



Secretary
Department of Treasury and Finance
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Dear Secretary

GOVERNMENT BUSINESS GOVERNANCE REFORM DRAFT PLAN NOVEMBER 2024

As an interested Tasmanian, a Fellow of the Australian Institute of Company Directors (AICD), a Fellow of the Chartered Governance Institute (CGI) and a Life Member of the Governance Institute of Australia (GIA), I would like to provide feedback on several issues for consideration in *Government Business Governance Reform*. I hasten to add that the feedback provided is my opinion and in no way should be construed as an official view of either of the AICD, FGI of GIA.

It is very clear that the current problems have arisen as a result of poor overall governance, at a number of levels, and my comments are intended to assist in improving the governance regime.

I support, in general, the proposed reforms to improve transparency, accountability and efficiency of the Government's business portfolio but do not think that there is a need to undertake any amalgamations. Creating a 'shiny new' GBE structure will not address the fundamental governance failures highlighted by the current problems with the TT Line and TasPorts. The rationale for my position is contained in the attachment.

I would be happy to discuss any aspect of the feedback provided.

Yours sincerely

Chris Wells

Feedback on the Government Business Governance Reform Draft Plan November 2024

A. General

It is understandable that the Government is reviewing the performance and accountability of Government following the issues surrounding the development of the new berthing facilities for the new TT Line vessels.

As an interested Tasmanian, a Fellow of the Australian Institute of Company Directors (AICD), a Fellow of the Chartered Governance Institute (CGI) and a Life Member of the Governance Institute of Australia (GIA), I would like to provide feedback on several issues for consideration in *Government Business Governance Reform*. I hasten to add that the feedback provided is my opinion and in no way should be construed as an official view of either of the AICD, FGI of GIA.

I have formulated my opinion based upon:

- a) Reviewing the recent Annual Reports of both the TT Line and TasPorts;
- b) Viewing a large portion of the proceedings of the Legislative Council Public Accounts Committee hearings, chaired by Ruth Forrest MLA;
- c) Viewing the attendance of the TasPorts and TT Line representatives at the Scrutiny Committee hearings;
- d) Following the public debate in the media;
- e) A view that the issues surrounding the development of the new berthing facilities have arisen because of deficiencies in:
 - a. Governance of the two entities;
 - b. Shareholder minister(s) oversight of the GBEs;
 - c. Reporting and management of organisation Risks and Issues;
 - d. TT Line undertaking infrastructure developments outside of its area of expertise;
 - e. TasPorts
- f) An acknowledgement that some issues raised maybe in place.

It is very clear that the current problems have arisen as a result of poor overall governance, at a number of levels, and my comments are intended to assist in improving the governance regime.

B. Recommended considerations for Government

It is recommended that the Government:

1. Discontinue consideration of amalgamating the TT Line, TasPorts and Tas Rail.

2. Establish a Governance Oversight Group(s) tasked with providing a regular review of risks, issues management and performance across all GBEs and SOCs and to assist the Shareholder Ministers with the governance of the relevant GBE.
3. Ensure that, in relation to Risk and Issue Management, there are:
 - a. Shared Risk Appetite Statements.
 - b. Standardised Risk Frameworks.
 - c. Well documented identification of Issues and how these issues are to be resolved, by whom, and by when.
 - d. Reporting of risk and issues are standardised in the Annual Reports of GBEs and SOCs.
4. Confirm that there will be no State Service representation on Boards as a matter of general practice.
5. GBEs and SOCs be required to consult and, where deemed appropriate, utilise the services of Infrastructure Tasmania in the Department of State Growth when contemplating undertaking any major infrastructure project.
6. Ensure that all members of the Board of a GBE or SOC are suitably qualified, receive a thorough induction (including the roles and responsibilities of a Stakeholder Minister) and undertake regular training.
7. Ensure that Stakeholder Ministers and ministerial staff are equipped to fulfil their roles effectively.

C. Background to recommendations

1. *Discontinue consideration of amalgamating the TT Line, TasPorts and Tas Rail.*

If improved governance is introduced, then the need to undertake any amalgamations is not necessary. Creating a 'shiny new' GBE structure will not address the fundamental governance failures highlighted by the current problems with the TT Line and TasPorts.

Reviewing the circumstances that have led to this major failure, it is clear that there has been significant failure in governance from the management, GBE Boards and Stakeholder Ministers. If this failure in governance at all levels is addressed, then the current GBE model should be continued, on the proviso that new Ministerial Charters and Statements of Expectations are established.

Any major organisational structural change is disruptive and will impact an organisation's ability to focus on day-to-day business when there are

significant initiatives to deliver (new ships, new berthing and terminal facilities, disposal of current ships etc). An amalgamation at this stage could result in further problems for the Government rather than 'a fix' to the current issues.

