



# **Rail Access Segregation Arrangements**

## **The Pilbara Infrastructure**

**May 2014**

### **The Pilbara Infrastructure Pty Ltd**


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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>


<b>The Pilbara Infrastructure</b>	<b>1</b>
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<b>The Pilbara Infrastructure Pty Ltd</b>	<b>1</b>
<b>Segregation Arrangements</b>	<b>9</b>
<b>1 Introduction</b>	<b>9</b>
1.1 Background	9
1.2 WA rail legislative requirements	9
1.3 Implementation of segregation arrangements	10
<b>2 Specification of access-related functions</b>	<b>11</b>
<b>3 Avoidance of conflict of interest (section 32)</b>	<b>13</b>
<b>4 Protection of Confidential Information (section 31)</b>	<b>14</b>
4.1 Definition of Confidential Information	15
4.2 Confidential Information flows	16
4.3 Staff issues	22
<b>Refer also to the Segregation Manual (Appendix A).</b>	<b>23</b>
4.4 Documentation	23
<b>5 Duty of fairness (section 33)</b>	<b>24</b>
(a) the Segregation Arrangements;	24
(b) the Train Management Guidelines;	24
(c) the Train Path Policy;	24
(d) the Costing Principles; and	24
(e) the Overpayment Rules.	24
<b>6 Preparation of accounts and records (section 34)</b>	<b>25</b>
<b>7 Compliance and Review</b>	<b>26</b>
7.1 Development of Segregation Manual	27

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>


<b>The manual includes:</b>	<b>27</b>
7.2    Complaints handling	29
<b>8    Definitions</b>	<b>29</b>
<b>Appendix A</b>	<b>33</b>
<b>RAIL ACCESS SEGREGATION MANUAL</b>	<b>33</b>
<b>Document No.: R-MA-RA-0001</b>	<b>33</b>
<b>Amendment History</b>	<b>33</b>
<b>1    CONTEXT</b>	<b>34</b>
1.1    Purpose	34
1.2    Rail Access Segregation Policy	34
1.3    Segregation Objectives and Strategies	36
1.4    Hierarchy of Documentation	37
<b>2    MANAGEMENT OF SEGREGATION ARRANGEMENTS</b>	<b>40</b>
2.1    Overview of Access Related Roles and Locations	40
2.2    Location Overview	40
2.3    Types of Confidential Information and Security Arrangements	41
2.4    Staff Transfers	42
2.5    Conflicts of Interest	42
2.6    Duty of Fairness	43
2.7    Separation of Accounts and Financial Records	43
<b>3    COMPLIANCE PLAN</b>	<b>44</b>
3.1    Breaches and Complaints Management	44
3.2    Bi-Annual Audit and Report	45
<b>4    SUPPORTING DOCUMENTATION AND FORMS</b>	<b>45</b>
4.1    Segregation Awareness Statement	45
<b>Confidential Information Register</b>	<b>48</b>

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

	<i>Confidential Information Register</i>	48
4.2	Associated Procedures	49
	<b>ATTACHMENT 1</b>	<b>50</b>
	<b>RAIL ACCESS – PROTECTING CONFIDENTIAL INFORMATION</b>	<b>50</b>
<b>1</b>	<b>PURPOSE</b>	<b>51</b>
<b>2</b>	<b>SCOPE</b>	<b>51</b>
<b>3</b>	<b>PROTECTION OF CONFIDENTIAL INFORMATION</b>	<b>51</b>
3.1	Types of Confidential Information	51
3.2	Confidential Information Flows	52
3.3	Location of TPI Premises where Confidential Information is stored	55
3.4	Types of Confidential Information and Security Arrangements	56
3.5	Hardcopy Access	58
3.6	Electronic Access	59
3.7	Staff Issues	60
	<b>Transfers</b>	<b>60</b>
	<b>Consultants</b>	<b>61</b>
3.8	Documentation	61
	<b>Segregation Awareness Statement</b>	<b>61</b>
	<b>Advice regarding confidentiality</b>	<b>62</b>
	<b>ATTACHMENT 2</b>	<b>63</b>
	<b>RAIL ACCESS – USE OF TPI STAFF IN AN EMERGENCY</b>	<b>63</b>
<b>1</b>	<b>PURPOSE</b>	<b>64</b>
<b>2</b>	<b>SCOPE</b>	<b>64</b>
<b>3</b>	<b>STAFF TRANSFERS IN EMERGENCY SITUATIONS</b>	<b>64</b>
3.1	Overview of Staff Transfer situations, other than in an emergency	64

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

**Stage 1 64**

**Stage 2 64**

3.2 Transfer of staff in the event of an emergency 65

3.3 Emergency transfer Log 66

**ATTACHMENT 3 67**

**RAIL ACCESS – PREPARATION BY OPERATORS OF AMENDMENTS TO DAILY OR FORTNIGHTLY PLANS FOR VARIABLE SERVICES 67**

**1 PURPOSE 68**

**2 SCOPE 68**

**3 AMENDMENTS TO DAILY OR FORTNIGHTLY PLANS FOR VARIABLE SERVICES 68**

3.1 Notification period 68

3.2 Interference with other operator’s rights 68

3.3 Agreed Penalty 69

3.4 Confidentiality Provisions 69

**ATTACHMENT 4 70**

**RAIL ACCESS - PROVISION OF INFORMATION TO THE TPI OR FMG BOARD/CEO/SENIOR MANAGEMENT 70**

**1 PURPOSE 71**

**2 SCOPE 71**

**3 PROCEDURES 71**

3.1 Stage 1 71


3.2 Stage 2 73

**ATTACHMENT 5 74**

**RAIL ACCESS - PROVISIONS TO ENSURE PROTECTION OF INFORMATION TO BE GIVEN TO FMG FINANCE 74**


**1 PURPOSE 75**

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>		
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>		

