From: San Midha
To: Benedicte Colin; michael.pratt; Stewart Walters
Cc: Peter Crimp; ; Victoria Jones; Cassandra Wilkinson; Jeanne Vandenbroek
Subject: Re: Access and Licence Fees - NSW Rail Access Undertaking
Date: Saturday, 18 December 2021 8:47:29 PM
Attachments: image002.png
image005.png

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Excellent Benedicte. Thanks making it happen.

From: Benedicte Colin
Sent: Saturday, December 18, 2021 8:40:27 PM
To: Michael Pratt ; Stewart Walters

Cc: San Midha ; Peter Crimp
; Victoria Jones
Cassandra Wilkinson ; Jeanne Vandenbroek

Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking

Attached is a copy of the letter with all signatures which I have just shared with the AO
Regards
Benedicte

From: Michael Pratt
Sent: Friday, 17 December 2021 4:54 PM
To: Stewart Walters ; Benedicte Colin

Cc: san.midha ; Peter Crimp ;
; Victoria Jones
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking

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Thanks Stewart. Apologies for the timelines everyone but need done over the weekend to meet AG deadlines.
This will enable tabling with AO by Monday to progress signoff of accounts.
Thank you Mike

From: Stewart Walters
Sent: Friday, 17 December 2021 4:49 PM
To: Benedicte Colin
Cc: Michael Pratt ; San Midha ; Peter Crimp ;
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking

Hi Benedicte

Many thanks for this.

Mike has spoken with the Auditor General.

Please can you proceed to organise for this version of the letter and attachment to be executed by the respective parties asap but not later than end of the weekend.

This will enable provision to the Audit Office before Monday and facilitate audit close out for TAHE and the State Accounts in order to sign by end of next week.

Apologies in advance for the tight timeframe, your team has been so helpful this past few weeks and is much appreciated.

Regards

Stewart

NSW GOVERNMENT | Treasury

Stewart Walters | Chief Financial and Operations Officer
Finance and Operations Group
52 Martin Place, Sydney (enter via 127 Phillip Street)

Angela Kirby, Executive Assistant

I acknowledge and pay my respects to the traditional owners and custodians on whose land I walk, work and live.

Proudly supporting d&i diversity & inclusion

From: Benedicte Colin
Sent: Friday, 17 December 2021 3:18 PM
To: Stewart Walters
Subject: FW: Access and Licence Fees - NSW Rail Access Undertaking
Importance: High

Hi Stewart
Please see attached revised draft
It is not yet agreed by Transport so again would ask that this document is not circulated outside the Treasury team
Regards
Benedicte

From: George Roins
Sent: Friday, 17 December 2021 2:43 PM
To: Peter Perdikos ; Trudi Mares ; Brenda Hoang <
Cc: Benedicte Colin ; Peter Crimp
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking
Importance: High

Hi Peter

Attached is a further revised draft letter agreement (with attachment), marked up against the clean version I circulated yesterday afternoon.

Please let us know if you have any questions/comments.

Regards

George

George Roins
General Counsel and Company Secretary
Transport Asset Holding Entity of New South Wales

470 Pitt Street, Haymarket NSW 2000

From: George Roins
Sent: Thursday, 16 December 2021 3:37 PM
To: Peter Perdikos ; Trudi Mares ; Brenda Hoang
Cc: Benedicte Colin ; Peter Crimp
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking
Importance: High

Hi Peter

Further to my email below, attached is a further marked up and clean copy of the draft letter agreement.

We have incorporated your comments and also suggested a few minor additional amendments.

Could you please let us know if you have any final comments today as we are intending on tabling the letter agreement at our Board meeting tomorrow in order to provide the Board with some assurance that the parties will work collaboratively to implement the revised access and licence fees to support the revised valuations.

Please let me know if you have any questions or wish to further discuss.

Regards

George

George Roins
General Counsel and Company Secretary
Transport Asset Holding Entity of New South Wales

470 Pitt Street, Haymarket NSW 2000

From: George Roins
Sent: Thursday, 16 December 2021 8:55 AM

To: Peter Perdikos ; Trudi Mares ; Brenda Hoang
Cc: Benedicte Colin ; Peter Crimp
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking
Importance: High

Hi Peter

Thank you for your comments.

In response:

1. NSW Trains address – I think the correct address is Administration Building, 4 Lowden Square Wollongong NSW 2500; and

2. The phrase "to maximise the net worth of the State's investment in TAHE" was taken directly from a letter sent by The Treasurer to the Chair of TAHE on 14 December 2021 which stated as follows:

   "Following discussions between TAHE, Treasury and the Office of the Auditor General, the shareholders have determined to strengthen TAHE's trajectory of commercial returns to maximise the net worth of the State's investment in the SOC."

   I'll check with PC, but my view is that we can probably delete it.

I'll circulate a revised marked up version for final review.

Thanks again!

Regards

George

George Roins
General Counsel and Company Secretary
Transport Asset Holding Entity of New South Wales

470 Pitt Street, Haymarket NSW 2000

From: Peter Perdikos
Sent: Thursday, 16 December 2021 8:04 AM
To: George Roins ; Trudi Mares ; Brenda Hoang
Cc: Benedicte Colin ; Peter Crimp
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking

Morning George

Pls see attached feedback from Trudi and I.

