

Government Business Governance Reform – Draft Plan

Submission by

Tasmanian Networks Pty Ltd

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Public

TasNetworks acknowledges the palawa (Tasmanian Aboriginal community) as the original owners and custodians of lutruwita (Tasmania). TasNetworks, acknowledges the palawa have maintained their spiritual and cultural connection to the land and water. We pay respect to Elders past and present and all Aboriginal and Torres Strait Islander peoples.



Powering a
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Glossary

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CEO	Chief Executive Officer of TasNetworks
CSO	Community Service Obligation
Draft Plan	Government Business Governance Reform Draft Plan
DNSP	Distribution Network Service Provider
EC Act	Electricity Companies Act 1977
ESIA	Electricity Supply Industry Act 1995
GBE	Government Business Enterprise
GBE Act	Government Business Enterprises Act 1995
JV	Joint Venture
KPI	Key Performance Indicator
MA	Memorandum of Association of TasNetworks
NEL	National Electricity Law
NEM	National Electricity Market
NER	National Electricity Rules
OECD Guidelines	OECD Guidelines on Corporate Governance of SOE
OTTER	Office of the Tasmanian Economic Regulator
SAG	Stakeholder Advisory Group
SCI	Statement of Corporate Intent
SHM	Shareholding Ministers for TasNetworks
SOC	State-owned Company
SOE	Statement of Expectations for TasNetworks
TasCOSS	Tasmanian Council of Social Services
TasNetworks	Tasmanian Networks Pty Ltd
TNSP	Transmission Network Service Provider
The Board	Board of Directors for TasNetworks

1 Executive Summary

1.1 Introduction

As an essential service provider for all Tasmanians, TasNetworks welcomes the opportunity to provide feedback on the Draft Plan released in November 2024. Our submission is structured to align with the five key areas of proposed reform outlined in the Draft Plan.

TasNetworks commends the Government's commitment to prioritising the interests of Tasmanians and ensuring that all Tasmanian Government businesses operate with effective and fit-for-purpose governance structures. TasNetworks supports the emphasis on accountability for performance and the need for a clear rationale for continued Government ownership. Additionally, we recognise the value of striving for consistency and coordination across Government businesses while acknowledging the diverse roles of the entities within the Government's portfolio.

TasNetworks acknowledges and supports the indication by Government in the Draft Plan that the development of the final reform package will include reference to the recommendations from the *OECD Guidelines* and the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations*. This will provide a solid foundation for the development of best-practice corporate governance for Tasmanian Government businesses.

1.2 Overview of the Submission

Section 1.4 below summarises our position regarding each proposed reform. Each reform is then discussed in greater detail later in the submission.

Many of the proposed reforms align with current practices at TasNetworks and are supported on that basis. Notwithstanding, there are specific proposals that, while supported in principle, warrant further examination due to potential unintended consequences for core business operations, the relevant Government business Board and Executive teams, Shareholding Ministers, Government, or the long-term interests of Tasmania and its communities.

Several proposed reforms have been presented at a very high level, indicating a need for ongoing consultation between the Government and Government businesses as these proposals are further developed. It is critical for Government to provide a clear statement of the problem/s the Government is endeavouring to solve with each proposed reform so that ongoing consultation can be focused on tailoring the most effective solutions. It is also crucial to map existing obligations and broader regulatory requirements applicable to each Government business to avoid duplication or inconsistencies. This 'stocktake' process will also facilitate identifying and removing any existing obligations that are no longer necessary or fit for purpose.

The Draft Plan suggests that many reforms should be enacted through legislation. We encourage the Government to explore alternative implementation mechanisms, such as updated Treasurer's Instructions and Government Guidelines, for many proposed reforms. Considering these alternatives may offer a more timely and flexible approach compared to a lengthy legislative process.

1.3 Key Considerations

After reviewing the Draft Plan and the areas we have flagged, some key themes have emerged that we believe require further consideration.

1.3.1 Striking a balance between accountability and independence

SHMs are responsible for ensuring that Government businesses operate effectively and in the best interests of Tasmania and Tasmanians. SHMs provide guidance on the long-term management of Government businesses through the SOE and their involvement in strategic planning and oversight of the businesses.

While TasNetworks support evidence-based governance improvements that ensure appropriate transparency, performance reporting and accountability, operational independence is vital for the businesses to function effectively in their respective environments. Excessive ministerial intervention may slow decision-making and undermine the ability of the Board and Executive to implement strategies that are best suited for the business and its customers. Independence allows the business to operate with agility and make sound and timely decisions based on all the information available to the Board rather than being driven by limited or restricted considerations.

Intervention by SHMs should serve a clear purpose and should be considered in the context that where SHMs delve too deeply into day-to-day operations, this may blur the desired delineation of their role and responsibilities and have the potential to result in legal implications and risks for Government business Boards, SHMs themselves and Government. Increasing the expectation for SHMs to intervene in operational matters puts enormous pressure on Ministers with diverse portfolio responsibilities. Excessive intervention by SHMs could also undermine the engagement, performance and effective and efficient operation of the Board.

1.3.2 One size might not fit all

As acknowledged in the Draft Plan, the Tasmanian Government owns a diverse portfolio of Government businesses across sectors, including utilities, transportation, agriculture, forestry, tourism, finance and insurance. Each business has its own business model, operational environment and market and stakeholder expectations that influence its governance needs.

The various GBEs and SOCs are subject to different regulatory frameworks specific to their industry sector. These varying regulatory and market landscapes necessitate a governance approach that accommodates and complements these specific regulatory requirements. For example, TasNetworks is regulated by the AER and OTTER, with the aim of protecting Tasmanian customers from excessive network prices and poor service quality.

In addition, a one-size-fits-all approach to some of the proposed reforms could lead to duplication of effort and inconsistencies for some businesses. For instance, imposing uniform reporting and disclosure requirements without considering the specific existing regulatory obligations of each business could result in unnecessary administrative burden, complexity and confusion. Allowing for some tailoring of governance practices can foster innovation and responsiveness by each business and encourage management to adopt best practices that are most relevant to their specific operational contexts.

1.3.3 The right Board skillsets and diversity are critical

In the context of the reforms aimed at limiting Board tenure, serving on multiple boards and representation not local to Tasmania, it is essential to consider both the skill and diversity of the Board as key elements of its composition. While the rationale behind these proposals is supported and aligns with current practices intended to foster fresh, innovative, and local thinking free from conflicts of interest, they may also present potential recruitment challenges.

For technical and highly regulated sectors, including electricity transmission and distribution, limiting the pool of potential candidates could complicate the search for Directors who possess the necessary skillsets to meet the Board Skills Matrix and bring diverse perspectives and experiences. A diverse Board can enhance decision-making and drive more inclusive strategies, which is increasingly recognised as vital for effective governance.

Moreover, reducing the tenure for the role of Board Chair may disrupt Board dynamics and continuity, making it even more challenging to cultivate a diverse and skilled leadership team. Balancing these factors will be crucial in ensuring that the Board can fulfill its responsibilities effectively while embracing the benefits of diversity.

1.3.4 Success is in the detail

Careful consideration is required as the proposed reforms are refined and developed. Currently, sections of the Draft Plan need more detail to ensure there is clarity about the problem/s to be solved. This clarity will provide a solid foundation for assessing whether the proposed solutions are fit for purpose, whether there are other potential solutions and their respective implications and risks. Continued consultation with Government businesses and other stakeholders will be vital to building the best path forward.

Our submission highlights the need to approach the reforms with caution and thoroughness. Further details on proposals, a solid evidence base for change, a comprehensive mapping of existing frameworks, and a commitment to avoiding rushed decisions will be crucial in ensuring that the reforms effectively achieve their intended purpose and align with the long-term interests of Tasmania.