<b>2</b>	<b>SCOPE</b>	<b>75</b>
<b>3</b>	<b>PROCEDURES</b>	<b>75</b>
3.1	Stage 1	75
3.2	Stage 2	77
	<b>ATTACHMENT 6</b>	<b>78</b>
	<b>RAIL ACCESS – HANDLING COMPLAINTS AND BREACHES</b>	<b>78</b>
<b>1</b>	<b>PURPOSE</b>	<b>79</b>
<b>2</b>	<b>SCOPE</b>	<b>79</b>
<b>3</b>	<b>COMPLAINTS AND BREACH MANAGEMENT</b>	<b>79</b>
3.1	Overview of Complaints and Breach Management	79
	<b>Stage 1</b>	<b>79</b>
	<b>Stage 2</b>	<b>80</b>
3.2	Receipt of Complaint	80
3.3	Record of Complaint	81
3.4	Appointment of Investigator	81
3.5	Investigation process and preservation of evidence	82
3.6	Final Investigation Report	82
3.7	Investigation Report format	82
3.8	Notification of Breaches to Economic Regulation Authority	83
	<b>ATTACHMENT 7</b>	<b>84</b>
	<b>RAIL ACCESS – ROLE DESCRIPTIONS</b>	<b>84</b>
<b>1</b>	<b>PURPOSE</b>	<b>85</b>
	<b>This document describes TPI staff Roles and Responsibilities.</b>	<b>85</b>
<b>2</b>	<b>MANAGEMENT OF SEGREGATION ARRANGEMENTS</b>	<b>85</b>
2.1	Overview of Access Related Roles and Locations	85
	<b>TPI Rail Management</b>	<b>85</b>

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

**Track Maintenance 86**

**Rail Systems 88**

2.2 Overview of Non-Access Related Roles and Locations 89

**The following tables describe the non-Access related functions within TPI.89**

**TPI Operations 89**


**TPI Rollingstock Maintenance 90**

**Safety Department 91**

**Technical Department 91**

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

## Segregation Arrangements

### 1 Introduction

#### 1.1 Background

Fortescue Metals Group Ltd (FMG) is developing iron ore mining operations in the vicinity of the Chichester Range in Western Australia's eastern Pilbara, through a wholly owned subsidiary, FMG Chichester Pty Ltd. FMG is also establishing port facilities at Anderson Point in Port Hedland and a railway link between the port and mine, via another wholly owned subsidiary, The Pilbara Infrastructure Pty Ltd (TPI).<sup>1</sup>

In December 2004, the State of Western Australia, TPI and FMG (as guarantor of TPI) entered into a State Agreement that included provisions for the railway and port infrastructure to be subject to third-party access arrangements. The *Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004* ratified the agreement and authorised its implementation.

The *Railway and Port (The Pilbara Infrastructure Pty Ltd) Agreement Act 2004* amended the *Railways (Access) Act 1998* ("Act") and the *Railways (Access) Code 2000* ("Code") (the WA Rail Access Regime) to bring TPI's railway under the WA Rail Access Regime. Clause 16 of the State Agreement covers railway access matters specific to TPI's railway.


#### 1.2 WA rail legislative requirements

The WA *Railways (Access) Act 1998* establishes the following requirements for railway owners in relation to the segregation of access-related functions:

- Duty to segregate (section 28)
- Matters to be covered as part of duty to segregate (section 30)
- Protection of Confidential Information (section 31)
- Avoidance of conflict of interest (section 32)
- Duty of fairness (section 33)

<sup>1</sup> TPI is a subsidiary of International Bulk Ports Pty Ltd, which itself is a wholly owned subsidiary of FMG.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- Maintenance of separate accounts and records (section 34)

The powers of the Regulator in relation to segregation are established in section 29. In particular, the railway owner must obtain the Regulator’s prior approval for its segregation arrangements or variations to such arrangements. In this regard, the Regulator may provide written directions to the railway owner in relation to segregation and these directions are to be complied with. It is noted that section 29 of the Act allows the Regulator to impose other requirements on TPI, in addition to those covered under sections 31 to 34 of the Act, to further improve the effectiveness of TPI’s Segregation Arrangements if required.

### 1.3 Implementation of segregation arrangements

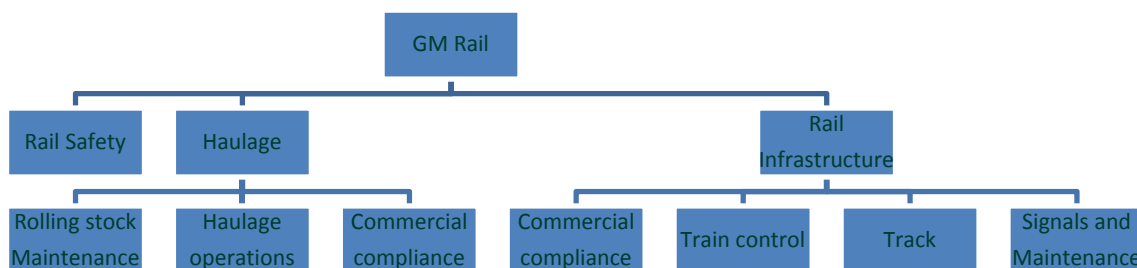
#### 1.3.1 Corporate structure of TPI and FMG

As previously noted, the rail assets subject to declaration under the Act and the Code are owned and will be operated by TPI, a wholly owned subsidiary of FMG.


TPI is a transport and logistics provider in the Pilbara region, in particular, it is responsible for the construction of a railway from the Pilbara to Port Hedland and a port facility at Herb Elliot Port, Anderson Point, Port Hedland to serve FMG’s mining operations in the region.