Grouping related industries may provide strategic alignment but it will dilute focus and expertise, which could lead to further major issues in the future. The following details the benefit of maintaining separate governance structures for the entities:

- a. Boards with sector-specific expertise are better equipped to understand and address the nuances, issues, risks, and opportunities of individual industries.
- b. This is particularly important in highly regulated or technical sectors like shipping or rail, where specialised knowledge is crucial.
- c. A narrower focus enables boards and management teams to develop tailored strategies and allocate resources effectively to meet industry-specific objectives.
- d. Industry-specific boards can more effectively manage and mitigate risks unique to their sector, ensuring compliance with regulations and standards.
- e. Risk management could become less effective if sector-specific risks (e.g., maritime safety for shipping vs. infrastructure risks for rail) are overshadowed by broader considerations.
- f. Smaller, focused entities are often more agile in responding to industry trends, technological changes, or market disruptions.

In Addition:

- g. A broad coalition may require directors with expertise across multiple industries, which may be challenging to find. Alternatively, boards may lack the depth of expertise needed to address highly technical or specialised sectors effectively.
- h. Combining industries with differing operational models and regulatory frameworks (e.g., rail and shipping) may lead to inefficiencies or conflicts in priorities.
- i. Broad governance structures may slow decision-making as competing priorities and interests are balanced.
- j. A board overseeing multiple industries may struggle to give sufficient attention to the unique challenges and opportunities of each sector, particularly if they vary in complexity.
- k. Combining industries may have the effect of diluting the information reported to a shareholder minister, which could lead to a bigger problems arising.

2. *Establish a Governance Oversight Group(s) to regularly review risks and performance across GBEs and SOCs.*

It appears that there has been a failure of the oversight provided by the shareholder Minister(s) which has contributed to the current problems. It is recognised that Ministers have a heavy workload and must rely on the advice and recommendations from Heads of Agencies, Chairs of Boards and support from their respective ministerial staff.

In order to assist Shareholder Ministers, it is recommended that a central Oversight Group is established that is tasked with providing regular review of risks and issues management, and performance across all GBEs and SOCs in the Stakeholder Ministers portfolio and providing advice to the relevant Stakeholder Ministers. The group should ensure a strengthened oversight of GBEs and SOCs whilst maintaining operational independence.

Introducing this model recognises the special relationships that exist between Government and its GBEs and SOCs. From a general public perspective, Government is responsible for the outcomes achieved by its GBEs and SOCs. Establishing the GBE and SOC framework greatly assists with the management of the entities, but it doesn't negate the reality that 'the buck stops with the Government'.

Establishing an Oversight Group should ensure that there is transparent communication between the relevant Board and Stakeholder Ministers. This additional step in the governance structure should provide Stakeholder Ministers with the additional comfort that the entities performance, risks and mitigation strategies are communicated effectively to Government stakeholders and, where appropriate, to the public.

The composition of the group(s) should be determined by the relevant Stakeholder Ministers but should have the ability to seek additional specific expertise if deemed necessary. It is envisaged that the group(s) would have responsibility for the various GBEs or SOCs under the responsibility of each Stakeholder Minister.

The detailed roles and responsibilities should be determined by the relevant Ministers.

3. **Ensure that, in relation to Risk and Issue Management, there are:**
 - a. **Shared Risk Appetite Statements**
 - b. **Standardised Risk Frameworks**
 - c. **Well documented identification of Issues and how these issues are to be resolved, by whom, and by when.**

In addition to the 'Improve Governance' recommendations included in section 2 of the Draft Plan, in relation to Risk and Issue Management, Stakeholder Ministers overseeing GBEs and SOCs should ensure that there are:

- a. Shared Risk Appetite Statements, to ensure common risk appetite guidelines for areas of shared risks, such as infrastructure, climate change or public service delivery, while allowing flexibility for entity-specific objectives.
- b. Standardised Risk Frameworks, to ensure that there is an established standardised risk management frameworks that address common risks such as financial sustainability, infrastructure, regulatory compliance, cybersecurity, and stakeholder trust.
- c. Well documented identification of issues, to ensure that there is a clear understanding of the issue, how it is proposed to resolve the issue, who is responsible to ensure the issue is resolved and by when.

General comment in relation to risks versus issues.

In order to ensure that management and staff of a GBE or SOC understand the difference between a risk and an issue it is generally recognised that:

- Risk is an uncertain event, which has positive or negative effect on the business.
- Issue is a current event which requires an immediate action in order to minimize negative effect on the business.