1.4 Summary of TasNetworks' Position

Reform 1 - Accountability for Placing Tasmania First

Reform Area/Proposal	TasNetworks' Position	Considerations	Recommended Actions/Alternatives
Balance commercial and community interests	Support	Consistent with current practice. Community interests are not currently reflected in the EC Act or TasNetworks Constitution.	Objectives in the EC Act and Constitution could be updated for consistency with the SOE.
Legislated Directions power	Support is subject to further consideration	While the GBE Act does not apply to TasNetworks, alternative mechanisms for Directions exist. There is a risk that Directions by SHMs may: <ul style="list-style-type: none"> Threaten delivery of core business. Create legal risks for: <ul style="list-style-type: none"> Directors (if Directions conflict with duties owed by Directors to the company) SHMs/Government (if Directions result in SHMs assuming responsibilities under the Corporations Act or Competition Law). 	Detailed mapping of current framework/gap analysis to assess the adequacy of current mechanisms for Directions. Consultation with Crown Law regarding potential implications for Directors, SHMs and Government.
A legislated continuous disclosure obligation	Support is subject to further consideration	Obligations currently exist requiring immediate disclosure of material matters to SHMs, regulators and the public. There is potential for inconsistencies in disclosure obligations across the suite of legislation and other governing documents that apply to TasNetworks.	Detailed mapping of current framework/gap analysis to assess the adequacy of current obligations (including regulatory reporting obligations). There may be opportunities to leverage existing reporting obligations.
Alignment of Statement of Corporate Intent and KPIs to Government Priorities	Support	TasNetworks SCI and KPIs are prepared in consultation with SHMs, allowing alignment with Government priorities. Proposed changes to KPIs may require new data collection and systems changes.	The Government should continue using SOEs to set priorities that will be reflected in the SCI. Consultation on proposed changes to KPIs to avoid unintended burden.
Consistent annual corporate planning processes and transparency of community service obligations	Support is subject to further consideration	TasNetworks annual planning complies with Government guidelines. There is no existing legislative obligation for TasNetworks to undertake CSOs. Community service-related expectations are set via the SOE. If CSOs are to be imposed for TasNetworks, these should be publicly disclosed, including transparency about the cost and funding of obligations to avoid cross-subsidisation/market distortion. CSOs may pose similar risks for core business service delivery, Directors and SHMs as Directions power (see above).	Detailed mapping of current framework/gap analysis to assess the adequacy of current obligations. Consultation with Crown Law on potential implications of community service obligations powers for Directors and SHMs.
Clarify the role of Shareholding Ministers	Support	TasNetworks' current understanding and practice is that SHMs have an ownership interest but don't assume responsibilities of the Board. Care should be taken that the creation and/or exercise of some of the other proposed powers for SHMs don't blur this delineation.	Government to assess what clarification is required. Consultation with Crown Law as required.

Reform 2 - Improving Governance

Reform Area/Proposal	TasNetworks' Position	Considerations	Recommended Actions/Alternatives
Limit Directors and Chairs to two terms unless exceptional circumstances	Support is subject to further consideration	<p>The proposed tenure limits for Directors are consistent with current practice at TasNetworks. The Chair can currently serve three terms, and this provides stability for the Board.</p> <p>It is unclear whether these term requirements are intended to apply to subsidiaries where TasNetworks Executives currently form the Board. This could pose increased costs and administrative burden.</p>	Government to assess the pros and cons of limiting a Chair to two terms, and clarify whether term limits are intended to apply to subsidiary Boards.
Transition Boards to 50% Tasmanian	Support is subject to further consideration	<p>While fostering local insights and connections could be beneficial, this may create challenges in achieving the required mix of Board skills and diversity by narrowing the pool of applicants.</p> <p>A transition to '50% or more' would be preferable to 'more than 50%'.</p> <p>Some Tasmanian government businesses operate in a national market requiring a national focus and exposure and, therefore, national Directors.</p>	<p>Consideration should be given to this as a 'target' to guide recruitment efforts while also considering:</p> <ul style="list-style-type: none"> the diversity and skillsets required; the operating market of the various businesses and the potential benefit of national Directors in that context.
Conflicts of interest for Directors, focusing on multiple board memberships	Support is subject to further consideration	<p>Strict limits on multiple Board memberships may hinder local representation.</p> <p>Preventing a Director from being on more than one GBE/SOC Board may narrow the pool of available expertise.</p>	Manage potential conflicts of interest due to multiple board memberships through transparency under existing conflicts of interest obligations and protocols.
Two Shareholding Ministers for oversight roles	Support	<p>TasNetworks has always had two SHMs.</p> <p>We acknowledge that this has not been the case historically for all GBEs/SOCs.</p>	Government to consider what amendment is required.
Robust governance frameworks for subsidiaries and joint ventures	Support is subject to further consideration	<p>Robust governance frameworks are in place.</p> <p>While TasNetworks' subsidiaries are exempt from some specific Treasurer's instructions, accountability mechanisms exist to ensure they operate responsibly and transparently.</p> <p>SHMs currently approve any joint ventures and changes to the TasNetworks Constitution and are informed of changes to subsidiary Constitutions.</p>	Detailed mapping of current governance frameworks/gap analysis.
Standardise requirements to table Annual Reports and Constitutions	Support	Consistent with current practice at TasNetworks.	Government to consider.

Reform 3 - Expanding Performance Monitoring

Reform Area/Proposal	TasNetworks' Position	Considerations	Recommended Actions/Alternatives
Periodic Independent Board and CEO reviews are to be reported to Shareholding Ministers	Support	TasNetworks has robust Board and CEO performance review processes, including periodic independent reviews and reporting to SHMs a summary of the results.	Map the current framework to assess the adequacy of existing obligations.
Oversight, approval and disclosure of incentives for Executives	Support	TasNetworks complies with the relevant Government Guidelines. TasNetworks does not currently pay bonuses or incentive payments to Executives and publishes Executive remuneration in its annual report.	Map the current framework to assess the adequacy of existing obligations.
Consistent reporting obligations, including continuous disclosure and quarterly performance monitoring	Support is subject to further consideration	Current practice includes a comprehensive reporting framework with regular meetings and monthly performance reporting. Existing obligations require immediate disclosure of material matters to SHMs, regulators and the public. There is a risk of inconsistencies in disclosure obligations across the suite of obligations applying to TasNetworks.	Detailed mapping of current framework/gap analysis to assess the adequacy of current obligations and prevent duplication or inconsistencies with existing regulatory disclosure obligations. There may be opportunities to leverage existing reporting obligations.
Power to request Auditor-general-led performance reviews funded by business	Support is subject to further consideration	It is difficult to assess the impact of these without clarity about the powers anticipated, including triggers for intervention, scope and frequency of reviews. Additional reviews would require increased resource allocation.	Map the current framework to assess the adequacy of existing powers to request reviews. Ongoing consultation as proposed power is refined.
Power to require independent expert assurance reviews	Support is subject to further consideration	It is difficult to assess the impact of these without clarity about the powers anticipated, including triggers for intervention, scope and frequency of reviews. Additional reviews would require increased resource allocation.	Map the current framework to assess the adequacy of existing powers to request reviews. Consider the existing frameworks for accountability, transparency and assurance that apply to each business. Ongoing consultation as proposed power is refined.
Mandate Gateway Reviews for significant projects	Support is subject to further consideration	For projects over \$7M, TasNetworks undertakes, consults on and publishes a cost-benefit analysis (Regulatory Investment Test). An application for approval by the Minister is required by the ESI Regulations for augmentation work over \$35M. For other major projects, approval is also sought from SHMs, and there is ongoing reporting. Further increasing SHM involvement may erode the balance between accountability and operational independence. Similar risks may arise for Directors, SHMs, and the Government as outlined for the proposed Directions power.	Map the current framework to assess the adequacy of existing oversight and reporting about significant projects. In the context of the existing approval and reporting requirements, consider whether the threshold for Gateway Reviews should be set higher (e.g. >\$500M). Ongoing consultation as any proposed reform is refined.

Reform 4 - Levers to Manage and Rectify Poor Performance

Reform Area/Proposal	TasNetworks' Position	Considerations	Recommended Actions/Alternatives
<p>Legislative mechanisms for Shareholding Ministers to intervene by:</p> <ul style="list-style-type: none"> • Authorising operational reviews/audits • Performance improvement plans from Boards • Appointing a ministerial representative to the Board • Appointing performance improvement teams • In severe cases, dissolving Boards and appointing Administrators 	Support is subject to further consideration.	<p>TasNetworks supports the ability of SHMs to manage and rectify poor performance subject to appropriate limitations on the powers.</p> <p>Clear criteria/triggers for intervention may be helpful to prevent the potential for unwarranted interference.</p> <p>Arguably, SHMs can currently intervene using some of the proposed methods based on their ability to give TasNetworks a direction.</p> <p>SHMs also already approve all appointments of Directors, can appoint additional Directors, remove a Director, and appoint another person to fill that vacancy.</p> <p>The potential legal implications for some of the proposed mechanisms may need further consideration and consultation with Crown Law. For example, in relation to the power to appoint a ministerial representative to the Board, there should be consideration of the application of the Director's duties to that ministerial representative (i.e. they will also be required to act in the best interests of the company) and any other implications for the ministerial representative and Government.</p>	<p>Detailed mapping of current framework/gap analysis.</p> <p>Ongoing consultation on the proposed scope of powers and criteria for intervention.</p> <p>Consultation with Crown Law as required.</p>

Reform 5 - Reviewing the Government Businesses Portfolio

Reform Area/Proposal	TasNetworks' Position	Considerations	Recommended Actions/Alternatives
Define a principles-based approach for Government's ownership of businesses	Support	This will allow the Government to clearly articulate its rationale for State ownership (based on the OECD guidelines) and then objectively assess whether State ownership of the various businesses in its portfolio remains the best option for Tasmania.	Ongoing consultation on the development of the principles-based framework.
Assess the overall portfolio of Government business to determine the appropriateness of public ownership	Support is subject to further consideration	<p>Reviews of Government business ownership can significantly impact employee engagement, health, and wellbeing. Changes in ownership structures or operational frameworks may lead to uncertainty among employees, potentially affecting their morale and productivity.</p> <p>Furthermore, during periods of low unemployment, there is an increased risk of losing high-performing employees who may seek more stable or appealing opportunities elsewhere. Maintaining a supportive work environment is crucial for retaining talent and ensuring the organisation's overall health.</p>	<p>A phased approach to the assessment and open communication may assist in reducing staffing impacts.</p> <p>Each Government business should be given opportunity to make submissions concerning the appropriateness of Government ownership for their specific business/context.</p>

