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RAIL FREIGHT SYSTEM ACT 2000

RAIL FREIGHT SYSTEM (TRANSFER) ORDER 2000

made under section 23 of the Rail Freight System Act 2000

Made by the Minister for Transport.

1. Citation

This order may be cited as the *Rail Freight System (Transfer) Order 2000*.

2. Meaning of terms

In this order—

“**Access Assets**” means all of the rights and choses in action which the Commission would but for this order have immediately after the Transfer Time against each of the parties to any Agreement or Instrument prescribed in Section G and H of Schedule 1 of this Order for which the Network Lessee Manager is being substituted as a party by this order, in respect of the subject matter of such Agreements and Instruments but does not include any right to recover a book debt owing to the Commission immediately prior to the Transfer Time.

“**Agreement**” and “**Instrument**” means an agreement or instrument described in Schedule 1 of this order.

“**Assets**” means all of the rights and choses in action which the Commission would but for this order have immediately after the Transfer Time against each of the parties to any Agreement or Instrument for which the Purchaser is being substituted as a party by this order, in respect of the subject matter of such Agreements and Instruments but does not include any right to recover a book debt owing to the Commission immediately prior to the Transfer Time.

“**Commission**” has the meaning given by section 2 of the *Government Railways Act 1904*.

“**Freight Network**” means all of the land and railway infrastructure on such land designated as Corridor Land for the purposes of the Act.

“**Network Lessees**” means the Network Lessee (Narrow Gauge) and the Network Lessee (Standard Gauge).

“**Network Lessee Manager**” means WestNet Rail Pty Ltd (ACN 094 721 301) as manager for and on behalf of the Network Lessees.

“**Network Lessee (Narrow Gauge)**” means WestNet NarrowGauge Pty Ltd (ACN 094 736 900).

“**Network Lessee (Standard Gauge)**” means WestNet StandardGauge Pty Ltd (ACN 094 819 360)

“**Purchaser**” means Australia Western Railroad Pty Ltd (ACN 094 792 275).

“**the Act**” means the *Rail Freight System Act 2000*.

“**Transfer Time**” means 12.01am on the first Sunday immediately following the Completion Time on the Completion Date as defined in the Agreement for Sale of Business between Hon. Murray Criddle MLC, Minister for Transport, exercising powers under section 13 and section 44 of the Act; the Commission; Hon. Richard Fairfax Court MLA, Treasurer, exercising power under section 20 of the Act; Westrail Freight Employment Pty Ltd; AWR Holdings WA Pty Ltd; the Purchaser; WestNet StandardGauge Pty Ltd; WestNet NarrowGauge Pty Ltd; AWR Lease Co. Pty Ltd; and Australian Railroad Group Pty Ltd.

“**Urban Network**” means all government railway land as defined in the Government Railways Act and the railway infrastructure on that land.

3. Purpose of order

This order is made for the purpose of the disposal within the meaning of the Act, of the Commission's rail freight business as a going concern, the disposal being limited to the disposal of things belonging to the State, including the Commission.

4. Disposal to the Purchaser

On and from the Transfer Time—

- (a) all of the Assets will be assigned to the Purchaser in accordance with section 23(1)(b) of the Act;