Using these definitions, it is easier to identify important difference between risks and issues:

- Risks are uncertain and only likely to happen, as for issues, they happen currently (or happened recently) and there is no doubt about them.
- From a business point of view both risks and issues affect the business, and whilst you can mitigate risks you must act on issues.

This results in different management approaches for risks and issue:

- There are more different ways to manage risks than issues, e.g. you can avoid, mitigate or enhance a risk.

- Issues usually require immediate action.

Despite these differences there are many commonalities between issues and risks and management frameworks are very similar. A clear understanding of the nature of these two close things will definitely help manage both of them more effectively.

It would appear from the public debate and the comments of representatives of the TT Line and TasPorts in various hearings and statements, the management of risks and issues could have been improved.

The Annual Reports of both the TT Line and TasPorts for the E/F/Y 2024 have been reviewed and whilst both entities claim to have a robust risk management regime in place, there is a difference in the reporting of major risks. Of the two entities, the TT Line identifies major risks in its report but failed to identify the risk of Berth 3 not being ready for the arrival of the new Ships.

At the hearing held during the w/e 6 December 2024, the Interim Chair of the TT Line stated that he raised concerns about Berth 3 with the then Chair in April 2024. Given that the Interim Chair is also the chair of the Audit and Risk Committee, it is surprising that the risks associated with the berth not being ready were not identified much earlier.

Improving risk and issue management, together with the additional review by the proposed Governance Oversight Group will provide added scrutiny and, if necessary, allow the Stakeholder Minister(s) to raise matters with the relevant Board.

4. *Confirm that there will be no State Service representation on Boards as a matter of general practice.*

There has been some discussion about the potential to have Public Sector representation on Boards. While government representation may be necessary in extreme circumstances, the majority of the board should have commercial expertise and senior government officials generally do not serve as directors so to maintain independence.

5. ***GBEs and SOCs be required to consult and, where deemed appropriate, utilise the services of Infrastructure Tasmania in the Department of State Growth when contemplating undertaking any major infrastructure project.***

Given the recent problems associated with the berthing facilities at Devonport it is recommended that the GBEs and SOCs be required to consult and, where deemed appropriate, utilise the services of Infrastructure Tasmania in the Department of State Growth.

The function of this division in State Growth (as outlined in the Departments Annual Report), is to provide expert advice and best practice infrastructure services to improve social, economic, cultural and environmental outcomes for all Tasmanians.

It delivers solutions through:

6. providing expert advice on infrastructure and land use planning
7. promoting and managing infrastructure investment and delivery improvements
8. leading major infrastructure and capital projects for government
9. developing policy, strategy, governance, and legislative reforms.

The charter of Infrastructure Tasmania appears to fulfil the coordinating role that seems to have been lacking in the Devonport berthing facility for the Spirit of Tasmania ships.

Had the Stakeholder Minister or the Board of the TT Line, sought advice and assistance from this specialist group within government, then earlier intervention would have occurred and hopefully avoided the current situation. It was reported at the GBE Hearings that, at the request of the Stakeholder Minister, Infrastructure Tasmania is now involved and assisting bring the project to completion. Making it a requirement that Infrastructure Tasmania is consulted would be an additional safeguard, particularly when an infrastructure project is outside of the normal business of the GBE or SOC.

6. ***Ensure that all members of the Board of a GBE or SOC are suitably qualified, receive a thorough induction (including the roles and responsibilities of a Stakeholder Minister), understand the unique considerations for GBEs and SOCs and undertake regular training.***

There are specific governance recommendations for Government Business Enterprises (GBEs) and State-Owned Companies (SOCs) provided by the **Australian Institute of Company Directors (AICD)**, the **Governance Institute of Australia (GIA)**. These

recommendations recognise the unique challenges GBEs and SOC face, such as balancing commercial objectives with public policy obligations and ensuring accountability to both government and stakeholders.

There are unique considerations for Boards of a GGE or SOC including:

- a. **Balancing Objectives:** Boards must carefully balance commercial profitability with non-commercial objectives, such as community service obligations.
- b. **Stakeholder Management:** Boards must manage relationships with multiple stakeholders, including government shareholders ministers, regulators, and the public.
- c. **Political Neutrality:** Governance practices should ensure boards remain politically neutral while adhering to government policies.

Newly appointed directors should receive tailored inductions, including:

- a. An overview of government policy frameworks.
- b. Insight into public accountability and transparency expectations.
- c. Ongoing professional development is crucial to keep directors informed about changes in public sector governance and industry trends. Both the **Australian Institute of Company Directors (AICD)**, the **Governance Institute of Australia (GIA)**, provide training for board members and senior personnel in relation to 'good governance'.