Reform Area/Proposal	TasNetworks' Position	Considerations	Recommended Actions/Alternatives
Identify potential businesses for divestment or restructuring, with an initial focus on the transport and energy sectors	Support the concept of the reform, but TasNetworks does not support the divestment of TasNetworks.	<p>Detailed consideration of each Government business will be required.</p> <p>For TasNetworks, State ownership or majority State ownership can:</p> <ul style="list-style-type: none"> • allow for decision-making that reflects public interest. • ensure alignment with Government priorities and targets relating to the transition to renewable energy and supporting climate and sustainability goals. <p>As a regulated monopoly, TasNetworks has strong regulatory oversight by the AER and OTTER (which is more stringent than for other businesses).</p> <p>Merging with other energy businesses would also be highly complicated in this context with ringfencing obligations requiring separation of the regulated business from the remainder of the merged entity, in addition to other regulatory and legal considerations.</p>	Opportunity for each Government business to make submissions concerning the appropriateness of Government ownership for their business (based on the principles-based framework for State ownership and the specific circumstances of their business).

2 About TasNetworks

2.1 What we do

TasNetworks delivers safe, affordable and reliable essential services to 300,000 Tasmanian customers through our electricity and supporting telecommunications network and is focused on achieving four key business objectives:

- enhance the safety and wellbeing of our people;
- deliver value for our customers;
- supply reliable essential services; and
- provide a sustainable financial return.

TasNetworks is owned by the State of Tasmania and operates as a commercial business with regulated assets of \$4 billion. Our networks comprise 3,350 circuit kilometres of transmission lines and underground cables, 49 transmission substations, 22,910 kilometres of distribution power lines and underground cables, nearly 233,000 power poles, 18 large distribution substations and 33,000 small distribution substations. The telecommunications networks operated by TasNetworks support the operation of our electricity networks. TasNetworks also owns, maintains and operates about 50,000 public lights on behalf of councils and other Government road authorities.

TasNetworks' transmission network delivers electricity from generators to directly connected transmission customers and the distribution network. It connects the Tasmanian power system to Basslink, the interconnector that links Tasmania with the Victorian electricity grid and the NEM. Our distribution network delivers electricity to Tasmanian households and businesses. There is also a growing requirement for the distribution network to accept electricity consumers generate (e.g. from households with rooftop solar panels).

2.2 Existing Legislative, Regulatory and Policy Framework

TasNetworks operates within a legislative and regulatory framework that ensures fair, reliable, and efficient electricity transmission and distribution services in Tasmania.

2.2.1 Establishment under the Electricity Companies Act 1997

TasNetworks was established as a SOC under the EC Act. It was formed in 2014 by merging the transmission network (previously managed by Transend Networks) and the distribution network (then managed by Aurora Energy).

The EC Act provides the statutory framework for the operation and governance of TasNetworks, establishing its roles, responsibilities, and powers as a utility provider in Tasmania.

2.2.2 Legislative requirements

The Electricity Supply Industry Act 1995 (ESIA) provides the overarching framework for the operation of Tasmania's electricity supply industry, setting out the requirements for generating, transmitting, and distributing electricity. It outlines the regulatory structure and different roles of participants in the industry.

Tasmania participates in the NEM, which the NEL and NER govern. These laws and rules establish a nationally consistent framework for electricity market operations, oversight and pricing.

As a SOC, TasNetworks is also subject to the provisions of the *Corporations Act 2001* in line with its private sector counterparts

2.2.3 Regulatory oversight

TasNetworks operates under a robust framework of regulatory oversight that effectively ensures compliance, accountability, and performance without the need for additional regulatory layers.

The Tasmanian Economic Regulator has oversight authority over network reliability in Tasmania, establishing stringent reliability standards that TasNetworks is obligated to meet. This oversight is crucial for maintaining the integrity and reliability of the network.

As a participant in the NEM, TasNetworks is further regulated by the AER, which oversees revenue and pricing structures. The AER conducts comprehensive reviews and inquiries into TasNetworks' performance, ensuring adherence to national regulations and standards.

A key component of this oversight is the annual Regulatory Information Notices (RINs), which empower the AER to collect and monitor vital information from regulated businesses like TasNetworks. This process facilitates ongoing scrutiny and ensures that TasNetworks operates transparently and in the best interest of consumers.

Under the NEL and NER, the AER undertakes a forensic examination of TasNetworks' expenditure and revenue every five years. The AER's recent decision in April 2024 confirmed the maximum allowable revenue that TasNetworks can recover from customers for the period from 1 July 2024 to 30 June 2029, further illustrating the rigorous financial oversight in place.

Additionally, the AER enforces the *Distribution Ring-fencing Guideline* and *Transmission Ring-fencing Guideline*, which are designed to prevent TasNetworks and its subsidiary businesses from leveraging their regulated business to impede competition in related contestable electricity markets. Compliance with these guidelines is mandatory, ensuring a fair and competitive market environment.

2.2.4 Treasurer's Guidelines and Instructions

As a SOC, TasNetworks must also adhere to a suite of Treasurer's Instructions and Guidelines for Government Businesses that provide additional governance requirements. Together, these provide guidance relating to a variety of matters, including:

- Corporate planning (Corporate Plan and Statement of Corporate Intent)
- Financial Affairs (Investments)
- Borrowing arrangements and Capital investment
- Accounting Records, Financial Statements and Reporting
- Community Service Obligations
- National Taxation Equivalent Regime
- Guarantee Fees and Dividends
- Obtaining legal advice
- Payment of accounts
- Superannuation

- Buying local
- Director and Executive Remuneration
- Director Induction, Education and Training
- Subsidiary Companies and Joint Ventures
- Board appointments, induction, education and training
- CEO appointment processes and checklists.

2.2.5 Additional Legislative considerations

Environmental and Planning Laws

TasNetworks must also comply with State and Federal environmental regulations in its operations, including those related to land use planning, environmental impact assessments, and sustainability practices.

Consumer Protection Laws

TasNetworks must adhere to consumer protection legislation, ensuring that the rights of electricity consumers are upheld and that they receive access to reliable, safe, and affordable electricity services.

Health and Safety and Employment Laws

Like all employers, TasNetworks must adhere to a range of health, safety and employment laws to ensure the well-being of its employees and compliance with regulatory requirements.

2.2.6 Current Regulatory Reform Agenda

The NEM is undergoing significant transformation, driven by the imperative for a cleaner and more sustainable energy future. This transition presents both opportunities and challenges for Tasmania, particularly in the context of its unique energy landscape.

Opportunities and Challenges for Tasmania

- **Battery of the Nation** - Tasmania's potential to become a renewable energy powerhouse is exemplified by initiatives like the "Battery of the Nation," which aims to harness the State's abundant hydroelectric resources and integrate them with new battery storage technologies. This initiative not only positions Tasmania as a key player in the NEM but also enhances energy security and reliability.
- **Renewable Energy Integration** - As the NEM shifts towards a greater reliance on renewable energy sources, Tasmania faces the challenge of integrating these resources effectively into the grid. This requires innovative solutions and infrastructure investments to manage variability and ensure stability.

Regulatory and Operating Environment Changes

- **AER and AEMC Reforms** - The AER and the AEMC are actively reviewing and updating the regulatory framework to support the energy transition. This includes reforms aimed at improving market efficiency, enhancing consumer protections, and facilitating the integration of new technologies.
- **AEMO's Role** - The AEMO is adapting its operational practices to accommodate a grid that could be powered entirely by renewable energy. This includes developing new market mechanisms and operational strategies to ensure reliability and security.

Implications for Tasmania's Electricity Businesses

- Structural Changes - The ongoing reforms and the transition to a renewable energy future may lead to significant structural changes within Tasmania's electricity businesses. Stakeholders must consider how these changes will impact their operations, business models, and regulatory compliance.
- Participation in the NEM - Tasmania's participation in the NEM carries implications for pricing, market access, and investment opportunities. It is crucial for local businesses to engage with the evolving regulatory landscape to maximise the benefits of being part of a national market while addressing the unique challenges faced by the State.

2.3 Governance and Accountability Arrangements

2.3.1 TasNetworks' Board

TasNetworks is governed by an independent Board of Directors with duties specific to their roles as defined in the EC Act. The Board is responsible for the strategic guidance and oversight of the company.

TasNetworks' Board Charter provides the framework for TasNetworks' corporate governance structure and practices. The Charter describes the responsibilities of the Board and the TasNetworks Executive Team.

The responsibilities of the Board and Executive Team include:

- ensuring that TasNetworks meets its objectives and purpose;
- establishing sound financial and risk-management policies and overseeing their implementation; and
- accounting to the SHMs and stakeholders for the performance and activities of the company.

