



Review of Local Government Rating System  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop, NSW 1240

## **Submission to IPART: Review of the Local Government Rating System**

7 October 2016

Aurizon welcomes the opportunity to provide feedback on IPART's August 2016 Draft Report in relation to the Review of the Local Government Rating System in NSW (**IPART Draft Report**). This submission seeks to make comment and outline critical concerns that Aurizon considers relevant to the Tribunal's deliberations in forming recommendations to the NSW State Government.

As discussed below, Aurizon believes that the reasons provided in the IPART Draft Report to support land used for commercial activities being rateable do not apply, or are outweighed by competing considerations, in respect of rail freight corridors.

Aurizon believes that the proposal to categorise freight rail lines as rateable land will be detrimental to the future of rail infrastructure in NSW. The proposals contained in the IPART Draft Report inequitably distort the cost base and competitiveness of rail versus road freight infrastructure modes and directly conflicts with other NSW government transport policies <sup>A</sup> which seek to encourage the use of rail transport to reduce reliance on road freight in NSW.

### **Overview of Aurizon Operations in NSW**

Aurizon operates rail transport and logistics services across NSW including coal and intermodal freight haulage.

The company commenced coal haulage operations in the Hunter Valley in 2005. These operations provide a critical source of employment and support economic activity within the Hunter Valley, with Aurizon having hauled 43.8mt of coal in the Hunter in FY2016.

The company employs 378 staff based in NSW, including 311 in Newcastle and the Hunter Valley. In addition to undertaking train maintenance and provisioning at Hexham in the Hunter Valley, Aurizon also has crew depots at Mayfield, Duralie and Quirindi.

Aurizon also operates intermodal train services between Melbourne, Sydney and Brisbane with interstate services using the intermodal terminal operated by the Company at Enfield in Sydney. In August 2016, Aurizon commenced operating port-rail shuttle services between Enfield and Port Botany.

<sup>A</sup> NSW State Government - NSW Freight & Ports Strategy 2013.

In FY2015/16, Aurizon paid in excess of \$5.1 million in Local Government and Council rating charges for corporately owned landholdings (i.e. non rail corridor land) across Australia.

## **RESPONSE TO REASONS IN THE DRAFT IPART REPORT AS TO WHY LAND USED FOR COMMERCIAL ACTIVITIES SHOULD BE RATEABLE**

Aurizon believes that the three reasons given in paragraph 6.2.1 of the IPART Draft Report as to why land used for commercial purposes should be rateable do not apply to freight rail corridors or are outweighed by competing considerations.

We note that the IPART Draft Report proposes that where an activity provides a substantial public benefit, it may be equitable and efficient to exempt it from paying rates. Aurizon believes that the safety, congestion, environmental and reduced road damage benefits of rail freight services (discussed in more detail below) amount to the provision of a substantial public benefit and should be sufficient grounds for rail freight corridors being provided with a rate exemption<sup>1</sup>.

### **Ability to pay rates**

With regard to the reasons as to why commercial land should be rateable, the IPART Draft Report states that:

"First, commercial activities generate private benefits and revenue. Therefore, these ratepayers have the ability to pay, and should pay, rates.<sup>2</sup>"

Rail corridors, which support freight transport operations, are used to transport bulky goods produced and distributed by a number of different industries, thereby enabling and facilitating commercial activities across these industries. These include, by way of example, the retail, manufacturing and agricultural industries. The fact that rail transport corridors are enablers of economic and commercial activity should be recognised because they facilitate investment and growth across the industries that rely on freight transport services. Councils derive a direct benefit from the rates that are paid by these industries.

If rates are imposed on rail transport corridors, this will inevitably flow through to customers in the form of a direct cost added onto rail freight services. This has the potential to further reduce the competitiveness of rail freight services (especially compared with road freight where rates do not, and are not proposed to, apply), resulting in a lessening of commercial activity in local government areas, and consequently, a reduction in the overall rates that are paid to Councils.

The impact of imposing rates on rail freight corridors on competition between rail and road freight is discussed further below.

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<sup>1</sup> Independent Pricing and Regulatory Tribunal, *Review of the Local Government Rating System: Local Government – Draft Report*, August 2016, page 76.

<sup>2</sup> Independent Pricing and Regulatory Tribunal, *Review of the Local Government Rating System: Local Government – Draft Report*, August 2016, page 77.



## **Costs for Councils and the substantial public benefits of freight rail compared to road freight**

The second reason given for land used for commercial purposes being rateable is as follows:

“Second, commercial activities impose costs on council. Therefore, it is equitable and efficient that those responsible for the costs make a contribution to them by paying rates.<sup>3</sup>”

Aurizon submits that the rail operations are an exception to the statement that “commercial activities impose costs on council” because rail transport reduces the cost of managing road and other infrastructure imposed on Councils and local communities and the total cost of transporting goods and services.

