regulations to bring the ARTC's management of the rail network under Part 5 of the Act. This section of the Act allows for the efficient and streamlined environmental management of linear infrastructure such as rail lines. The bill also contains various provisions to allow for the efficient administration of the arrangements and to provide for clarity in the application of New South Wales legislation to the ARTC. I commend the bill to the House.

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