The Board has two standing committees:

- the People and Remuneration Committee; and
- the Audit, Risk and Compliance Committee.

2.3.2 Shareholding Ministers and Parliamentary oversight

As a SOC, TasNetworks is accountable to the SHMs, who are accountable to the Parliament and ultimately, the Tasmanian community.

TasNetworks is guided by the SOE, which the Treasurer and Minister for Energy prepare following consultation with TasNetworks. The SOE is publicly available and formally and transparently sets out the Tasmanian Government's broad policy expectations and requirements.

SHMs are required to provide Parliament with the constitution of TasNetworks, the Statement of Corporate Intent and the TasNetworks Annual Report.

TasNetworks is also subject to scrutiny by Parliament through various Parliamentary hearings and committees. We appear annually before the Government Business Scrutiny Committee and alternate between the Lower House and Upper House.

We prepare a monthly post-Board Shareholder report, which is verbally discussed each month by the Minister with the Chair of the Board and the CEO and provided to the relevant Government Departments within the SHM portfolios.

TasNetworks also publishes its Annual Report, Energy Charter Disclosure Report and Energy Feedback Summaries on its website.

2.4 Our continuous improvement journey

TasNetworks has been transforming to drive efficiency and productivity and ensure we are a right-sized, fit-for-purpose electricity transmission and distribution business ready for future opportunities and challenges. This transformation has involved a strategic redesign of the organisation. We've done much of the heavy lifting on the organisational redesign, and we're now focusing on other aspects of the transformation to support our new strategy.

To ensure our governance structures and decision-making bodies are fit for purpose, in late October 2024, the Board gave in-principle support to a Corporate Governance Review (**Review**) to identify practical improvements to the existing corporate governance framework and provide recommendations and an implementation plan to the Executive and Board.

By engaging in this review, we are not only reinforcing our commitment to transparency and accountability but also positioning ourselves to navigate future challenges effectively.

This Review will involve a thorough evaluation of our current governance structures and processes and will focus on establishing clear lines of responsibility and accountability, enhancing risk management practices, and fostering a culture of ethical decision-making. By proactively addressing these areas, TasNetworks aims to create a governance environment that supports innovation and agility, enabling us to respond swiftly to market changes, stakeholder expectations and adapt to future risks and opportunities. The Review includes benchmarking of our governance framework and any proposed improvements against industry standards and recommendations from authoritative bodies such as the Australian Stock Exchange, the Australian Institute of Company Directors, and the Governance Institute.

The release of the Draft Plan has provided a valuable opportunity for TasNetworks to complement the Review by considering its governance framework in the context of the Draft Plan, the *OECD Guidelines on Corporate Governance of State-Owned Enterprises 2024* and the ASX Corporate Governance Council's *Corporate Governance Principles and Recommendations*. This will assist TasNetworks in considering whether any additional structures and processes are required to support the Government's work to establish a more integrated, cost-effective, responsive, and transparent 'Team Tasmania' approach within the Government business portfolio.

2.5 Our contribution to Tasmania and the renewable energy transition

The Electricity Supply Industry is of fundamental importance to Tasmania and its economy, powering people's homes, powering industry and commerce and making a significant contribution to the economy through employment and investment. Profits made by the State's Government-owned electricity businesses, including TasNetworks, are also returned to Tasmanians as dividends paid directly to the Tasmanian Government.

TasNetworks has a central role to play in Tasmania's renewable energy future. Our transmission network forms the backbone of the State's power system, linking generators with major loads and population centres and connecting the Tasmanian power system with Basslink.

TasNetworks is operating in a period of unprecedented change. The transition to renewable energy occurring in other States and Territories, the expansion of Tasmania's renewable generation capacity and customers' increasing use of solar panels, battery storage and electric vehicles all present significant opportunities for Tasmania and TasNetworks, as well as challenges.

The demand for electricity in Tasmania is only likely to increase, and it is reasonable to think that in the future, without the arrival of new on-island generation, the demand for electricity in Tasmania will consistently exceed the level that the State's existing generators will be able to meet sustainably.

The Tasmanian Renewable Energy Target acknowledges the need for more electricity. TasNetworks is actively working with the proponents of new renewable generation and industry to ensure the delivery of new generation across Tasmania is timely, orderly and as economically efficient as possible.

We are working on the enhancements and extensions of the transmission network needed to connect the Marinus Link interconnector to the Tasmanian power system and the new generation that Marinus Link will facilitate.

We are also working with the communities and landowners that will host new transmission infrastructure to make sure that they share in the benefits of any investment by TasNetworks in their area and receive fair compensation for the use of their land while also ensuring that consumers pay no more than is reasonable for transmission lines to be built.

Upgraded on-island transmission infrastructure is a prerequisite for growing Tasmania's clean energy generation, boosting Tasmania's energy security, and, in the long term, keeping downward pressure on electricity prices for Tasmanian businesses and households.

We conduct a 10-year look ahead of Tasmania's electricity network each year and report the findings in our Annual Planning Report. We look at the electricity consumption forecasts, the network's performance, current and emerging network constraints, and our customers' future supply-demand outlook. For more information, please see the most recent Annual Planning Report, published on the TasNetworks website on 25 November 2024.

3 Reform 1 - Accountability for Placing Tasmania First

3.1 Balance commercial focus with community interests

The principal objectives of TasNetworks are referenced in the Memorandum of Association (MA) (s.6), the EC Act (s.6) and the 2024 SOE. There are some inconsistencies in the descriptions across these documents.

Both the MA and EC Act describe the principal objectives for TasNetworks as:

- to operate by sound commercial practice; and
- to maximise sustainable return to the SHMs.

The SOE expands on these by including a focus on community interests. For example, the SOE (2.1, 2.2, 2.3) includes (among other things) supporting the lowest possible prices for power, supporting efficient, safe and reliable electricity supply and having regard to the vital contribution TasNetworks makes to the Tasmanian economy and broader community.

TasNetworks strives to balance its commercial operations with community and customer interests by prioritising safe and reliable power delivery while actively endeavouring to deliver value for customers, embrace customer-driven changes and shift towards renewable energy. This balance is reflected in the business objectives of TasNetworks to:

- enhance the safety and wellbeing of our people,
- deliver value for our customers,
- supply reliable essential services, and
- provide a sustainable financial return.

Since its inception in 2014, TasNetworks has effectively lowered network charges for residential and small business customers, placing downward pressure on the delivered cost of electricity in Tasmania. The AER recently reviewed TasNetworks' revenue proposed for 2024-2029 and released its determination. While TasNetworks forecast increased network charges due to external factors, including rising interest rates and cost of capital, it is keeping costs and prices as low as possible by controlling expenditure, including committing to a 3% reduction in operating costs for the 2024-25 period and an additional 0.5% each year through to 2029. The AER recognised these actions to constrain expenditure and determined our proposed spending for the 2024-2029 regulatory period to be prudent and efficient.

TasNetworks is a signatory to the Energy Charter, an industry-led initiative that, in the last 12 months, has focused on the increasing cost-of-living pressures on energy customers, particularly those already facing vulnerable circumstances. TasNetworks is proud to have supported several initiatives included in the Energy Charter's Statement of Support focussed on providing relief to customers to alleviate cost-of-living pressures and helping customers to manage these pressures by building resilience, capacity and capability. These initiatives have included a National Concessions Awareness Program, the Knock to Stay Connected program, a Free energy support program in partnership with Uniting Energy Support Program, a Voices for Power capability building program to assist customers in managing their electricity better, work with TasCOSS to help inform initiatives that support people facing vulnerable circumstances and improving the accessibility of our communications with customers.

TasNetworks is intentional about engaging with customers to understand their shifting needs and expectations. We use the resulting insights to inform our business decisions and support customers as efficiently and affordably as we can.

In 2023 we developed the Engagement Maturity and Culture Uplift Initiative to improve our overall engagement maturity. A key part of this work has been the redesign of our engagement group model, which includes the TasNetworks' Stakeholder Advisory Group (SAG). The purpose of the SAG is to:

- provide the collective perspectives of given communities, membership groups and/or organisations on strategic and operational energy issues that are in the best interests of TasNetworks' customers and/or Tasmanian electricity users; and
- help ensure TasNetworks places the evolving needs and expectations of its customers and stakeholders at the centre of business decision making.

Furthermore, the TasNetworks Engagement Group Model also includes a:

- Customer Advisory Group;
- Technical Working Group;
- Local Government Working Group; and
- Major Projects Working Group.

TasNetworks maintains accountability to the community through active stakeholder engagement - conducting monthly customer satisfaction surveys, annual community sentiment assessments, and brand sentiment studies to gauge customer perceptions and needs. TasNetworks has a Customer Service

Charter published on its website. TasNetworks has KPIs to measure community impact and publicly reports its performance against the key customer principles and targets we have set.

We have conducted several key foundational studies to help us better understand the needs and situations of our customers and how they interact with our services (e.g. their energy usage, billing data, behaviours and attitudes). By developing customer and business segmentation models and customer journey mapping, we are enhancing our ability to deliver solutions for our customers and increase their experience and satisfaction. It is important to acknowledge that sometimes what TasNetworks customers and the community would like comes at a high cost and we need to balance the potential gain against any resulting operational cost and price increases.