Rail transport also provides substantial safety benefits compared to road transport. These safety benefits include:

- Substantially lower accident rates and therefore much lower death and injury rates for rail transport compared to road transport; and
- Substantially lower costs from accidents compared to road transport.

The costs resulting from accidents extend to costs borne by local government, including the negative impacts on individuals and communities directly affected by deaths and injuries from road accidents.

In relation to safety performance, Deloitte Access Economics, in a report prepared for the Australasian Railway Association in 2011, compared accident costs for road and rail freight.

“The accident cost for freight transport was 0.58 cents per tonne km in 2006 for road freight, and 0.04 cents per tonne km for rail in 1999. In 2010 prices this would be 0.65 cents for road and 0.06 cents for rail<sup>4</sup>.”

The conclusion of Deloitte Access Economics was that the accident costs associated with road freight transport amount to ten times more than the accident costs from using rail freight transport on a per tonne kilometre basis.

The use of rail transport also reduces road congestion. One freight train carries enough freight to remove 110 trucks from that corresponding road corridor<sup>5</sup>.

Reducing the number of trucks on roads lessens the amount of damage caused to roads, particularly as it is predominantly heavy vehicles that damage well-constructed roads. This also reduces road repair and maintenance costs for local government.

Finally, the use of rail freight services reduces environmental impacts and associated costs. Freight transported by rail emits 75 per cent less greenhouse gas emissions per tonne of freight moved compared to the road freight sector<sup>6</sup>.

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<sup>3</sup> Ibid, page 77.

<sup>4</sup> Deloitte Access Economics, *The True Value of Rail*, June 2011, page 42.

<sup>5</sup> Ibid, page 42

<sup>6</sup> The Energy Efficiency Exchange website: <http://eex.gov.au/industry-sectors/transport/rail-freight-transport/#content>



Although Aurizon acknowledges that there are some costs associated with freight rail corridors, we submit that public benefits and the cost reductions in other areas are greater than the direct costs borne by local Councils.

### **Competitive neutrality**

The IPART Draft Report states that ensuring the principle of competitive neutrality is not contravened should be one of the reasons why land used for commercial activities should be rateable, stating:

“Third, granting exemptions for land used for commercial activities gives those conducting the activities a competitive advantage, which is contrary to the principle of competitive neutrality. This may lead to less efficient suppliers entering industries based on a tax advantage, or disadvantage efficient competitors.<sup>7</sup>”

Aurizon supports the principle that government policy settings should be consistent with competitive neutrality. We submit that the application of rates to rail corridors would contravene this principle.

Rail freight is already at a competitive disadvantage compared to road freight services due to the different pricing and investment policy frameworks that apply to each mode.

This was recognised by the final report of the 2015 Competition Policy Review which found:

“Lack of proper road pricing leads to inefficient road investment and distorts choices between transport modes, particularly between road and rail freight.<sup>8</sup>”

The distortion in the choices between transport modes is because many rail freight services compete with heavy vehicle operators using road corridors.

Currently, as the IPART Draft Report states, road corridors are and would remain exempt from rates. Therefore if, as the IPART Draft Report proposes, rail corridors were to become rateable, this would provide heavy vehicle road operators with an even greater competitive advantage when added to the competitive advantage provided by the differential pricing frameworks to which the Competition Policy Review referred.

Therefore, in the interests of promoting competitive neutrality, freight rail corridors should continue to be exempt from rates in the same way that all road corridors are (be they local, state or federal). Consistent with this position, we note that land used for rail corridors are not rateable land in all other States.

Aurizon supports the continuation of the current arrangements where land transport corridors are exempt from rates on the basis that all transport corridors, whether used for road and/or rail transport services, are vital for enabling economic and commercial activity, as outlined above in the context of rail freight corridors.

### **Valuation considerations**

In FY2015/16, Aurizon paid in excess of \$5.1million in Local Government and Council rating charges across Australia.

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<sup>7</sup> Ibid, page 77.

<sup>8</sup> Competition Policy Review, Final Report, March 2015, page 38



There are generally two major types of landholdings controlled by rail freight operators, being: corporate land (terminal, workshops and depots leased or owned in freehold) and rail corridor land. For corporate landholdings which do not form part of rail corridor land, Aurizon pays general Council rating charges (based on statutory valuation) in addition to other charges for consumption of Council utility services.

Freight rail corridor land is generally held under long-term leasehold arrangements with the State. The conditions of that leasehold impose obligations on the rail operator to maintain and manage that rail infrastructure, within a complex regulatory framework, for and on behalf of the State. The State retains ultimate ownership and control of the rail corridor recognising the critical nature of such infrastructure to the viability of the State economy. For this reason in the State of Queensland, rail corridor land (and other similar transport infrastructure) is exempt from rating<sup>9</sup> and Aurizon only pays for access to and consumption of utility services provided by Councils (e.g. water and sewer).