TPI will perform both the access-related rail functions specified in Section 2 of this paper and also perform the rail haulage functions associated with the operation of train services. TPI notes that the objective of the segregation arrangements is to ensure that it complies with the requirements of the Act to segregate its access-related functions from its other functions.

TPI’s organisational structure is indicated below. Positions and classifications, reporting paths and physical locations of positions within TPI are provided in the Segregation Manual (Appendix A).



REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

The parent company, FMG, will be focused on the task of developing the mining operation and marketing of iron ore.

### 1.3.2 Timing of implementation

The greenfields nature of TPI's railway and haulage operations, and the initial absence of another Operator on the railway, dictate that in a practical sense, access related activities are undertaken in stages. Therefore, in parts of this document, Stages 1 and 2 are used to differentiate access-related activities which are expected to be of particular relevance to the periods prior to, and subsequent to, the execution of the first Access Agreement.

## 2 Specification of access-related functions

For the purpose of satisfying the requirements of the Act and the Code, TPI has identified the following access-related functions it will perform:


#### *Negotiation of access agreements*

- negotiation of access agreements (inside and outside of the WA Rail Regime), including satisfaction that TPI's operational requirements for access are satisfied;
- pricing for the provision of access;

#### *Management of access agreements*

- management of access agreements, including capacity assessment and allocation, performance monitoring and management of day-to-day operational issues;
- train scheduling, including train path allocation and the granting of ad-hoc train path entitlements;
- the collection, use, and dissemination of train running data including manifest details;
- train control, which includes provision of appropriate authorities for trains to use scheduled train paths (train orders or signals) and real-time management of trains;

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>		
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>		

*Regulatory compliance*

- development, maintenance and monitoring compliance with appropriate safety standards for TPI staff, its contractors and any Operators on the network;
- development and authorisation of TPI's operating Rules for the railway line and the issue of special notices, instructions and warnings related to these Rules;
- access-related legislative compliance matters as required under the Act and Code, including:
  - preparation of documents for the Regulator's approval in accordance with Part 5 of the Code;
  - ensuring that suitable policies, procedures and controls are established to give effect to, and facilitate compliance with, the segregation arrangements approved by the Regulator.

*Infrastructure maintenance*

- the maintenance of the track and infrastructure, including signalling and communications maintenance;

*Capacity management*

- capacity planning, including determining an efficient expansion path for the railway consistent with expected demand;


*Interface/emergencies*

- emergency management on the railway line including co-ordination of emergency service responses;
- the development of operating standards for train services (to the extent they relate to the infrastructure), such as maximum braking distances, maximum train lengths, as well as maintenance standards for the rail infrastructure;

*Corporate Services*

- corporate support services for the performance of below rail functions.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

### 3 Avoidance of conflict of interest (section 32)

The Act and the Code requires that any segregation arrangements must ensure that a relevant officer does not have a conflict between his/her performance of access-related functions and his/her involvement in “other business” of the railway owner. TPI interprets “other business” as anything other than the management and control of the use of the railway infrastructure. Ringfencing procedures designed to avoid conflicts of interest require functional separation, affecting staff roles, information flows and decision-making responsibilities.

TPI recognises that organisational separation is a key means of preventing conflicts of interest arising in relation to the provision of access-related functions. TPI will manage its access related functions so that, for relevant officers, no conflict of interest exist.


Under these segregation arrangements, TPI commits that no person will perform duties concurrently for both TPI and FMG where a conflict of interest exists.

TPI commits to controlled management of information flow consistent with organisational separation. That is, TPI will ensure those staff performing access-related functions, such as train scheduling, will not perform any haulage-related functions and the restrictions on the internal flow of information will apply. In terms of the above organisational structure, TPI will separate the following functions:

- rail infrastructure, comprising the functions outlined in section 2; and
- haulage related functions, being those other functions (including rollingstock operations and maintenance).

Relevant managers will report to the General Manager Rail, who in turn reports to the Director Operations. TPI considers that this reporting arrangement is necessary because of the need to closely integrate the operation of the mine, rail and port logistics chain infrastructure owned by FMG and TPI. However, measures will be in place to ensure the protection of Interested Entity, Proponent and Operator Confidential Information where any convergence occurs. Specifically, the managers responsible for train control and track will liaise with the Commercial/Compliance Officer on access-related matters. Further, they will report directly to the General Manager Rail and will disclose Interested Entity’s, Proponent’s and Operator’s Confidential Information to this position only for the purpose of progressing an Access Proposal, negotiation of access or in support of administering an Access Agreement. Similarly, the General Manager Rail, in its direct reporting to the Director Operations on access-related matters, will be bound by the same framework.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

The General Manager Rail, Director Operations and the CEO will sign Segregation Awareness Statements. They will be under an obligation to not disclose Interested Entity or Proponent Confidential Information to other areas or staff within TPI and FMG. TPI will implement control measures (as outlined below and in the Segregation Manual) to manage potential conflicts of interest in handling Proponents' and Operator's Confidential Information. These procedures will be in relation to the handling of the details of Access negotiations and Access Agreements.

Given that potential conflicts of interest in relation to the performance of access-related functions will be greatest when an Operator is running train services in competition with TPI train services, TPI staff performing train scheduling functions will sign Segregation Awareness Statements.

Operators may prepare amendments to daily or fortnightly plans for services which experience variable demand or variable destinations provided that they do not interfere with other Operator's rights and subject to TPI having ultimate control over such changes.

TPI also notes that there will be common directors on the FMG and TPI Boards. TPI will implement control measures (as outlined in this document and the Segregation Manual) to manage potential Board level conflicts of interest in handling Proponents' and Operators' Confidential Information. This will be in relation to the handling of the details of access negotiations and Access Agreements. These measures are similar to those outlined above for the General Manager Rail, Director Operations and CEO.