TasNetworks believes it places Tasmania first through its balanced focus on service reliability, lowest possible prices, safety, community initiatives, and sustainability. However, we are open to engaging with Government to better understand what further work or initiatives the Government considers are required for TasNetworks to strike the right balance between delivering shareholder returns while also putting the Tasmanian community first.

Key Observations:

- Community interests are clearly articulated in the TasNetworks Corporate Plan and the 2024 SOE. This is reflected in how we do business and engage with our customers and communities. We continue to engage in activities to further enhance this community and customer focused culture at TasNetworks.
- TasNetworks is open to engaging in discussions to continue to refine how the commercial and community interests' objectives are balanced.
- TasNetworks supports updating the MA and EC Act to include a focus on community interests (consistent with the 2024 SOE).

3.2 Direction power and continuous disclosure on delivery of direction

3.2.1 Legislative Framework for Directions

We understand the intent of this reform to establish a consistent power to direct Government businesses to undertake certain matters/initiatives with a legislated continuous disclosure obligation relating to progress towards delivering them. The case for reform in the Draft Plan notes that in recent years, there has been an increasing desire to use Government businesses to provide specific Government policy initiatives in ways that were not envisaged when the current framework was established.

Section 65 of the GBE Act provides that the Portfolio Minister and Treasurer, jointly, may give a direction to a GBE to perform, provide or allow a function, service or concession. While, as a SOC, this legislation does not apply to TasNetworks, there are other existing mechanisms for the SHMs to give directions to TasNetworks. For example, the TasNetworks Constitution allows SHMs to provide directions to TasNetworks. The SOE also enables the SHMs to formalise their mandate and expectations for TasNetworks in response to changing circumstances.

If Government introduces a legislative framework for directions to SOCs it should be a clearly defined power that protects the SOC against the potential for unpredictable and non-recurring special obligations being imposed that might threaten the delivery of core objectives or commercial viability. For example, where the power is exercised, it should be transparent and public, with clear articulation of any trade-offs and how they should be handled.

Consideration should also be given to any potential implications of a Directions Power for both the Directors of the Government business and the SHMs. For example:

- Directors of SOCs (including TasNetworks), have obligations under the Corporations Act to act in the company's best interests. Circumstances may arise where the Director's obligation to act in the company's best interests may not align with the member's directions. For instance, there could be circumstances where there is a direction:
 - that requires significant investment which conflicts with the Director's duty to ensure the company remains financially viable; or
 - to engage in a community-focused initiative that may detract from the company's fulfilment of its principal objectives; or
 - that may involve a high-risk activity (e.g. an environmentally sensitive project) and the Directors may feel torn between the Direction and their duty to manage risk.
- Providing SHMs with a greater level of detail about the company's commercial business dealings and market conduct and more extensive powers to issue directions and exercise an increased degree of operational/management control may create legal complexities and risks for SHMs and Government (e.g. in relation to compliance with obligations under the Corporations Law or Competition Law (Part IV of the *Competition and Consumer Act 2010*) that would usually rest with the Board and Senior Management).

3.2.2 Continuous disclosure on delivery of the direction

As TasNetworks is not a listed company, it is not required to comply with the ASX Listing Rules disclosure requirements. However, as a SOC, TasNetworks ensures that the SHMs are kept informed of all matters that may have a material impact (financial or otherwise) on the business or potential adverse implications for the State. TasNetworks has a process for ensuring that Members are promptly advised of matters as required by the TasNetworks constitution and the 2024 SOE. TasNetworks also complies with its public disclosure obligations under the NEL, NER, TasNetworks' distribution and transmission licences and other applicable instruments.

By way of example of matters that are required to be disclosed to the SHMs, s5.3 of the SOE requires that SHMs be kept informed immediately in writing of any issues of significance, such as adverse developments that may:

- prevent the achievement of financial performance objectives;
- affect prices or outcomes to customers;
- affect the viability of TasNetworks;
- significantly impact Government policy, stakeholder relations, customer relations or environmental issues; or
- have a wider public interest; are material transactions not in the ordinary course of business; involve AER applications that impact prices for customers; are matters on which the Government may be required to comment on or depart from the expectations outlined in the SOE.

To avoid inconsistent requirements, when crafting new reporting and disclosure obligations, regard should be had to the requirements that currently exist for TasNetworks. For example, under the NEL and NER, electricity transmission and distribution network service providers must comply with specific reporting obligations. This includes notifying the AER and, in some cases, the public about significant events that could impact the reliability and safety of the electricity supply. The AER also issues guidelines and reporting requirements for electricity network service providers. This includes the requirement to report on performance indicators, service reliability, and significant outages or incidents that could materially affect customers. Other relevant requirements include:

- ESI Act, ESI Regulations or OTTER guidelines requiring disclosure of significant matters affecting service or price.
- Environmental Regulations: Energy providers must comply with environmental laws that may require reporting incidents related to environmental impacts, such as emissions or spills, to relevant authorities and the public.
- Consumer Protection Laws: Under the Australian Consumer Law, energy providers have obligations to inform consumers about significant changes to services, including outages or disruptions.
- Emergency Management Frameworks: In the event of emergencies (such as natural disasters), energy providers may have obligations under State emergency management legislation to report incidents and coordinate with emergency services.

We understand the intention of Government is to create a continuous disclosure obligation similar to the requirements for ASX-listed entities, in which case the disclosure is likely to be a public disclosure obligation rather than just to SHMs. These obligations would need to be clearly defined, following a comprehensive mapping of the gaps in the current disclosure requirements that apply to TasNetworks against the obligations for ASX-listed entities. An alternative to a legislated framework would be to update the existing disclosure requirements in the 2024 SOE or other relevant guidelines.

Key Observations:

- Mechanisms currently exist for SHMs to give Directions to TasNetworks and to ensure that SHMs are kept informed of material matters affecting the delivery of those Directions.
- Advice should be sought from Crown Law in relation to the scope for and use of a Directions Power and potential impacts for Boards and SHMs.
- The obligations that currently apply in relation to disclosure should be mapped against those applying to ASX-listed entities with further consultation on the gaps that are intended to be addressed (including the circumstances requiring public disclosure of information).

3.3 Statement of Corporate Intent and KPIs aligned to Government priorities

TasNetworks prepares an annual Statement of Corporate Intent (**SCI**) in consultation with the SHMs and with regard to the Government priorities set out in the SOE for TasNetworks. The KPIs for TasNetworks are then aligned to our key business objectives. The TasNetworks' four key business objectives and the related KPIs currently include:

- enhance the safety and wellbeing of our people (KPIs relating to Tier 1 incidents and employee engagement);
- deliver value for our customers (KPIs relating to customer satisfaction);
- supply reliable essential services (KPIs relating to transmission and distribution reliability); and
- provide a sustainable financial return (KPIs relating to profit levels).

Additional indicators are reported in quarterly and half-yearly reporting in line with existing Treasury Guidelines.

TasNetworks supports consultation with the Government on the potential further refinement of KPIs. There is a risk that new KPIs may require data that is not currently collected, which may require systems changes. This risk could be managed by ongoing consultation as the reform package is finalised and implemented.

Key Observations:

- TasNetworks currently aligns its SCI and KPIs with Government priorities.
- TasNetworks supports consultation on potential refinement to KPIs.

3.4 Corporate planning and community service obligations requirements

The TasNetworks corporate planning process is consistent with the *Guidelines for Tasmanian Government Businesses – Corporate Planning*. The Guidelines set out the essential requirements for the content of the Corporate Plan, the required consultation with the SHMs and the key dates.

The legislative framework relating to community service obligations (set out in Part 9 of the GBE Act (Division 2, ss39-41)), does not currently apply to TasNetworks. We understand the intention of this reform may be to extend these provisions to TasNetworks (potentially using the EC Act). This would represent a change in direction for SOCs where there was historically an intention that they were independent, commercial entities (as articulated for TasNetworks in the MA and EC Act).

TasNetworks is open to supporting community service obligations that form part of the corporate planning process, noting that any such obligations should be fully disclosed to the public, including their reasoning, scope, and related compensation or advantages. The OECD Guidelines provide helpful guidance, including in relation to the accounting separation of those activities, to facilitate the process of identifying, costing and funding those obligations accurately and transparently to avoid market-distorting cross-subsidisation between community service obligations and other economic activities.

As observed in the context of the Directions power, a clear definition of a community service obligations requirement is needed to protect SOCs against the potential for unpredictable and non-recurring special obligations being imposed that might threaten the delivery of core objectives or commercial viability. There should also be transparency about any trade-offs and how they should be handled.

As discussed earlier in relation to the proposed Directions Power, there is also a risk that the imposition of a community service obligation may create a conflict for Directors with their duties to the business under the Corporations Act. Depending on the types of Directions given by the SHMs, there may be possible implications for SHMs/Government under Corporations Legislation and Competition Law.