7. *Ensure that Stakeholder Ministers and ministerial staff are equipped to fulfil their roles effectively.*

A shareholder minister and their staff must be equipped to fulfill their roles effectively. Accordingly, they should be provided with governance training and attend workshops or briefings on interpreting reports and understanding GBE operations.

Ministerial staff should interact with the relevant Governance Oversight Group where their minister is the Stakeholder Minister to ensure that the minister is fully informed.

Further Feedback on the Government Business Governance Reform Draft Plan November 2024

I forwarded comments/feedback on the above draft plan on 8 December 2024. Since forwarding the I have received a copy of advice from the Deputy Premier on another, but related matter.

I believe that the response exposes another situation where the establishment of a Governance Oversight Groups(s) and a requirement that GBEs and SOCs consult and, where deemed appropriate, utilise the services of Infrastructure Tasmania when contemplating undertaking any major infrastructure project would have improved the likelihood of a sensible outcome.

Similarly, amalgamating GBEs or SOCs would not have resulted in the outcome sought as there is no direct synergy between TasPorts and TasWater so the chances of those two GBEs being amalgamated is remote.

Adopting the initiatives outlined in my previous feedback will ensure that infrastructure projects are coordinated, improve outcomes achieved and overall government expenditure reduced.

Case Study – Relocation of the Sewerage Treatment Plant at Macquarie Point to Self's Point and the refuelling of the Nuyina.

The Nuyina is not permitted to travel under the Tasman Bridge to refuel and TasPorts is charged with finding an acceptable solution to overcome the need for the ship to travel to Burnie to refuel.

The potential for TasWater and TasPorts to engage and arrive at a potential solution for the refuelling of the Nuyina was raised with TasWater in late 2023 by Leon Compton in a radio interview based upon the following suggestion from me.

'Whilst the ground works are happening, is this an opportunity to run a fuel pipe from Self's Point back to the wharf area to provide fuelling for the Antarctic Ship.'

The representative from TasWater was dismissive of the idea as the refuelling of the Nuyina is not the responsibility of TasWater. It was not intended to suggest that it was the responsibility of TasWater but more of an opportunity for TasWater and TasPorts to engage and investigate a mutually agreeable and cost-effective solution to two issues.

The matter was again raised with a TasWater representative in June 2024 by the ABC radio and the spokesman said that they were unaware of the suggestion and *'would look into it'*. I am unaware if any action was taken on this matter.

The idea of leveraging benefits from projects is not new.

- a. Some years ago, the government ran a high-speed fibre optic cable from north to south when the gas pipeline was being built from north to south. This showed good foresight and took advantage of a one-off opportunity.
- b. I am aware that the Traffic Management branch of the former Department of Transport worked closely with local government to ensure that when the council had trenches open, the traffic engineers would lay fibre optic cable to enhance the operation of the Traffic Light network.

Both of the above examples demonstrate initiative from various areas of government and have resulted in cost savings. This wasn't dependent upon an 'organisation structure' but more a demonstration of the lateral thinking of individual personnel and the drive to enhance outcomes and achieve results that may otherwise been unachievable due to costs.

As far as the idea of Tasports and TasWater cooperating to investigate a mutually agreeable and cost-effective solution to two issues, the opportunity appears to have been lost. It is clear that the idea is engineeringly feasible, as the Deputy Premier advise Andrew Wilkie MP in a letter dated 10 December 2024 that

'Thank you for your correspondence dated 10 October 2024 to the Premier, the Hon Jeremy Rockliff MP regarding relocation of sewage treatment infrastructure from Macquarie Point and the possible installation of a fuel line in the same trench to allow refuelling of the vessel Nuyina. As the responsible Minister for the Water and Sewerage Industry Act 2003, the Premier has referred your correspondence to me for response.

I am advised a fuel line can possibly be laid adjacent to a sewer pipeline in a single trench with enough separation between the two, however one cannot be laid above the other. Stacking would cause one to block access to the other for any required maintenance or repair work. Consideration would also need to be given to ensure there was no risk of cross contamination in the event of a breakage.

While a single trench could be dug wide enough for both pipes, each pipe would be considered separately from a planning perspective. TasWater has all approvals in place with work now underway along the pipeline route. Stopping this work while a second proponent plans and seeks approval for a wider trench and second pipeline will cause delays that TasWater would be unable to accommodate. In effect this means a fuel line cannot be laid in the trench TasWater has approval for, as it is not wide enough.

I trust this information is of assistance to you in responding to your constituent and if you have any questions or require clarification, I encourage you to contact TasWater's Acting Customer Support Team Leader, [REDACTED] by phone on 13 6992 or via complaints taswater.com.au

I was the constituent that raised the issue with Andrew Wilkie.