No person (other than key management staff and corporate services) will perform duties concurrently for both TPI and FMG that would present an unnecessary risk of conflict. In effect, any person performing below-rail functions will be precluded from also performing above-rail functions (unless indirectly, whether by virtue of the position – such as is the case for the General Manager Rail, Director Operations and CEO or due to the nature of the task not presenting conflicts – as is the case for corporate services functions).


## 4 Protection of Confidential Information (section 31)

This section provides a general summary of the measures that will be implemented by TPI. Further information and procedures are provided in the Segregation Manual.

TPI proposes to protect Confidential Information as defined in the *Railways (Access) Act* meaning information that has not been made public and that –

(a) is by its nature confidential;

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	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- (b) was specified to be confidential by the person who supplied it; or
- (c) is known by a person using or disclosing it to be confidential.

TPI will include in its Segregation Manual a list of documents and other information, covering both input and output type information, that it would use to define how it distinguishes Confidential Information from information that is not specifically protected.

## 4.1 Definition of Confidential Information

### *Stage 1*

If an Interested Entity or Proponent discloses Confidential Information to TPI, then it is, and shall be taken to have always been, Confidential Information.

Examples of Stage 1 Confidential Information include:

- Preliminary Information;
- Access Proposals;
- correspondence related to the negotiation of the Access Agreement;

The examples given will be included under TPI's Segregation Arrangements from the time these arrangements commence.

TPI commits that access-related Confidential Information it receives in Stage 1 will only be used for the purpose of:

- responding to an Access Proposal;
- negotiating an Access Agreement; or
- as specifically authorised by an Interested Entity or Proponent.


Requests for Access and the access negotiation process will be managed by TPI's Commercial/Compliance Officer.

### *Stage 2*

If an Operator discloses Confidential Information to TPI, then it is, and shall be taken to have always been, Confidential Information.

Examples of Stage 2 Confidential Information include:

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- the Access Agreement itself and information exchanged in the management of the Access Agreement over time;
- train scheduling/planning data, to the extent it identifies specific haulage operations, including Master Train Plans and Fortnightly Train Plans and voice logging tapes from train control;
- plans to expand access rights to allow an increase in third party traffic;
- any data related to the running of haulage operations under an Access Agreement including the data held in TPI's Rail Access Management System;
- billing information.

The examples given will be included under TPI's Segregation Arrangements from the time these arrangements commence.

TPI commits that access-related Confidential Information it receives in Stage 2 will only be used for the purpose of administering an Access Agreement.

## 4.2 Confidential Information flows

### *Stage 1*


TPI's Commercial/Compliance Officer will only disclose a Proponent or Interested Entity's Confidential Information for the purpose of and to the extent necessary to progress an Access Proposal or respond to a Proponent or Interested Entity's request.

TPI will require all staff managing or conducting access-related functions to sign a Segregation Awareness Statement, to the effect that they are aware of and understand TPI's segregation obligations under the Act and the Code, and specifically need to protect Confidential Information as defined in the Code (see section 4.4.1).

In assessing an Access Proposal, TPI's Commercial/Compliance Officer may need to disclose the Proponent's Confidential Information to the train control and track managers, provided that disclosure to each recipient is limited to the sole purpose of negotiating an Access Agreement. Such disclosure will be necessary in order to determine whether there is sufficient capacity available for the requested train services, evaluate operational requirements, timelines, train configurations, accreditations, wheel profiles and other rolling stock technical details. The Commercial/Compliance Officer will be the sole custodian of Confidential Information during Stage 1. Access to Confidential Information

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	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>		

by other TPI staff will not occur, other than as described above and to line management for approval purposes.

In the event that an officer from train control or track becomes aware of Confidential Information through this process, that officer will be required to sign a Segregation Awareness Statement and specifically acknowledge the confidential nature of the information disclosed to it for the purposes of progressing an Access Proposal.

TPI's Commercial/Compliance Officer will maintain a register of those staff, including external contractors/consultants, to who Confidential Information of an Interested Entity or Proponent is disclosed. The register will acknowledge receipt of the Confidential Information by the recipient. An Interested Entity or Proponent may view these registers relating to disclosure of its Confidential Information.


TPI is required to provide management reports to both its own Board and to the General Manager Rail, Director Operations, CEO and FMG Board members only. Use and disclosure of any Interested Entity or Proponent's Confidential Information revealed through this reporting will be in accordance with these segregation arrangements, including direct reporting to the relevant senior executive only. In TPI's view, a level of convergence of internal Confidential Information flows is unavoidable in vertically integrated organisations. However, limiting the distribution of management reports to the small number of FMG's senior executives and board members specified above for the limited purpose of progressing an Access Proposal and subject to Segregation Awareness Statements, is the best way of managing this convergence.

These management reports provide financial details at aggregate company level for TPI and do not identify individual access customers, and reports on other operational and strategic issues. They also include statistics on overall network usage, and safety performance.

Typical reports would include:

- operational matters related to the performance of the network and the maintenance work being carried out;
- seeking approval for or reporting progress on capital works;
- reports on significant incidents;
- contracts, including access agreements, that have been entered into but only at broad detail level without disclosure of full terms and conditions; and

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- monthly financial reports and commentary at aggregate levels.

When TPI is presenting reports to TPI or FMG management, directors and boards it will, if Confidential Information is to be presented, have in place a procedure which ensures that:

- The Confidential Information presented is clearly identified; and
- Recipients of the information have signed a Segregation Awareness Statement.

Where there is a need for TPI to brief the senior management of TPI or FMG outside of structured meetings and those briefings are likely to result in the disclosure of Confidential Information, particularly related to the identity of the Interested Entity or Proponent, TPI will implement procedures (as outlined in the Segregation Manual) that ensure that:

- The Confidential Information presented is clearly identified; and
- TPI or FMG management members have signed Segregation Awareness Statements.