Key Observations:

- A clear articulation of the problem/s to be solved would be helpful to inform further development of reforms relating to corporate planning processes and community service obligations.
- TasNetworks recommends consultation with Crown Law on potential implications of community service obligations powers for Directors and SHMs.

3.5 Clarity about the role of Shareholding Ministers

TasNetworks current understanding is that the SHMs hold the Government's ownership interest and ensure TasNetworks aligns with Government policy and expectations, but SHMs don't assume the responsibilities and liabilities of the Board.

As highlighted earlier in relation to various proposals to increase the powers and responsibilities of SHMs to intervene in operational matters and influence the company's decision-making processes, there is a risk that these expanded powers blur the desired role delineation and SHMs become 'Shadow Directors'.

Key Observations:

- TasNetworks' current understanding and practice align with this delineation of the role of the SHMs.
- TasNetworks supports this recommendation if further clarification is considered necessary by Government.

4 Reform 2 - Improving Governance

4.1 Mandated Board renewal and term limitations

The proposed reform to mandate regular Board renewal by limiting Directors and Chairs to two terms unless exceptional circumstances exist is consistent with TasNetworks practice for Directors; however, the tenure for the TasNetworks Chair is currently limited to three terms. Retaining a three-term tenure for the Chair is desirable to provide stability for the Board, including in relation to strategy and oversight of Board skills, diversity and succession planning.

The practice at TasNetworks has been developed based on section 9 of the *Guidelines for Tasmanian Government Businesses – Board Appointments* which provides that Directors are generally appointed for a term of three years and may be reappointed at the expiry of that term. The Guidelines further state that the tenure of Non-executive Directors should not exceed two terms (six years), and a Chair should not exceed three terms (nine years).

In some circumstances, Directors may serve more than two terms, and the Chair may serve more than three terms, but only where a critical business need has been clearly demonstrated to the SHMs and the Cabinet has approved the approach.

The TasNetworks' Remuneration and People Committee assist the Board with Director recruitment and succession planning with reference to the *Guidelines of Tasmanian Government Businesses – Board Appointments* and related processes.

Directors of TasNetworks subsidiaries are the TasNetworks Executives, who are currently appointed for their tenure. It is unclear whether the term limits are intended to apply to subsidiaries and how this would work in that context.

Key Observations:

- Directors of TasNetworks are currently limited to two terms whereas the Chair is limited to three terms. Subject to ongoing performance assessment, retaining a three-term limit for the Chair provides continuity of experience and stability for the Board.
- Current limits may be extended based on a critical business need and with approval from SHMs and Cabinet.
- It is unclear whether the proposed term limit requirement is intended to extend to subsidiaries.

4.2 Transition Boards to 50% Tasmanian Members

This would be a new requirement for TasNetworks. There are references to 'at least 50%' and 'more than 50%' Tasmanian Board members in the Draft Plan. TasNetworks typically has six board members, so it would be preferable that any requirement is for '50% or more' Tasmanian membership, which would require a minimum of 3/6 Tasmanian members rather than 'more than 50%' which would require 4/6 Tasmanian members.

While TasNetworks supports this reform in principle and the benefit of fostering local insights and connection, it may introduce recruitment challenges and limit the pool of available expertise and innovation. The focus of Board recruitment is necessarily on the skillsets required under our Board Skills Matrix and achieving diversity on the Board to enhance performance and decision-making.

There are also various criteria for classifying someone as Tasmanian, and it is not clear what criteria are intended to be used for this purpose. For example, potential criteria include place of birth, current residence, a minimum length of residence at some point in their life, or historical, cultural or family connection. It may be helpful to utilise a broader definition to provide a broader pool of candidates able to meet the requirement. It may also be helpful to frame this as a 'target' to guide recruitment efforts while also considering the skillsets required. In the context of desired skillsets, it is important to recognise that some Tasmanian Government businesses, like TasNetworks, operate in a national market requiring a national focus which may benefit from national Directors.

4.3 Conflict of interests for Directors including multiple Board memberships

TasNetworks currently informs SHMs about conflicts of interest (including other Board memberships) on appointment as required under section 10 of the *Guidelines for Tasmanian Government Businesses – Board Appointments*. Section 10 provides that as part of the due diligence process for the consideration of candidates for the role of Non-executive Director, consideration is to be given to whether they have an actual or perceived conflict of interest with the position they are being invited to fill and any conflicts should be recorded in the Declaration of Interests statement.

Directors have an ongoing requirement to notify the Board of any material personal interest in any matter relating to the affairs of TasNetworks, which is managed in accordance with a Conflict-of-Interest Protocol. The obligations relating to managing conflicts of interest (*Corporations Act 2001 (Cwlth)* (ss191, 195, Chapter 2E)), common law principles and the relevant Government Guidelines and Board policies relating to disclosure of interests apply to TasNetworks Directors.

The Articles of Association for TasNetworks (s26) also provide for disclosure of interests and for the removal of Directors (22.12(e)) if they have a direct or indirect interest in any contract or proposed contract with the company and fail to declare the nature of that interest as required by the Corporations Act.

The proposed amendments may prevent a Director from being on more than one GBE/SOC Board. There is currently no requirement limiting Directors being on multiple boards. Historically, many TasNetworks Directors have been on other GBE/SOC Boards, and conflicts have been managed as appropriate from time to time. Preventing a Director from being on more than one GBE/SOC Board might narrow the pool of available expertise, especially when combined with a requirement relating to Tasmanian representation.

4.4 Two separate Shareholding Ministers for oversight roles

The SHMs for TasNetworks are the Minister for Energy and the Treasurer of Tasmania. TasNetworks has always had two SHMs. We acknowledge that this has not been the case historically for all GBEs/SOCs.

Any new requirements about the SHMs, and these roles not being undertaken by the same person, will predominantly impact Government. TasNetworks supports having two SHMs providing oversight as this brings diversity of thought and additional rigour. It is also important for SHMs to have the appropriate skills to set clear objectives, monitor performance and understand how to align the operations of TasNetworks and other Government businesses with broader public policy and Tasmanian Community interests.

4.5 Governance frameworks for Subsidiaries and Joint Ventures

TasNetworks has three wholly owned subsidiary companies:

- TasNetworks Holdings Pty Ltd, which is a non-trading subsidiary created to hold all shares in and oversee the subsidiary companies of TasNetworks.
- Fortytwo24 Pty Ltd provides customers with telecommunications, information technology and data centre services. It holds a telecommunications carrier licence and has a Nominated Carrier Declaration with TasNetworks in place.
- TasNet Connections Pty Ltd was incorporated to hold unregulated transmission connection assets.

The subsidiaries have robust governance frameworks, including requirements relating to regular and transparent reporting, disclosure in the event of material developments and ring-fencing. For example, the legislative, regulatory and policy framework includes the following.

- A special resolution of SHMs is required for TasNetworks to form, acquire, participate in the formation or acquisition of, or dispose of a subsidiary (s4 of the Articles of Association).
- The *Guidelines for Tasmanian Government Businesses – Subsidiary Companies and Joint Ventures* provides the guidance from Government in relation to the approval and use of subsidiary companies and joint ventures.
- The 2024 SOE notes that TasNetworks subsidiaries can only undertake activities with clear alignment to the core business of TasNetworks, and the subsidiary activities must not impact TasNetworks' focus on core business.
- There are requirements for regular and transparent reporting of subsidiary financial performance as part of the broader reporting on TasNetworks operations.
- There is an expectation for SHMs to be kept informed of any material developments.

For completeness, it is noted that TasNetworks subsidiaries are exempt from certain Treasurer's Instructions relating to financial management and reporting requirements that apply to Government entities. The exemption allows subsidiaries to operate more like private sector entities, providing them the flexibility to make decisions more aligned with market dynamics and business strategies. While subsidiaries may be exempt from specific Treasurer's instructions, they are still subject to other accountability mechanisms, such as oversight by the Tasmanian Economic Regulator and adherence to corporate governance standards.

For joint ventures (JVs), the Guidelines require that all JVs be incorporated, and the Constitutions of TasNetworks and all subsidiaries require that the SHM approve the incorporation of new companies. By extension, the SHMs also need to approve JVs.

As mentioned previously, the AER has developed a *Distribution Ring-fencing Guideline*, and a *Transmission Ring-fencing Guideline* intended to prevent distribution and transmission network services providers from using their existing regulated business to hinder competition developing in related contestable electricity markets. These guidelines clearly delineate the activities of DNSPs and TNSPs from those of their competitive arms to avoid conflicts of interest.

To comply with these guidelines, TasNetworks ensures there is a functional separation between its regulated and unregulated activities including information barriers and transparency in record-keeping and reporting, and unregulated activities are undertaken on a commercial basis with no cross-subsidisation by electricity customers and include appropriate debt funding and other costs to meet competitive neutrality principles.

Key observations:

- While TasNetworks subsidiaries are exempt from some specific Treasurer's instructions, accountability mechanisms exist to ensure they operate responsibly and transparently.
- TasNetworks does not seek Shareholding Member approval of subsidiary Constitution updates. Instead, we consult with SHMs as per their request by letter in late 2023.
- TasNetworks does not currently have any Non-executive Directors on subsidiary Boards.

