

December 2024

About the ASU

The Australian Services Union (ASU) is one of Australia's largest unions, representing over 135,000 members across diverse industries.

In Tasmania, the ASU represent workers at number of state-owned companies and government business enterprises. This includes, but not limited to, TasNetworks, Hydro Tasmania and TasWater.

ASU members work in a variety of different roles across these government businesses in Tasmania. They are passionate about their work and invested in the effective governance of these government businesses.

Accordingly, the ASU welcomes the opportunity to make a submission to the Tasmanian Department of Treasury and Finance on its proposed Government Business Governance Reforms.

Introduction

This submission sets out our perspective on public ownership and governance reforms of government businesses in Tasmania. Through this submission we make a series of recommendations for consideration. These are listed below in the next section and expanded upon throughout the submission.

We believe that governance reforms offer an opportunity to reaffirm a commitment to public ownership or at least ensure that any reassessment of public ownership is comprehensive and thorough. Including ensuring that any operating model of these critical public services is not corporatised for the purposes of profit.

The Tasmanian government has the opportunity to recognise the role of unions and include them in workplace assurances. We also strongly endorse the creation and implementation of a Fair Jobs Code like Victoria and workers councils as another mechanism for assisting the shareholding ministers.

We welcome the Tasmanian government's review of governance in government businesses and aim of establishing best practice and a nation leading approach.

Recommendations

1. TasNetworks, Hydro Tasmania and TasWater should remain as separate entities ensuring that their sole purpose is for the delivery of services to the community.
2. Any assessment of public ownership's appropriateness should strongly consider the inherent market conditions, including barriers of entry, demand elasticity, jobs moving offshore or to the mainland, and the effects on the workforce.
3. Any assessment of public ownership's appropriateness should seek advice and review by the Australian Consumer and Competition Commission (ACCC), outside of the required engagement.
4. Any assessment of public ownership's appropriateness and any plans for divestment and restructuring, in whole or in part, should be open to input and proactive consultation from the workers affected.
5. Any assessment of public ownership's appropriateness should be freely open to the Tasmanian public's input.
6. The government should establish and implement "workers' council" within government businesses to provide advice to board and minister on the performance and direction of operations and projects.
7. The government should recognise and include the role of unions as a participant in expert assurance reviews of workplace culture and work health and safety. This includes workplace delegates and health and safety representatives.
8. The government should implement a 'Fair Jobs Code', using the purchasing power of the Tasmanian government, through procurement procedure and policies, to promote strong labour standards and employment for Tasmanians.

1. Retention of Public Ownership

We recommend the Tasmanian government should retain public ownership and accountability in TasNetworks, Hydro Tasmania and TasWater. In the context of TasWater, it should remain a public service run in the interests of Tasmanians, that is, not profit making and retain the important connection with Local Government given the inherent relationship with local communities.

Ensuring that Tasmanians get a say over the services that they rely on and guarantees that the primary incentive of these companies is to generate public benefit rather than profitability.

We also hold that any divestment in public ownership will produce negative effects for the public because of the inherent market conditions of these goods and services. Including the inelastic demand of energy and water, the high fixed capital investment costs, the geographical immobility of production and consumption, and more.

Under these market conditions the benefits of market competition are limited. We also hold that the assumption that the private sector will perform better in terms of service delivery, quality and pricing is false.

However, if divestment of public ownership were to be considered, we recommend the government should conduct a review regarding the likelihood of these negative market outcomes through extensive economic analysis and open consultation with workers, unions and the Tasmanian public. This process should not be rushed and transparent timelines would be required which has not been identified in the current scope.

2. Assessment and Consultation of Public Ownership

To ensure that any government decision around public ownership is best placed for the Tasmanian economy, and that Tasmanian policy is best practice and presents a nation leading approach, requires a comprehensive consultation with stakeholders and analysis of the market.

