

# Treasury considers streamlined rail deal

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 The ground rules under which CBH Group is likely to negotiate its next agreement with Arc Infrastructure to run grain trains beyond 2026, are expected to be revealed in the next few months as the State government implements Treasury recommendations for a revised freight rail access regime.

A REVISED State freight rail access regime under which CBH Group is likely to negotiate its next agreement with Arc Infrastructure to run grain trains beyond 2026, is expected within a "few months".

A spokesman for Treasurer and Finance Minister Ben Wyatt has confirmed to Farm Weekly the Treasury's final report on recommendations for a more streamlined and user-friendly access regime is being considered by the State government.

The government intends to improve the regime where it can and whether that involves changes to the Railways (Access) Act 1998 and Railways Access Code

2000, or both, will be announced in coming months, the spokesman said.

Treasury's final report to government has not been released to the public so it is not known if it is substantially changed from a draft decision paper listing 16 recommendations released for comment in February.

But last week Mr Wyatt indicated he did not consider the time taken to reach the first agreement for CBH's grain trains under the existing regime was appropriate.

"The six-year delay in concluding CBH's arbitration with Arc Infrastructure under the current rail access regime further vindicates our decision to initiate a Treasury review of that scheme," Mr Wyatt said.

"We are confident that the review, which will conclude in the next few months, will deliver significant improvements to the access regime's performance."

It is expected changes to the rail access regime stemming from the Treasury review will be implemented before the Economic Regulation Authority (ERA), which administers the rail access regime, begins another statutory review.

The ERA is required by the Railways (Access) Act to review the Railways Access Code every five years and the next review is due next year.

"The ERA is aware of the Treasury

review and in that context is considering the timing of future reviews of the code," the spokesman for Mr Wyatt said.

There is a precedent for the ERA to defer a statutory review of the code.

A review due in 2010 was put off until 2011.

The Treasury review of the freight rail access regime was initiated in 2017, less than four months after the government came to power.

The previous government had not acted on ERA recommendations from the 2011 and 2015 statutory reviews of the rail code and there were complaints the regime was ineffectual, failed to protect continued access for existing users and deterred potential new users.

Submissions on an issues paper were considered and following further discussions with stakeholders, the draft decision was released in February.

It attracted 16 submissions, including two from CBH and one each from freight rail network operator Arc, WAFarmers, WA Local Government Association, Kondinin Shire council, a group of eastern Wheatbelt grain growers, Wheatbelt Railway Retention Alliance (WRRRA) and WRRRA founder and co-ordinator Jane Fuchsbichler, among others.

CBH has not revealed the cost of negotiating its agreement - which will provide certainty for grain

trains from January 1 next year until the end of 2026 on the 15 narrow gauge and standard gauge Tier One and Tier Two

lines it currently uses.

The process involved a Supreme Court challenge, taking its grain trains off Arc's rail network for 24 hours and splitting the bill with Arc for a three and a half year arbitration process before Sydney-based Queen's Counsel, commercial law expert and retired Federal Court judge Kevin Lindgren.

But in the draft decision document in February, Treasury indicated it believed the review recommendations it put forward would reduce the cost of negotiating under a revised access regime.

A revised regime would "provide a net benefit of at least \$24.4 million over 20 years", it estimated.

"This is primarily due to allowing projects that rely on rail access to begin operations earlier and to reducing

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Both CBH chairman Wally Newman and chief executive officer Jimmy Wilson at the announcement of the seven-year agreement with Arc, said they believed negotiating the next agreement would be "easier", partly because they expected a revised access regime to be in place.

But while CBH could find negotiating a new access agreement for its grain trains less expensive second

time around, the government may have added extra regulatory charges by then.

At the same time Treasury was reviewing the access regime, it was also preparing legislation to introduce cost recovery mechanisms for the ERA's administration of the regime.

The access regime administered by the ERA covers the freight rail network operated by Arc, the urban network operated by the Public Transport Authority (PTA) and two Pilbara iron ore lines.

Apart from the rail industry, the ERA also has regulatory, reporting and review obligations for the State's electricity, gas and water industries.

But the rail industry is the only one where the ERA is funded by government appropriation.

Most of its other functions are funded by industry user fees and charges or by a standing regulator's fee and specific charges paid at regular intervals.

In 2017-18, the ERA's cost for reviewing Arc Infrastructure and The Pilbara Infrastructure Railway regulatory instruments, amounted to \$521,397.

In 2016-17, its costs approving the initial Roy Hill regulatory instruments and reviewing the PTA's regulatory instruments totalled \$606,411.

In 2015-16 and 2014-15, two general rail oversight

Proposed legislation to introduce cost recovery mechanisms was workshopped with rail users and operators last year and was initially decided on as part of the 2017-18 State budget process.

It was supposed to have been in place by July 1 this year.

A CBH spokesperson said the co-operative remained "supportive" of the government's review of the access regime on the basis it would improve the rules under which future rail access agreements were negotiated.

"CBH will continue to push for substantial and immediate changes to the (railways access) code resulting in reasonable access prices, greater transparency and more appropriate timelines for decisions, to avoid a repeat of this experience (six-year negotiation and arbitration process) in the future for CBH and all other Western Australian rail access seekers," the spokesperson said.

p Paul Larsen, who headed Brookfield Rail and Arc Infrastructure throughout the dispute with CBH over the cost of access to the State's freight rail network and through the subsequent agreement negotiations and arbitration, is leaving the company.

After 12 years as chief executive officer, Mr Larsen will be replaced in January by Murray Cook who is currently executive director at Arc and was previously vice president operations at parent company Brookfield Infrastructure Group Australia, Arc has announced.

Mr Larsen will remain a director on the Arc board until March 2021 and will also continue to serve on the boards of Youth Focus and the