The above control measures for management of information flow are included in the Segregation Manual (Appendix A).


All TPI or FMG management, directors and other staff provided with Confidential Information will be recorded on the register. The register will record both names and position titles for each person. All such persons will be required to sign a Segregation Awareness Statement.

Where access-related Confidential Information is required to be disclosed during the course of management meetings involving representatives of the arm of TPI or related entities of TPI involved in operating train services, the same control measures as those outlined above for senior TPI or FMG management meetings will also apply to parties receiving Confidential Information. Disclosure of such Confidential Information will only occur in these meetings where necessary, such as for the purpose of improving productivity and safety performance of the rail network.

### *Stage 2*

TPI staff responsible for negotiating access will only disclose Interested Entity, Proponent or Operator Confidential Information for the purpose and to the extent necessary to progress an Access Proposal, respond to a request from an Interested Entity, Proponent or Operator, negotiate an Access Agreement or administer an Access Agreement.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

TPI will require all of its staff managing or conducting access-related functions to sign a Segregation Awareness Statement, to the effect that they are aware of and understand TPI's segregation obligations under the Act and the Code, and specifically need to protect Confidential Information.

The Stage 1 obligation for TPI's Commercial/Compliance Officer to maintain a register of those staff, including external contractors/consultants, to whom Confidential Information is disclosed, will also apply in Stage 2 but will be extended to include disclosure of Operator Confidential Information.

That is, the disclosure by TPI of Operators' Confidential Information in the course of the operation/administration of an Access Agreement must be recorded on the register. The register will acknowledge receipt of the Confidential Information by the recipient and confirm the recipient's awareness of the confidential nature of the information through the acknowledgement of the Segregation Awareness Statement by the recipient. An Operator may view these registers relating to disclosure of its Confidential Information.

Custody of Confidential Information will be the responsibility of multiple staff members within TPI and FMG. Typically, such staff include the Commercial Compliance Officer, train control and track maintenance.

Similar to Stage 1, the use and disclosure of Operator Confidential Information by TPI as part of management reports to both its own Board and to the General Manager Rail, Director Operations, CEO and FMG Board members will be in accordance with these segregation arrangements. It is intended to maintain a distribution list for such information that is strictly limited to the small number of FMG's senior executives and Board members identified as being necessary to disclose Proponent or Operator Confidential Information for the purpose of progressing an Access Proposal.

#### **4.2.1 Hard copy access**


##### *Stage 1*

Any written or electronic Confidential Information received by the Commercial/Compliance Officer in performing access-related functions will be kept on TPI files within TPI premises.

These files will only be accessible to the Commercial/Compliance Officer who will control access of other TPI staff for the purpose of processing an Access Proposal, or negotiating an Access Agreement.

The Commercial/Compliance Officer will also:

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-PL-RA-0001</b>
	SECTION <b>PLANS</b>	TITLE <b>RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- keep a record of staff that have accessed Interested Entity or Proponent Confidential Information and the purpose for which the information was used; and
- ensure relevant officers accessing Interested Entity or Proponent Confidential Information sign-in and sign-out Confidential Information each time it is utilised.

TPI may be required to disclose data, including confidential data, in relation to the following matters:

- the requirements of section 7(1)(b)(i) of the Code; or
- other legislative requirements, such as the *Rail Safety Act*.

In disclosing any confidential data for these reasons, TPI will protect the confidential basis of the source data.


### Stage 2

The obligations described above will also apply in Stage 2, however, will be extended to cover Operator Confidential Information under Access Agreements.

TPI staff involved in the access related functions listed in Section 2 are located at three locations, as below. The respective staff responsibilities for specific components of the access related functions during Stage 2 are listed below.

- Train Control Centre at 87 Adelaide Terrace, East Perth (“Train Control Centre”), responsible for:
  - Management of Access Agreements; and
  - Regulatory compliance (partly).
- Thomas Marshalling Yard and office, 20 km south of Port Hedland (“Thomas Yard”), responsible for:
  - Negotiation of access agreements;
  - Regulatory compliance (partly);
  - Infrastructure maintenance;
  - Capacity management; and
  - Interface emergencies.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- FMG Head Office at the Hyatt Centre, 87 Adelaide Terrace, East Perth (“Hyatt Centre”), responsible for:
  - Regulatory compliance (partly) and;
  - Corporate services.

All information will be stored in a secured compactus or similar facility at each site, with respective storage areas referred to as “access management areas”. Such areas will be locked when not attended by TPI staff. The Train Control Centre will be secured with entry controlled by TPI. Entry to the access management areas will only be available to staff who have signed TPI’s Segregation Awareness Statement, and who are approved by TPI’s General Manager Rail.

Further information and procedures are provided in the Segregation Manual.

#### **4.2.2 Electronic access**

##### *Stage 1*


TPI will share an IT system with FMG. To ensure that Interested Entity and Proponent Confidential Information is only accessed by the Commercial/Compliance Officer for the purpose of negotiating an Access Agreement, access to Confidential Information held electronically will be subject to limited access, with password protection and other computer security controls in place to prevent unauthorised access.

The access of users across TPI/FMG’s computer network will be restricted to immediate functional areas. User ID’s, passwords and access to any given part of the network are allocated by line managers at the commencement of the staff member’s employment. Access to areas of the network that apply to access related functions are automatically restricted to all staff, unless authorisation is given by the General Manager Rail. All such authorisations will be recorded in the register and authorised staff will be required to sign the Segregation Awareness Statement.