4.6 Tabling of Government business annual reports and SOC constitutions

TasNetworks support and currently adhere to the proposed requirements for standardised tabling of Government business Annual Reports and SOC Constitutions. Each year, TasNetworks prepares and submits its annual report to the SHMs in compliance with Section 51 of the Articles of Association. Following this, the responsible Minister tables the Annual Report in Parliament, ensuring that it is accessible to the public. Additionally, the TasNetworks SOE is tabled in Parliament by the Portfolio Minister and is made available on TasNetworks' website for further public scrutiny.

The TasNetworks Constitution was initially tabled in Parliament in 2014. Amendments to the Constitution require approval through a special resolution by both Houses of Parliament, as stipulated in s8 of the MA.

5 Reform 3 - Expanding Performance Monitoring

5.1 Independent reviews of the Board and CEO reported to Shareholding Ministers

5.1.1 Board Reviews

The responsibilities of individual Directors and the company's expectations of them are set out in their letters of appointment and communicated to them at their induction. TasNetworks has processes for evaluating the performance of the Board, its committees and individual Directors that are in line with the *Guidelines for Tasmanian Government Businesses – Assessing Board Performance*.

Board evaluations are undertaken annually and cover Board composition, capability, effectiveness and strategic alignment as well as the contribution of individual Directors and the Chair. An external review of the Board occurs every three years.

The evaluation conducted for the 2023-24 financial year was an internal evaluation, with the Board completing questionnaires and participating in discussions to assess and provide feedback on the performance of individual Directors, Committees and the Board. These reviews identify development opportunities which are implemented with the oversight of the People and Remuneration Committee. Reviews are also undertaken to assess the performance of each subsidiary Board.

As required by the Government Guidelines and as recommended in the Draft Plan, the SHMs are advised of the outcome of each Board performance review.

5.1.2 Chief Executive Officer

The role statement and employment contract for the CEO position are set out in the terms of their appointment. The People and Remuneration Committee advises and assists the Board with reviewing the performance of the CEO and setting key performance indicators for the CEO.

CEO reviews are undertaken as determined by the Remuneration and People Committee Charter and the Board. Current practice is for annual CEO performance reviews with external reviews on an ad hoc basis (e.g. 360 reviews). A summary of the results of the CEO performance reviews are reported to SHMs.

Key observations:

- This recommendation reflects the current practice of annual reviews of the performance of the Board at TasNetworks, subject to the proposal requiring more frequent external reviews (currently every three years).
- This recommendation also reflects current practice in relation to the CEO performance reviews, subject to the proposal requiring regular, rather than ad hoc, external reviews.

5.2 Transparency in relation to incentive payment arrangements for executives

Remuneration levels for key management personnel are set in accordance with the Tasmanian Government's *Director and Executive Remuneration Guidelines*, dated June 2021. Under these guidelines, remuneration bands for Chief Executive Officers (CEO) are determined by the Treasurer, broadly reflect the principles outlined in the Guidelines, and align with State Service Heads of Agency. Positioning within the bands depends on the complexity and size of the business and the environment in which the business operates. Remuneration for other senior executives is set with reference to the CEO's salary and in accordance with the Guidelines. It is also considered by The People and Remuneration Committee (2.2 PRC Charter), including referencing against the Mercer Tasmanian General Market.

The Board appoints the CEO. The Board consults with the Treasurer when determining the CEO's remuneration package. Senior executives' employment terms and conditions are contained in individual employment contracts, which prescribe total remuneration, superannuation, annual and long service leave, and vehicle and salary sacrifice provisions. In addition to their salaries, TasNetworks also provides non-monetary benefits and contributes to post-employment superannuation plans on their behalf.

The Government Guideline sets out expectations around incentive payments and provides for an annual Remuneration Report to the SHMs. Except for TasNetworks' subsidiaries, TasNetworks does not pay bonuses or any other short-term incentive payments to any member of key management personnel.

Key observations:

- With the exception of TasNetworks' subsidiaries, TasNetworks does not pay bonuses or any other short-term incentive payments to any Executives.
- The remuneration paid to TasNetworks' Executives is published in the TasNetworks Annual Report.

5.3 Reporting requirements and continuous disclosure

This proposal is for consistent and contemporary legislative arrangements for reporting for all Government businesses, including continuous disclosure and quarterly performance monitoring obligations (similar to disclosure obligations of listed companies).

The *Guidelines for Tasmanian Government Businesses – Reporting* currently provide for quarterly reporting to SHMs through Treasury, with formal reports prepared and submitted to SHMs and Treasury on a half-yearly basis. As noted earlier, annual reports are also submitted to SHMs, and the responsible Minister then tables the annual report in Parliament. The annual report is then made publicly available.

Treasury meets monthly with each business, including TasNetworks staff, to discuss performance. The Chair of the Board and CEO meet monthly with the SHMs post the Board meetings, have other ad hoc meetings as required and attend the TasNetworks Annual General Meeting.

SHMs are provided with key performance reports, a dashboard summary of KPIs, information about major capital projects, and significant upcoming events.

As to continuous disclosure, as discussed earlier in this submission, TasNetworks has obligations (SOE 5.3) to keep SHMs informed immediately in writing of any matters of significance. The current requirements relate to reporting to the SHM rather than public reporting, however, TasNetworks has public disclosure obligations under the NEL, NER, TasNetworks' distribution and transmission licences and other applicable instruments.

5.4 Shareholding Ministers to request performance reviews by Auditor-General

The TasNetworks Articles of Association provide for audits by the Auditor-General for Tasmania (s35) and for TasNetworks to provide, on request, to the SHM:

- The business and strategic plans of the Company and its subsidiaries;
- The financial information specified in the request; and
- A report on the matters specified in the request and any relevant related information (s8).

Additional auditor-led performance reviews paid for by the Government business would require increased resource allocation. It is difficult to assess the impact of these without clarity about the powers anticipated (e.g. likely scope and frequency of reviews, triggers for requests etc).

5.5 Independent expert assurance reviews in key operational areas

A legislated power for SHMs to require Government businesses to seek external expert assurance reviews in areas such as infrastructure projects, organisational capability, workplace culture, risk management frameworks, or work health and safety appears to be a new requirement.

Requiring independent expert assurance reviews would require increased resource allocation. It is difficult to assess the impact of these without clarity about the powers anticipated (e.g. likely scope and frequency of reviews, triggers for requests etc).

5.6 State-facilitated gateway reviews for significant projects

The SHMs approve, and are actively kept informed about, major projects at TasNetworks via regular reporting and meetings to facilitate the provision of timely information about milestones, challenges and achievements. This structured program of reports and meetings provides SHMs with an opportunity to provide their insights and input as significant projects progress.

TasNetworks projects above \$7M require a cost-benefit analysis (Regulatory Investment Test) and details of the current projects are published on TasNetworks website. TasNetworks must also apply to the Minister for approval of projects involving augmentations required to meet minimum network performance requirements above \$35M (CPI adjusted) under s6 of the ESI Regulations.

Mandating Gateway Reviews, in addition to current reporting and engagement processes, would require increased resource allocation. Given this, and the context of existing approval and reporting obligations, it may be that the threshold for Gateway Reviews should be set higher than \$250M.

Care should also be taken in relation to the potential for the role of the SHMs to be blurred if they delve more deeply into the operations of the business. This is similar to the point raised in relation to the proposed Directions power and the potential for Corporations Law and Competition law implications.

6 Reform 4 - Manage and Rectify Poor Performance

6.1 Legislative mechanisms to intervene in poor performance

Proposed reforms include:

- authorising operational reviews/audits;
- performance improvement plans from Boards;
- appointing a ministerial representative to the Board during transitions or performance issues;
- appointing performance improvement teams; and
- in severe cases, dissolving Boards and appointing Administrators.

The process for selecting and appointing Directors at TasNetworks aligns to the requirements set out in the *Guidelines for Tasmanian Government Businesses – Board appointments*. The appointment of a Director requires the approval of SHMs following a rigorous selection process. The appointment process involves the creation of a Director Selection Advisory Panel, and an executive search firm is appointed to assist the panel in identifying potential candidates. After a robust selection process, including probity checks, a recommendation is made to the SHMs. The People and Remuneration Committee advises and assists the Board with CEO recruitment.

As outlined earlier, TasNetworks has formal processes for annually evaluating the performance of the Board, its Committees and individual Directors. Evaluations have been conducted internally for the 2023-24 financial year, with the Board undertaking questionnaires and participating in discussions to assess and providing feedback on the performance of individual Directors, Committees and the Board. All identified opportunities for development from the process are implemented with oversight by the People and Remuneration Committee. Internal reviews have also been undertaken to assess the performance of each subsidiary Board. Similarly, there are processes for regular review of the performance of the CEO.

