

NOTICE

DRAFT DETERMINATION

The Pilbara Infrastructure's proposed segregation arrangements

The Economic Regulation Authority today issued its draft determination on the segregation arrangements submitted by The Pilbara Infrastructure Pty Ltd (TPI) for its Pilbara railway.

The draft determination is to not approve the proposed segregation arrangements and the Authority has identified 22 amendments it requires before approval can be given. The Authority's [draft determination](#), the [proposed segregation arrangements](#) and the [public submissions](#) received on them are available on the Authority's web site.

TPI's railway became subject to the *Railways (Access) Act 1998* and the *Railways (Access) Code 2000* on 1 July 2008, when Part Three of the *Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004* was proclaimed. TPI submitted its proposed segregation arrangements to the Authority for approval on 3 July 2008, as required under the Act.

Key Issues

TPI proposed a staged approach to implementing its segregation arrangements under which it would not put in place all of its proposed segregation requirements until six months before the start of the first third party access seeker's rail operations.

The Authority does not consider that TPI's proposed staged approach is consistent with the Act and has set out an amendment (Amendment 5) requiring the company to remove all references to such an approach.

TPI also proposed to prepare and provide to the Authority for approval a segregation manual to further explain its segregation arrangements. The Authority's draft determination requires that the final determination be based on consideration of both the segregation arrangements and segregation manual and that the Authority would seek public comment on the manual.

The Authority has noted in its draft determination that in assessing TPI's proposed segregation arrangements it referred to similar documents approved for WestNet Rail in 2003, when it was part of a vertically integrated rail organisation.

It should also be noted that the Authority commissioned a consultant, PricewaterhouseCoopers, to provide advice on TPI's proposed segregation arrangements and the public submissions to assist the Authority in preparing its draft determination. The PricewaterhouseCooper's report is available on the Authority's [web site](#).

Public Submissions

Submissions are invited from interested parties on the Authority's draft determination. All submissions should be in both electronic and hard copy form and must be received **by 4:00pm WST, Friday 30 January 2008**.

Written submissions should be mailed to:

Mr Jeremy Threlfall
Assistant Director Rail
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Electronic submissions should be made to: railnetworks@era.wa.gov.au

In general, submissions made to the Authority will be treated as in the public domain and placed on the Authority's web site. Where an interested party wishes to make a submission in confidence, it should clearly indicate the parts of the submission for which confidentiality is claimed and specify in reasonable detail the basis for the claim. Any claim of confidentiality will be considered in accordance with the provisions of Section 50 of the Code.

The publication of a submission on the Authority's web site shall not be taken as indicating that the Authority has knowledge either actual or constructive of the contents of a particular submission and, in particular, whether the submission in whole or part contains information of a confidential nature and no duty of confidence will arise for the Authority.

For further information contact:

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CHAIRMAN
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