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Submission on the Government Business Governance reform draft plan

Overview

The November 2024 Draft Plan for Government Business Reform is a good but incomplete starting point for improving the governance and accountability of Government Business Enterprises and State-Owned Companies.

As a small State without the benefit of scale and an extensive domestic economic base Tasmania needs and depends on GBEs and SOCs to underpin key industrial and service sectors.

While State owned businesses need to have significant independence and some commercial focus to produce efficient and productive outcomes - and therefore have many of the characteristics of private corporations – they are nonetheless different from their private sector counterparts.

It is desirable and necessary for these businesses to be closely aligned with key economic and social priorities of their shareholders and stakeholders – the State government and the people of Tasmania.

As matters stand some of these businesses are failing to achieve their objectives. Metro has been unable to deliver timely and accessible public transport with more than 900 bus services cancelled under the 'temporary service adjustment' and faces falling passenger numbers. It has proved incapable of delivering a common ticketing system.

TasPorts proved incapable of dealing with Macquarie wharf upgrade and has disavowed any responsibility for the Spirits berthing fiasco. TT-Line has been responsible for the multiple delays and cost blowouts of the construction and delivery of the new Spirit vessels.

TasNetworks has shown a belligerent approach to a key part of its workforce and has resorted to aggressive and costly measures – including \$5.5 million worth of cash bribes to all staff - to gain a yes vote. This was achieved by the narrowest of margins, to finalise a substandard outcome.

It is important to note that Statutory Authorities are demonstrating similar failings, including Homes Tasmania which has had little impact on the housing affordability crisis and the supply of new houses.

These failures point to the need for greater involvement by the State Government in co-ordinating GBEs and SOCs, and for shareholder Ministers to have a more active role in setting and monitoring priorities and outcomes for these businesses.

Suggested reforms

Regulatory changes

The regulatory framework applying to GBEs, SOCs and relevant Statutory Authorities should be harmonised in the key areas of board structure and composition, the rights and responsibilities of shareholder Ministers, accountability and performance measures, the role of Ministerial Charters and Statements of Expectations and better alignment with the core interests of the State.

Board Composition

Despite a wide consensus that appointments to the Boards of GBEs and SOCs should reflect relevant skills and experience this is not always the case in practice. Greater emphasis should be given to direct experience in the relevant industry and/or sector in the selection of Board members. Some of the current Boards do not meet this requirement, and this is an important factor in the failure of the Spirit project and the dysfunction of Metro. It is notable that the more successful GBEs and SOCs have higher levels of relevant industry and technical expertise on their respective Boards.

While a 50% Tasmanian requirement is desirable this should not be rigidly applied in all circumstances. Industry skills and expertise are more important, supplemented by relevant risk management, audit and business experience. This should be enshrined in Ministerial Charters and Statements of Expectations.

Better Board co-ordination with, and responsiveness to, State priorities can be encouraged by ensuring a direct Ministerial or Premier's appointment to each Board. This is preferable to the Draft Plan recommendation that such appointments be for a limited term in circumstances of unsatisfactory Board or company performance.

Accountability and Performance

Ministerial Charters and Member Statement of Expectations should be shorter and more precise with a focus on economic and social objectives. This should include relevant community service obligations and a requirement to have exemplary employment practices. And they should be unambiguously binding for the relevant GBE or SOC.

Board and company performance reviews should be explicitly required to report against the relevant Charter or Statement of Expectation as well as the company strategic plan. Performance indicators and targets and the company plan should be set annually by agreement between the relevant Shareholding Minister or Member and the Board, and the company management should provide quarterly reports on financial and non-financial matters to the relevant Minister.

The current GBE requirements to provide the Minister with a copy of the performance review of the relevant CEO should be officially extended to each SOC, and the Chair of each

GBE and SOC should be required to meet with the relevant Minister before finalising such performance reviews.

In addition, there should be periodic independent reviews of the performance of CEOs at (say) the half-way mark of a contract term, with a report to the relevant Board and Minister.

Every three years there should be an independent review of the performance of Boards. Such a three-year cycle is not unusual in the wider corporate world. These reviews should report to the relevant Minister and be subsequently tabled In Parliament.

The relevant Minister should have powers to direct performance improvement or assurance measures, and in cases of major governance or performance failure dissolve a Board and place a company into administration

Senior Executive Remuneration and Contracts

In the corporate world if 25% or more of shareholders vote against a company remuneration report at two successive AGMs it triggers a vote on whether to spill the Board. This underlines the need for the proper fixing of executive salaries and the core right of shareholders to be heard on this issue and ensure that senior executive contracts and incentives are consistent with the performance and outcomes of the business.

Over the last decade more than \$10.3 million has been paid as 'golden handshakes' across the GBE and SOC sectors and nearly \$6.7 million has been paid in annual bonuses (including in some instances where the relevant business has failed to meet key objectives and priorities). The Draft Plan is silent on this issue and this is an unfortunate omission.

The expansion of the role of Shareholder Ministers or Members in the setting and monitoring of performance objectives of SOCs and GBEs necessarily entails a more direct role in the approval of the terms of senior management contracts and annual remuneration bonuses and incentives. The Board of each SOC and GBE should be required to consult with and seek advice from the relevant Shareholder Minister or Member before finalising the annual remuneration report and recommendations.

Government Ownership and Possible Mergers

There is no evidence that the current structure of GBEs and SOCs raises issues of competitive neutrality with the private sector and the businesses should remain in State ownership.

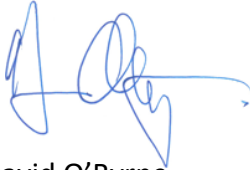
A strong case can be made for Metro to be brought back under direct State Government control. The contract-based system of Metro payments and accompanying penalties for non-performance is opaque and there is no evidence that it produces efficiency gains. Costs and pricing are not transparent and the system cannot run without significant indirect Government subsidies. It may be better to directly and explicitly subsidise the public transport system.

The suggested merger of TT Line, TasPorts and TasRail has serious downside risk, notably the possible dilution of the specialised focus and effort required in sea transport, rail transport and port infrastructure and development. Better co-ordination, oversight and

integration can be achieved through the Board reform and increased Shareholder Minister responsibilities outlined above.

A case could also be made for investigating a number of SOCs and GBEs that could be considered to be brought back under the closer or direct governance of the State Government.

Kind regards,

A handwritten signature in blue ink, appearing to read 'David O'Byrne', with a long horizontal stroke extending to the right.

David O'Byrne
Independent Member for Franklin