We recommend the Tasmanian government should strongly consider the market conditions in which public ownership occurs. The elasticity of demand and how this will affect the price mechanism and allow for monopolistic market operations. The barriers of entry into the market, arising from the inherent requirements in production, including factors like physical capital, human capital, natural resources, and available technology. Whether the market is prone to market failure through factor immobility of labour, physical capital, human capital and so on. The outcome of a private market with factor immobility and whether this reduces Tasmanian employment consequentially preferencing mainland employment is not a desired outcome.

The effects on the labour market and human capital development. Whether the market is prone to market failure should also include more common understandings of market failure like public goods or common goods.

This should include any functional non-excludability of market operations. In other words, Tasmanians need access to electricity to maintain a reasonable standard of living. Exclusion from these goods and services could constitute a human rights violation or at least be unethical. The Tasmanian government cannot permit this to occur. Therefore, these goods are functionally non-excludable, which can create additional costs through government support programs and regulatory costs. These should be accounted for.

To assist with ensuring a comprehensive analysis of the market conditions, the Tasmanian government should seek advice and review from the ACCC, beyond its required engagement.

A part of this process of a comprehensive review, and to inform market analysis, should be the open and encouraged engagement with workers affected. Throughout the process they should be informed about what is being reviewed, why it's being reviewed, and any possible outcomes being considered.

This engagement and consultation should be extended to the Tasmanian public and again being communicated through a staged process of what is being reviewed, why it's being reviewed and any possible outcomes. However, we recommend this process of engagement should be distinct from the workers consultation.

3. Governance Reforms of Public Ownership

To establish Tasmanian policy as best practice and a nation leading approach, we recommend the government strongly consider the establishment of workers' councils within the government business workplaces. For these councils to be elected by workers and serve the purpose of providing feedback and advice to the board and shareholding ministers.

The creation of workers' councils will allow shareholding ministers and their offices the ability to directly communicate with respected members of the workplace. It presents a strong opportunity for better understanding of the operational and project issues to higher level of detail, offer advice on workplace culture and work health and safety issues, and proactively communicate to the board and shareholding ministers any issues.

This additional governance mechanism will not replace the board. It will function to supplement the board and ministers' supervision, direction and decision-making. This type of arrangement already exists at a European Union level, prominently in Germany and recently added in France.

Workers' councils in government businesses offers better understanding of opportunities for microeconomic improvements through both market operations and organisational efficiency. The workers' council can also provide information to the minister to better scrutinise the board decision-making or at least inform the shareholding ministers of projects and operations which should be worth investigation or monitoring. This reform would be nation leading and generate best practice governance.

We also recommend the government should recognise the role of unions in ensure good governance in workplaces especially through reviewing workplace culture and work health and safety and that they include unions in the process of external expert assurance. Including the workplace delegates and health and safety representatives.

We recommend that The Tasmanian government establish of a procurement policy for government businesses which preferences employers which do not breach industrial law such as the Fair Work Act or Industrial Relations Act in Tasmania. This should also include preferences towards local Tasmanian employers.

This allows for the government to use its purchasing power and market position in the economy to raise and maintain labour standards and bring jobs back to Tasmania. This arrangement was created in Victoria through the Fair Jobs Code. Our recommendation is adopting a similar procurement policy in Tasmania.

Conclusion

The ASU firmly opposes privatisation of government businesses and believes generating public benefit and ensuring equitable access to essential services must be a priority in any review. Especially in TasNetworks, Hydro Tasmania and TasWater.

We recommend a comprehensive and transparent process for assessing the appropriateness of public ownership, informed thorough consultation and extensive economic analysis.

We recommend the establishment of workers' councils, the involvement of unions in assurance reviews of government businesses and the implementation of a 'Fair Jobs Code' to support local employment and high labour standards.

We hold that if all these recommendations were to be implemented, Tasmania will be a significant step closer to best practice and offer nation leading approach to corporate governance and government business operations.