Aurizon contends that there would be significant challenges for any State valuation agency in determining statutory land valuations for rail freight corridors – either on an improved or unimproved basis. Aurizon recognises and supports some of the disadvantages and challenges outlined in the submission made by the NSW Valuer General's office in the IPART Draft Report. In particular we agree that assessing taxes based on improved values will disincentivise infrastructure investment and additionally, that there will be significant challenges associated with assessing any 'added value' that improved rail infrastructure may impart onto underlying rail corridor land.

Further, Aurizon does not support the proposal for Council's to be able to independently engage private valuations for rating purposes. We fully support the NSW Valuer General's concerns, as outlined in their submission, with respect to perceived conflicts of interest that such an approach would create as well as the continued need for the Valuer General's role in maintaining independence, governance, quality and audit oversight through the statutory valuation process.

Reference has been made to Queensland legislation and the *Land Valuation Act 2010 (Qld)* however the IPART Draft Report provides no background as to the reasoning behind there being a number of major amendments to the statutory valuation framework in Queensland between 2000 and 2010. The recommendations provided in the IPART Draft Report would create principles and a valuation framework which Queensland found necessary to remove through its latest statutory valuation reforms.

Aurizon considers that if rail freight lines were to be categorised as rateable land, the Valuer General would not be able to adequately assess a statutory market value, either on an improved or unimproved basis. Further reasoning is provided below:

1. There would be limited (if any) market transaction evidence for 'rail freight lines' to establish market value. We further believe that the recommendations in the IPART Draft Report fail a number of basic valuation principles and would result in valuations which would not sufficiently meet the International Valuation Standards Committee (IVSC) standards or valuation principles enshrined through legislation

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<sup>9</sup> *Local Government Act 2009 (Qld)* s93 3(e)



and case law precedent for determining highest and best use and arm's-length market value.

2. The recommendations included in the IPART Draft Report would have the effect of incorporating the concepts of "intangible improvements", "entrepreneurial skill" and "goodwill" into the statutory valuation framework, including for the valuation of freight rail infrastructure. Recently successful statutory valuation appeals<sup>10</sup> in Queensland sought to remove these concepts from statutory valuations. The outcome of these appeals have been written into second reading speech and explanatory notes to Parliament which have formed the basis for the current valuation legislation that exists today in Queensland<sup>11</sup>. The recommendations contained in the IPART Draft Report would directly conflict with these principles.
3. In the case of determining unimproved land value – due to its physical configuration and alignment, rail corridor land generally has no alternative highest and best use and therefore very limited value in its own right. Similarly, rail corridor land only has value provided it forms part of a larger rail corridor network and has connectivity to other ancillary infrastructure such as ports, signalling infrastructure, other rail networks, rail stabling and maintenance facilities. Therefore we would suggest that it would be impossible to determine discrete statutory valuations either for individual land parcels or for larger sections of rail freight networks within local government areas.

Aurizon's recent experience in disposing of decommissioned corridor land, albeit effectively land locked, has found that corridor land in most cases has no value other than to adjoining owners. In most circumstances adjoining owners pay little more than nominal value as this additional land, normally of a shape and area that is not conducive to providing tangible value add, normally creates a cost impost (holding costs, maintenance, etc.) which outweighs any added value to their existing landholding.

4. In the case of determining improved land value – we see no basis upon which the Valuer General could determine a market value for rail corridor land on an improved basis. For a number of reasons, the capital cost of constructing rail infrastructure could not be used as a basis for determining value. The value of rail corridor infrastructure is significant and complex and generally a function of both capital investment in the development and maintenance of track infrastructure, as well as the investment in management experience and business capability which is necessary to manage access to rail infrastructure within a highly complex regulatory and legislative environment.

In some circumstances, rail freight networks can have a nil or negative value in areas where the capital cost of maintenance and capacity planning outweighs revenue derived from the management of access to that infrastructure. Additionally, freight rail and passenger rail lines often share land and underlying infrastructure (i.e. signalling, telecoms, crossings, etc.) which are necessary for ensuring the efficient, cohesive and safe operation of rail transport infrastructure. There are many rail transport networks that are used by both passenger and freight trains. It would be a difficult and complex task to attempt to determine how to treat these shared networks under the proposal to categorise rail freight

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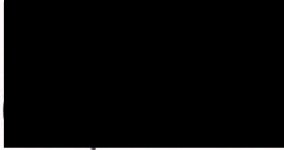
<sup>10</sup> Kent Street Pty Ltd & Ors v Department of Natural Resources and Mines [2008] QLAC 221

<sup>11</sup> Valuation of Land and Other Legislation Amendment Bill 2010 Explanatory Notes

corridors as rateable land. For these reasons Aurizon sees no basis upon which rail freight infrastructure could be valued, and therefore rated, for statutory purposes.

Aurizon therefore submits that the current exempt status for rail freight lines should remain in place and that there should be no changes to the current methodology and basis for determining statutory valuations.

Kind regards,



**Stephen Cox**

Vice President Enterprise Real Estate