

About OZ Minerals

OZ Minerals is a copper-focused, global, modern mining company based in South Australia. Listed on the Australian Securities Exchange (ASX100) OZ Minerals has a growth strategy focused on creating value for all stakeholders.

We own and operate two large copper-gold mines in South Australia, Prominent Hill and Carrapateena, and have assets in Brazil. We also have a number of earn-in agreements with experienced exploration companies in Australia and internationally to create a pipeline of potential growth opportunities. Value creation for our stakeholders is at the centre of our strategy and our Company Purpose is “Going beyond what’s possible to make lives better”.

OZ Minerals welcomes the opportunity to provide feedback to the review of the South Australian Rail Access Regime being undertaken by ESCOSA. We have outlined a range of challenges experienced first-hand with the current regime and note this review provides an opportunity for Government to understand these in greater detail. We encourage ESCOSA and the Government of South Australia to reflect on issues raised during the consultation process and consider how the Regime could be improved over time.

OZ Minerals' submission to the South Australian Rail Access Regime Review

- **Continuation of the current South Australia Rail Access Regime** – maintaining the current South Australian Rail Access Regime is important to ensure the South Australian Government continues to have oversight of critical infrastructure. Should the current Regime discontinue, the State could potentially lose the ability to maintain access to the rail network for South Australian businesses. In turn, this could jeopardise the viability of successful South Australian companies and deter future investment and growth. This would compromise economic growth within the State and be counter to the Government’s *Growth State* agenda.

The current Regime has challenges as outlined below, however addressing these will be virtually impossible without the maintenance of regulatory oversight by the South Australian Government.

- **Alignment with objects of the Railways (Operations and Access) Act 1997 (ROA Act)** – The Objects of the ROA Act are to promote rail transport in South Australia that is responsive to industry needs, provides for the operation of railways, facilitates market competition, promotes efficient resource allocation, and provides fair commercial access.

The current Regime has resulted in outcomes that are inconsistent with the Objects of the ROA Act. Industry needs access to bulk heavy freight services which are commercially competitive in order to maintain access to market and remain competitive in those markets. These conditions are not facilitated by the current Regime where the few owners of below-track assets are permitted to adopt inflexible pricing positions which result in excessive access charges.

The combination of these elements has resulted in a rail system which is unresponsive to industry needs, experiences limited competition and reduced resource allocation, and where users face unreasonable commercial terms in order to gain access. These outcomes fundamentally increase the cost of doing business in South Australia.

More directly, heavy freight has increasingly shifted from rail to road, with state rail infrastructure significantly underutilised. Shifts from rail to road raise community concerns of safety, environmental impact and congestion.

- **Below-track access charges are excessive** – There is significant variability in below-track access charges across the South Australian rail network. Some prices are above what could be considered acceptable based on the floor and ceiling pricing model of the Regime. For example, on the Adelaide to Darwin line, the price per 1000 Gross Tonne Kilometres (GTK) for the Adelaide to Port Augusta line, owned by the Australian Rail Track Corporation (ARTC) is \$4.044. By comparison, pricing on the Tarcoola to Alice Springs line, owned by Genesee & Wyoming Inc. (GWAN now OneRail) is \$7.581 per GTK¹.

This price differential is quite stark, especially considering the Adelaide-Port Augusta line forms part of the interstate network and experiences significantly higher freight volumes and associated maintenance requirements compared with the Tarcoola-Darwin line.

If the current Regime were to be considered effective at facilitating a competitive market and fair commercial terms for parties seeking access, such significant price differences would not be apparent.

- **Access to adjoining rail networks is frequently challenging** – owners of below-track assets have used pricing to effectively restrict connections from private lines, such as sidings and balloon loops, particularly on the Tarcoola-Alice-Springs line. This is despite siding and balloon loops forming part of the Tarcoola to Darwin network, as outlined in South Australian Government Gazette (8 January 2004) in reference to Clauses 2 and 49 of the AustralAsia Railway (Third Party Access) Code².

Clarification of access to the intra-state (and inter-state) rail network from adjoining networks (e.g. balloon loops and sidings) is required within the current Regime. Once clear, access should be included in oversight activities conducted by ESCOSA.

- **Basis of pricing and below-track asset value methodology** – Pricing for setting of access fees for use of below-track assets by above track operators (and in turn end customers) relies on inflated below-track asset values. For example, the Tarcoola to Alice Springs line was sold to Genesee & Wyoming Inc. (GWAN, now OneRail) in 2010 for A\$334 million, despite being valued at \$729.4 million in 2005³. The value ascribed to the Tarcoola-Alice Springs line was part of the total \$2,301.4 million valuation of the Tarcoola-Darwin line undertaken by Booz Allen Hamilton “for the purpose of satisfying the Commission as to the likely magnitude of any access price ceiling that might apply to freight traffics hauled on the AustralAsian railway...”⁴.

The value ascribed to the Tarcoola-Alice Springs line is considerably beyond the total paid by GWAN for the entire Tarcoola-Darwin line. As a result, access pricing is set according to the valuation rather than the actual amount paid. This in turn has resulted in significantly higher prices for above-rail operators and end users.

¹ <https://www.artc.com.au/uploads/Access-Charges-effective-1-July-2019.pdf>

² The South Australian Government Gazette, Adelaide, Thursday, 8 January 2004

³ Tarcoola-Darwin Railway: 10-Year Review of Revenues, Final Report, August 2015, Essential Services Commission of South Australia.

⁴ Booz Allen Hamilton, Asia Pacific Transport Standard Gauge Rail Network DORC, March 2005

- **Reclassification of the South Australian section of the Tarcoola to Darwin line** – Improved commercial outcomes for rail users, greater competition and increased utilisation of rail in South Australia could be achieved by reclassifying the section of the Tarcoola to Darwin line between Tarcoola and the SA/NT border under the South Australian intra-state rail access regime. Reclassification of the Tarcoola-SA/NT border section would enable improved oversight and regulation of what is a critical section of the rail network. Greater oversight could in turn facilitate improved access for end users and lower the cost of doing business in South Australia.
- **Negotiate-Arbitrate framework and the need for business continuity** – while the Regime maintains a negotiate-arbitrate framework to facilitate access by accredited rail operators to below-track services on fair commercial terms, business continuity requirements may deter parties from pursuing arbitration. Many end-users would simply be unable to sustain the disruption in supplying product to market and subsequent reduction in associated cashflow which would result during the arbitration process. Currently, end users are forced to simply accept unreasonable pricing in order to maintain supply of product to customers.

To date no parties have pursued the arbitration process. This is not necessarily an indication of parties reaching a commercial arrangement without the need for arbitration. It is likely reflective of the above issues and the need to preserve business continuity.

We would be happy to discuss further if required. Please contact Tim Richards, Manager Government Relations and Climate, in the first instance (tim.richards@ozminerals.com).

Sincerely,

Andrew Cole

Managing Director & CEO

OZ Minerals