Thanks
P

From: George Roins
Sent: Wednesday, 15 December 2021 7:21 PM
To: Peter Perdikos ; Trudi Mares ; Brenda Hoang
Cc: Benedicte Colin ; Peter Crimp
Subject: RE: Access and Licence Fees - NSW Rail Access Undertaking
Importance: High

Hi Trudi, Brenda and Peter

Further to Benedicte's email below, attached is a copy of the draft letter agreement between TAHE, TfNSW, ST and NSWT which purports to deal with the proposed increase to access and licence fees.

Could you please review and provide us with any comments as a matter of priority.

Please let me know if you have any questions.

Regards

George

George Roins
General Counsel and Company Secretary
Transport Asset Holding Entity of New South Wales

470 Pitt Street, Haymarket NSW 2000

From: Benedicte Colin
Sent: Wednesday, 15 December 2021 5:25 PM
To: Peter Perdikos ; Rob Sharp ; Trudi Mares
Cc: Rachel Muscat ; Peter Crimp ; George Roins
Subject: Re: Access and Licence Fees - NSW Rail Access Undertaking

Thank you Peter for sharing this advice prior to TAHE and Transport agreeing to change the access and licence fees pricing.

It will be important that we agree a roadmap for the renegotiation, using the process already embedded in the agreements and that we document the methodology supporting the increase in pricing for future reviews.

It will also be important to engage with IPART during that process so we are best prepared for the compliance submission (which will be a first for the Sydney Trains and NSW trains agreement) noting that the preferred approach is for the price increase to take effect on 1 July 2022.

George Roins has prepared a draft letter to document an in principle agreement to amend the pricing consistent with the State revised target return expectations , which he will share with you .

Best regards
Bénédicte

Chief Executive Officer
Transport Asset Holding Entity (TAHE) NSW

470 Pitt Street, Haymarket NSW 2000

From: Peter Perdikos
Sent: Wednesday, December 15, 2021 1:59 pm
To: Rob Sharp; Trudi Mares; Benedicte Colin
Cc: Rachel Muscat
Subject: Access and Licence Fees - NSW Rail Access Undertaking

OFFICIAL: Sensitive – NSW Government

Afternoon Trudi, Benedicte, Rob

TfNSW and TAHE have been working together over the past few days to build an understanding of how changes to access and licence fees in coming FYs, align to the NSW Rail Access Undertaking.

Within TfNSW we have worked with SMEs who have extensive background in the NSW RAU and network pricing (from CST) and we have worked with Benedicte and her team in gaining a better understanding on quantum and timing of revised fees.

Below are a range of points for your review and consideration.

Happy to discuss further and we can bring in the relevant SMEs for more detailed discussions as necessary.

Thanks
P

Access and Licence Fees

IPART Role

- Under the Transport Administration Act 1988, the NSW Rail Access Undertaking provides for third party access to the rail network in NSW not covered by other access regimes such as ARTC's Undertakings with the ACCC.
- The Undertaking specifies the pricing principles that rail owners must apply in negotiating access prices.
- The Undertaking requires IPART to assess the annual compliance of rail infrastructure owners with these provisions, and also review, every five years, the rate of return and depreciation that rail owners must apply when setting maximum prices.
- Essentially, this requires TAHE to demonstrate to IPART's satisfaction that access revenue is not more than 100% of the full economic cost of providing access under the Ceiling Test for any access seeker or group of access seekers (for example freight operators as a whole).

- IPART makes its assessment using a building block cost methodology as set out in the Undertaking, including an efficiency assessment of the costs incurred by rail infrastructure owners.

Rate of Return

- In 2019, IPART determined that the rate of return that should apply from **1 July 2019 is 5.3% per annum on a real, post-tax basis**.
- Indicative access charges for Rail Operators will increase from 1.5% this financial year, to 4.15% next financial year and beyond. This is within the return set by IPART in its 2019 decision.
- It is important to note that scope of the Undertaking and IPART role is across the regulated asset base – reflecting access fees.
- Licence fees as agreed between TAHE, TfNSW and Rail Operators for non-regulated assets are not subject to the Undertaking or IPART regulation.

Negotiating Access and Licence Fees

- In agreements entered into effective 1 July 2021, TAHE, TfNSW and rail operators have agreed on governance and process to review and negotiate access and licence fees on an annual basis.
- Aligning to these agreements, all entities will meet in Q3 of this financial year to negotiate forward year access and licence fees
- The final agreed access fees will be reviewed to ensure alignment to the Undertaking.

Background Information

- Benchmarks for unregulated assets remain a focus area between TfNSW and TAHE. Further work is required to better and more accurately provide benchmarks to assist in licence fee determination, noting that these assets are not subject to the NSW RAU or IPART regulation.
- Access and licence are currently aggregated with a 4.15% rate of return calculated beginning next FY and beyond. This will form the base case rate of return for unregulated assets.
- TfNSW and TAHE we will together in coming months to build the evidence base to inform negotiations on access and licence fees.

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