##### *Stage 2*

A shared IT system between TPI and FMG will also apply in Stage 2. Under Stage 2, Operator’s Confidential Information will only be accessed by the Commercial/Compliance Officer (or other staff in the TPI Network group responsible for negotiating access) for the purpose of either negotiating or administering an access agreement. The same limitations on access described in Stage 1 in terms of security measures will apply.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

Over the course of an access agreement, TPI will also collect potentially Confidential Information in relation to an Operator's haulage operations, including number and size of trains and tonnages carried. This information will be stored in an operations management system. Access to this information will be password protected and limited to relevant TPI staff. The Commercial/Compliance Manager, in liaison with the General Manager Rail, will authorise all access to Operator's confidential data held in the operations management system and will only grant access to persons who have signed Segregation Awareness Statements.

### 4.3 Staff issues

Effective segregation arrangements require policies and procedures to be in place to address the movement of staff with access to Confidential Information. This will apply to internal staff transfers as well as the use of external contractors/consultants.

#### 4.3.1 Transfers


##### *Stage 1*

Under Stage 1, the Commercial/Compliance Officer is solely responsible for access negotiations. This officer must not undertake duties in other areas of TPI/FMG which place the officer in a position of conflict of interest. As such, the Commercial/Compliance Officer will not be permitted to work on matters for other areas of TPI/FMG, either on a temporary or permanent basis, in respect of which they have had access to Proponent Confidential Information or the activities of the area could affect the Proponent's operations.

##### *Stage 2*

With functional separation of below and above rail business units, there will be more staff potentially with access to Confidential Information of Proponents and Operators (ie. train scheduling and track staff other than the Commercial/Compliance Officer). All such staff shall be signatories of the Segregation Awareness Statement. TPI will preclude the ability of senior staff to transfer between positions involved in performing access-related functions and positions involved in performing other functions where the occupant of the access-related position concerned is required to sign TPI's Segregation Awareness Statement, except where the person transferring from that access-related position first spends at least one year undertaking other access-related functions within the Rail

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>		
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>		

Infrastructure Division which do not require the signing of TPI's Segregation Awareness Statement.

The limitations in this section 4.3.1 will not apply under emergency circumstances. If TPI believes there is an emergency and cannot obtain staff other than from its above rail team, then it may use such staff in these positions after it advises the Regulator of:

- The circumstances giving rise to the emergency;
- The expected duration of the emergency; and
- The steps TPI will take to protect Confidential Information and manage any conflict of interest in these circumstances, including those people who are proposed to be used signing a Segregation Awareness Statement.

Refer also to the Segregation Manual (Appendix A).

#### **4.3.2 Consultants**

From time to time in the course of access negotiations or in the duration of an Access Agreement it may be necessary for TPI to disclose Confidential Information to its external consultants and advisers. Where it is necessary for TPI to disclose Confidential Information to a consultant, the consultant would be required to sign TPI's Segregation Awareness Statement. The following obligations will apply in these circumstances.

A process will apply to manage the use of consultants so that consultants are not in a position to disclose Interested Entity, Proponent and Operator Confidential Information inappropriately. This will include an obligation to only use such information for the purpose for which it was provided and to not disclose it to other areas of TPI/FMG.


Consultants who work for the company for a specified period of time will be included as a staff member for the purpose of the segregation arrangements.

### **4.4 Documentation**

#### **4.4.1 Segregation Awareness Statement**

Where an employee, or contractor/consultant, of TPI has prescribed duties which include managing or conducting access-related functions (as defined in section 2 of this paper), TPI will, at the time of their permanent or temporary appointment, require the employee to sign a Segregation Awareness Statement that they are aware of their responsibilities and

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

obligations under the Act and the Code and specifically as it relates to Confidential Information as defined in the Act and the Code and in these segregation arrangements. The Segregation Manual (Appendix A) specifies the circumstances under which a staff member must sign a Segregation Awareness Statement. The Regulator will also endorse the Segregation Awareness Statement. The Segregation Awareness Statement shall incorporate a commitment to safeguard Confidential Information in the form of a confidentiality agreement. A copy of the Segregation Awareness Statement, including the confidentiality agreement incorporated as part of this statement, are included in TPI's Segregation Manual (Appendix A).

#### 4.4.2 Advice regarding confidentiality

TPI will inform Interested Entities, Proponents and Operators of their rights to confidentiality.

## 5 Duty of fairness (section 33)

Duty of fairness reflects an obligation to negotiate for and provide access on a non-discriminatory basis. TPI commits to the obligation that, in performing their functions, relevant officers will not have regard to the interests of the railway owner in a way that is unfair to Interested Entities, Proponents or Operators.

To give effect to this obligation, TPI will treat all Proponents and Operators fairly in relation to prices, service quality, paths and priority.


TPI notes that its duty of fairness extends to the application of determinations made by the Regulator under Part 5 of the Code, including in relation to:

- (a) the Segregation Arrangements;
- (b) the Train Management Guidelines;
- (c) the Train Path Policy;
- (d) the Costing Principles; and
- (e) the Overpayment Rules.

TPI will inform Interested Entities, Proponents and Operators of their rights to confidentiality under its Segregation Arrangements.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

Proponents and Operators can determine the fairness of prices negotiated through an application to the Regulator pursuant to Section 21(1) of the Code.

TPI's standard access agreement for Proponents and Operators will provide for specific consultation mechanisms, the provision of information and dispute resolution mechanisms.

Under these segregation arrangements, TPI will observe a duty of fairness in relation to access negotiations and administration of Access Agreements with Proponents and Operators. In this regard, TPI will follow the steps specified in Parts 2 to 4 of the WA Rail Access Code for the negotiation of Access Agreements, as well as observe legislative confidentiality requirements.

Mechanisms for ensuring TPI meets its duty of fairness obligations also include that:

- Proponents may determine the fairness of prices negotiated under section 21(1) of the Code;
- provisions of TPI's Standard Access Agreement provide detailed guidance on non-price terms and conditions of access, which will allow Proponents and Operators to test the duty of fairness in the provision of access; and
- TPI will ensure that the key terms and conditions of internal access arrangements will be broadly comparable to those provided or offered to Proponents and Operators.