In considering reforms to intervene in poor performance there should be a clear articulation of the problem/s to be solved to assist with establishing clear criteria for interventions that prevent misuse or undue interference. In this context it is noted, that in addition to the existing mechanisms for evaluating and improving performance through annual assessment processes, there are existing powers that allow SHMs to manage poor performance in similar ways to those proposed. For example:

- The Articles of Association (22.9) provide an ability for the SHMs to remove a Director before the end of their term and appoint another person to fill the vacancy left by the Director's removal.
- The Articles of Association (34.2) provide that the Board may, subject to the terms of the CEO's employment agreement, suspend, remove or dismiss the CEO.
- The Articles of Association provide that the SHMs may at any time appoint a person as a Director to fill a vacancy (22.7(a)) or in addition to the existing Directors (22.7(c)).
- SHMs may also call and arrange to hold a General Meeting and a SHM and any Auditor is entitled to attend any General Meeting (19.2, 19.3).
- SHMs also have ability to give TasNetworks a direction so they may be able to take some of the proposed actions using that mechanism.

Key observations:

- TasNetworks takes a structured approach to appointing Directors based on skills and experience and uses an executive search firm. This process includes probity checks and the maintenance of a Board Skills Matrix to ensure diversity and capability. SHMs approve the appointment of each Director.
- TasNetworks has established formal processes for the annual evaluation of the Board, its Committees, and individual Directors. This includes internal assessments and feedback mechanisms, with oversight by the People and Remuneration Committee.
- The SHMs have significant authority, including the ability to remove Directors, appoint new Directors, and direct TasNetworks, which can be leveraged to manage performance issues effectively.
- It is important for there be a clear articulation of the problem/s to be addressed to establish criteria for interventions. This is crucial to prevent misuse or undue interference in the governance process.
- The potential legal implications for some of the proposed reforms may need further consideration and consultation with Crown Law. For example, in relation to the power to appoint a ministerial representative to the Board, there should be consideration of the application of the Director's duties to that ministerial representative (i.e. they will also be required to act in the best interests of the company) and any other implications for the ministerial representative and Government.

7 Reform 5 - Review the Government Business Portfolio

TasNetworks currently has strong regulatory oversight to address concerns flagged by Government when releasing the Draft Plan. For example:

- While TasNetworks is a natural monopoly, in that it is more cost effective for one network to serve all customers than have poles and wires owned by multiples entities criss-crossing Tasmania's suburbs and countryside, TasNetworks is subject to economic regulation by the AER. Prior to Tasmania's entry in the NEM in 2005, the OTTER was responsible for regulating Tasmania's network businesses. OTTER continues to be involved with setting and enforcing standards of safety, security, reliability and quality applying to TasNetworks.
- Under the current economic regulatory regime, TasNetworks' capital and operating expenditure, its revenue, the prices it charges for network services and a range of ancillary services provided on a fee for service basis, are all approved by the AER. This ensures that TasNetworks has the revenue it needs to operate prudently and efficiently, maintain and invest in its networks, and earn a fair return on its investment, while protecting the interests of customers in terms of safety, reliability and affordability.

7.1 Proposed reforms for assessing public ownership

The reforms proposed by Government include:

- define a principles-based approach for Government's ownership of businesses;
- assess the overall portfolio of Government businesses to determine the appropriateness of public ownership of each entity;
- identify potential businesses for divestment or restructuring, with an initial focus on the transport and energy sectors.

7.1.1 Principles-based approach to Government ownership

TasNetworks acknowledges that the development of a principles-based approach to Government ownership of businesses and application of these principles can provide an opportunity for Government to clearly articulate its rationale for State ownership and allow it to assess both now and in the future whether Government ownership of the various businesses in its portfolio is the best option for Tasmania and Tasmanians. As recommended by the OECD guidelines the rationales for ownership, and any public policy objectives for individual Government businesses, or groups of Government businesses, should be clearly linked to their main line of businesses and publicly disclosed.

While TasNetworks supports the proposal for a principles-based approach to Government ownership of businesses, it is noted that reviews of Government business ownership can significantly impact employee engagement, health, and wellbeing. Changes in ownership structures or operational frameworks may lead to uncertainty among employees, potentially affecting their morale and productivity. Furthermore, during periods of low unemployment, there is an increased risk of losing high-performing employees who may seek more stable or appealing opportunities elsewhere. Maintaining a supportive work environment is crucial for retaining talent and ensuring the overall health of the organisation and this requires transparency and strong communication where assessments of this nature are undertaken.

TasNetworks recommends that Government approaches this review with care and caution. A phased approach to the process and open communication may assist in reducing staffing impacts. Each Government business should also be given adequate opportunity to make submissions concerning the appropriateness of Government ownership for their specific business context.

7.1.2 TasNetworks' rationale for continued State ownership

In the context of the initial focus by Government on the transport and energy sectors, TasNetworks supports its own continued State ownership for the following key reasons:

- **Public interest**
State ownership allows for decision-making that prioritises public interest. This may include an increased capacity to align business objectives and priorities with Government policies relating to energy security, environmental sustainability and climate change initiatives (including through potential community service obligations).
- **Integration of renewable energy**
With State control, the Government can better manage the transition to renewable energy sources, ensuring that infrastructure is developed to support sustainability goals.
- **Tasmania-focused customer outcomes**
State ownership may assist with ensuring equitable access to energy services through policies to protect low-income households and prioritising the views and needs of Tasmanians.
- **Dividends support the community**
Dividends are returned to the Government to support broader priorities.

- **Government influence**

Government ownership provides ability to direct key imperatives to Tasmania, such as a Buy Local policy for procurement.

- **Integrated system-level governance**

State ownership can achieve integrated system-level governance across the various Tasmanian Government businesses in the energy supply chain. This allows for the various components of the energy sector - generation, transmission, distribution and retail - to be overseen as a cohesive whole.

If these different components of the energy supply chain become divided among smaller private entities, governance may become fragmented creating the potential for gaps in coverage, inefficiencies, increased costs and service disruptions. While it's not impossible to address these risks through appropriate legislation and regulation of private enterprises, this may be slow and complex.

- **Potential negative impact of further change**

As articulated in this submission, we are in a time of unprecedented change and working to deliver Government Policy objectives. The complexity and disruption of any changes to structure/ownership would risk delaying or preventing the delivery of these initiatives and legislated targets.

7.1.3 Partial divestment with Government retaining majority ownership

This option would provide short-term access to private capital. It may also allow for balancing some operational benefits from the private sector while maintaining some Government control and oversight to assist in safeguarding public interest. Where the Government is not the sole owner of a SOC, however, it is generally not able to formally mandate the fulfillment of specific objectives.

7.1.4 Merger with other Government energy businesses

While there are several entities involved in the energy sector in Tasmania and merging those entities may seem like a possible option, this would not be a simple process in the case of TasNetworks for the following reasons:

- **Ring-Fencing Regulations**

These regulations are designed to prevent anti-competitive behaviour and ensure fair access to the electricity market. They prevent distribution and transmission network services providers from using their existing regulated business to hinder competition developing in related contestable electricity markets by requiring that different parts of the supply chain operate independently to avoid conflicts of interest. These regulations would create significant complications in merging with other Government businesses across the energy sector. The resulting burden is likely to outweigh any intended efficiencies from a potential merger.

- **Legislative Requirements**

Any merger would need to comply with State and Federal legislation governing the electricity sector, including the National Electricity Law and the ESIA. These laws include provisions that may restrict or regulate the merging of entities across different segments of the supply chain.

- **Operational Challenges**

Merging entities with different operational cultures, systems, and processes can be complex and may result in internal resistance, and staff morale issues, which could hinder effective integration and affect performance.

8 Conclusion

In conclusion, TasNetworks appreciates the opportunity to provide feedback on the Draft Plan and commends the Government for its commitment to enhancing governance across Tasmanian Government businesses. The proposed reforms present a valuable opportunity to strengthen accountability, performance, and coordination among Government entities. However, as outlined in our submission, careful consideration and ongoing consultation are essential to ensure that these reforms are evidence based, effectively tailored to the unique needs of each Government business and avoid inadvertently hindering operational effectiveness and innovation.

9 Recommendation

We recommend that the Government take a phased and consultative approach to the implementation of the proposed reforms. This should include:

- Engaging in ongoing dialogue with Government businesses to refine the proposed reforms, ensuring that the specific operational contexts and regulatory frameworks of each entity are considered.
- Exploring alternative methods for enacting reforms, such as updated Treasurer's Instructions and Government Guidelines, to provide a more agile response to the evolving needs of Government businesses, rather than relying solely on legislative changes.
- Recognising the diversity within the portfolio of Government businesses and avoiding a one-size-fits-all approach to governance reforms. Tailoring governance practices to the unique requirements of each entity will promote efficiency and effectiveness.
- Balancing reforms intended to limit Board tenure and ensure local representation with the need to maintain a diverse pool of candidates with the necessary skillsets to navigate the complexities of regulated sectors.
- Working through the detail of each proposed reform to be clear about the problem/s to be solved and to understand the implications and risks of the proposed solutions. This will ensure that stakeholders can fully understand and prepare for the changes and that the changes implemented realise the intended benefits.



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