## **6 Preparation of accounts and records (section 34)**

In both Stage 1 and 2 of these segregation arrangements, TPI will prepare and maintain accounts and financial records for the purposes of complying with the Act and the Code or to assist the Regulator in the performance of the Regulator's duties under the Regime in the manner approved by the Regulator. Complying with this legislative obligation will entail the preparation and maintenance of separate accounts and records distinguishing income, expenditure, assets and liabilities of access-related functions from other TPI functions.

### *Stage 1*

In Stage 1, the separate accounts and financial records will be prepared by FMG's Finance Group, based on information supplied by TPI. In preparing access-related accounts and

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

financial records, TPI will present the regulatory accounts in a Regulator approved format and comply with the Costing Principles approved by the Regulator.

### *Stage 2*

For Stage 2, TPI commits to being substantially self-sufficient for regulatory accounting, access pricing and revenue management purposes (noting that reliance upon FMG's Finance Group will be relied upon for information to inform the development of regulatory accounts). However, statutory accounting and cost accounting functions will still be performed by FMG's Finance Group.

TPI will control the information used to prepare its regulatory accounts. TPI will control the data used to generate invoices for access customers.

The collection of payments by FMG Finance staff will be based on information supplied by TPI. Detailed information supporting invoices will be provided directly to customers by TPI.

The provisions in this document for the protection of Confidential Information will apply to the billing process.

Financial information provided by TPI to FMG's Finance Group for normal internal reporting purposes will be aggregated to prevent disclosure of Confidential Information. FMG Finance Group staff and auditors given access to Confidential Information will be recorded on TPI's register and will sign the Segregation Awareness Statement.


## **7 Compliance and Review**

TPI's commitments to ensure compliance with these segregation arrangements encompass commitments to operate in accordance with its Segregation Manual, a commitment to undertake compliance auditing and to implement a complaints handling process.

Stakeholders have the ability to express any concern to the ERA which may arise at any time and the ERA will investigate such claims.

TPI acknowledges that the ERA has the power under the Act to require TPI to amend the Segregation Arrangements at any time and Interested Entities, Proponents and Operators can at any time request the ERA to consider amendments.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>		
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>		

TPI's Segregation Manual has a compliance section, including identification of types of breach, corrective action and notification procedures. TPI will report any breach of the Segregation Arrangements of which it becomes aware to the ERA in writing within five business days and report on how the breach is being remedied. TPI notes that the Regulator has the ability to commission special audits on any issue or area where additional assurance is sought.

TPI will also undertake awareness training of its obligations under the Act or Code for all staff who are engaged in access related functions or who are required to sign Segregation Awareness Statements.

TPI agrees to the ERA monitoring TPI's compliance with the Segregation Arrangements through an audit of TPI's compliance with the segregation arrangements conducted not more than once every two years. This audit will be carried out by an Independent Auditor approved by the ERA, with TPI managing and funding the audit. The scope of the audit will be determined by the ERA.

The final audit report will be provided to the ERA. The ERA will publish this report on its web site (excluding Confidential Information).


## 7.1 Development of Segregation Manual

In order to meet its legislative segregation obligations, TPI has developed a Segregation Manual (Appendix A), which forms part of and gives effect to these segregation arrangements and will be the primary tool used to manage segregation compliance within TPI.

The manual includes:

- A description of each position in TPI's organisational structure, the classification of these positions according to whether they perform access - related functions and the physical location of these positions.
- Specific details of the security arrangements in place to protect Confidential Information including details of the arrangements for securing paper and electronic records and for access to information systems.
- Details of the physical location of staff and the security systems in place in those workplaces and especially for the train control centres operated by TPI and employees dedicated to providing network management and access related matters.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	


	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>		
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>		

- A list of the types of behaviour which may breach segregation arrangements and the appropriate corrective arrangement for each breach.
- A compliance plan, including the preparation of an annual report for internal and external audit requirements. The annual report will include details of all instances of non-compliance and rectification strategies. The compliance plan will be a key monitoring tool for the Regulator in assessing effectiveness of the segregation arrangements.
- Controlled procedures required to give effect to these arrangements including:
  - the use of staff by TPI from the above rail team of TPI or other TPI or FMG entities, in an emergency;
  - the preparation by operators of amendments to daily or fortnightly plans for services which experience variable demand or variable destinations;
  - the provision, and type, of information to be given to the TPI or FMG Board of Directors, and (outside of these structured meetings) to the CEO and/or other senior management of TPI or FMG;
  - the provision, and type, of information to be given to the FMG accountancy group for billing purposes;
  - the identification and storage of, and access to, Confidential Information;
  - the report of a breach of segregation arrangements to the Regulator.
- A list of all positions of employees and contractors who must sign Segregation Awareness Statement and need to undertake training and orientation.
- A copy of the register for recipients of Confidential Information and a copy of the Segregation Awareness Statement.

The Segregation Manual is :

- issued as a controlled document to all TPI Board members and employees, FMG Board members and senior executives, and all new employees who are required to comply with the manual;
- used in training of all relevant employees and also for orientation of new employees; and

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

- used as the base document against which compliance audits are conducted.

## 7.2 Complaints handling

TPI commits to implement the complaints handling procedure detailed below as part of these segregation arrangements. TPI notes that Interested Entities, Proponents and Operators can approach the Regulator at any time they consider a segregation breach may have occurred. The Act provides wide powers for the ERA to investigate any alleged breaches of the segregation arrangements.


If an Interested Entity, Proponent or Operator considers that TPI has breached its legislative segregation obligations, they may lodge a written complaint with TPI.

TPI will conduct an internal investigation of any complaint and advise the complainant in writing of the outcome of the investigation and TPI's proposed response, if any. TPI will advise the Regulator within 10 business days of any complaint it receives and the action it is taking to investigate the complaint. TPI will use reasonable endeavours to complete its internal investigation and advise the complainant and the Regulator of the result within 30 days of receiving its complaint.

## 8 Definitions


Access	Has the meaning given in the Code.
Access Agreement	Has the meaning given in the Code.
Access Proposal	Means a proposal as described in section 8 of the Code.
Act	Means the Railways (Access) Act 1998.
Code	Means the Railways (Access) Code 2000 established under the Act.
Confidential Information	Has the meaning given under Section 31(2) of the Act.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

Contractor	Means a person or entity engaged by TPI to provide advice on or assist in carrying out its access-related functions.
Emergency	Means any event of temporary duration where TPI believes it requires TPI staff to attend and assist. Examples are: <ul style="list-style-type: none"> <li>• Any event or incident which by it's nature requires immediate intervention or action;</li> <li>• A safety or operational incident. Under the Rail Safety Management System, as approved under The Rail Safety Act, TPI is required to utilise TPI staff to attend to and investigate safety incidents.</li> </ul>
FMG	Means Fortescue Metals Group Ltd.
Interested Entity	Means an entity that is interested in making an Access Proposal and who has made a request for information under section 7 of the Code.
Operator	Means an entity to which access is provided under an Access Agreement.
Preliminary Information	Means information received by TPI from an Interested Entity which is Confidential Information.
Proponent	Means an entity who has submitted an Access Proposal for access under the Code.
Non-Senior Staff	Means staff in roles below Manager level, such as Superintendent, Supervisor or Operator. For the purposes of these segregation arrangements, Non-Senior Staff do not have significant exposure to Interested Entity, Proponent and Operator information.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

**Rail Access Management System (RAMS)** Means the system comprising secured Confidential Information associated with Access such as Access Proposals, Access Agreements, correspondence with Interested Entities, Proponents and Operators, Master and Fortnightly Train Plans and Audit/Compliance reports.

**Regulator** Means the Economic Regulation Authority.

**Rules** Means TPI's rules governing safe operation of trains on the railway in accordance with the Safety Management System approved under Section 10 of the Rail Safety System together with any amendments, deletions or additions made in accordance with the Safety Management System and all policies and notices issued by TPI for the purpose of ensuring the safe use of the railway.

**Segregation Awareness Statement** Means a statement signed by a TPI or FMG employee, director, contractor or consultant indicating their understanding of the obligations imposed under the Act or Code and specifically as these obligations relate to the protection of Confidential Information.


**Segregation Manual** Means the internal manual used by TPI to give effect to these arrangements, provided as Appendix A. This manual forms part of TPI's segregation arrangements.

**Senior Staff** Means staff at Manager level or above, and includes the Commercial Compliance Officer. For the purposes of these segregation arrangements, Senior Staff are staff having significant exposure to Interested Entity, Proponent and Operator information.

**Stage 1** Means the period commencing on the Variation Approval Date.

**Stage 2** Means the period commencing on the date when the first person to execute an Access Agreement with TPI

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-PL-RA-0001</b>
	<b>SECTION PLANS</b>	<b>TITLE RAIL ACCESS SEGREGATION ARRANGEMENTS</b>

executes that Agreement and third party trains are operational on TPI's railway.

- TPI** Means The Pilbara Infrastructure Pty Ltd
- Train Control Centre (TCC)** Means the TPI Train Control Centre located at 87 Adelaide Terrace, East Perth.
- Variable Services** Means services which experience variable demand or variable destinations.
- Variation** The variation of these arrangements proposed by TPI, pursuant to s29(1) of the Act on xx.xx.2014 and approved on xx.xx.2014
- Variation Approval Date** Means the date the Regulator approved the Variation.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



# Appendix A

## RAIL ACCESS SEGREGATION MANUAL


**Document No.:** R-MA-RA-0001

**Revision No.:** 1

**Issue Date:** May 2014

### Amendment History

Rev.No	Description / Comments	Prepared By	Checked By	Approved By	Issue Date
0	Issued for use	BP	GD	PT	3-Nov-09
1	Incorporates Procedures as Attachments	BP	GD	KM	16-Dec-09

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

# 1 CONTEXT


## 1.1 Purpose

This manual forms part of TPI's Rail Access Segregation Arrangements (Document R-PL-RA-0001). It provides personnel involved in Access Related functions information on how Segregation is implemented within TPI. The manual includes the controlled procedures provided as Attachments 1 - 7.

## 1.2 Rail Access Segregation Policy

TPI's management endorses and requires commitment from staff to the Rail Access Segregation Policy Statement as shown below.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

**THE PILBARA INFRASTRUCTURE PTY LTD**

**RAIL ACCESS SEGREGATION POLICY STATEMENT**

TPI recognises and commits to comply with the Railways (Access) Act and the Code and specifically its duty in regards to segregation, protection of Confidential Information, avoidance of conflict of interest, duty of fairness, and maintenance of separate accounts and records.


TPI has in place procedures to comply with its obligations resulting from the determination by the Economic Regulation Authority under the Act.

**General Manager, Rail**

**The Pilbara Infrastructure Pty Ltd**

**Date**

<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	


	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### 1.3 Segregation Objectives and Strategies

TPI's objectives and strategies with regard to Segregation are to ensure:

- Compliance with the Act and Code.
- Protection of Confidential Information.
- Avoidance of Conflicts of Interest.
- Duty of Fairness.
- Separate Accounts and Records.
- Understanding of and commitment by TPI or FMG Employees, Directors, Contractors and Consultants of the principles/obligations of the Act and Code.
- Development and maintenance of procedures relating to Segregation.
- Segregation Awareness and training is provided.
- Controls and measures to monitor performance are implemented.
- Compliance Audits are conducted.


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

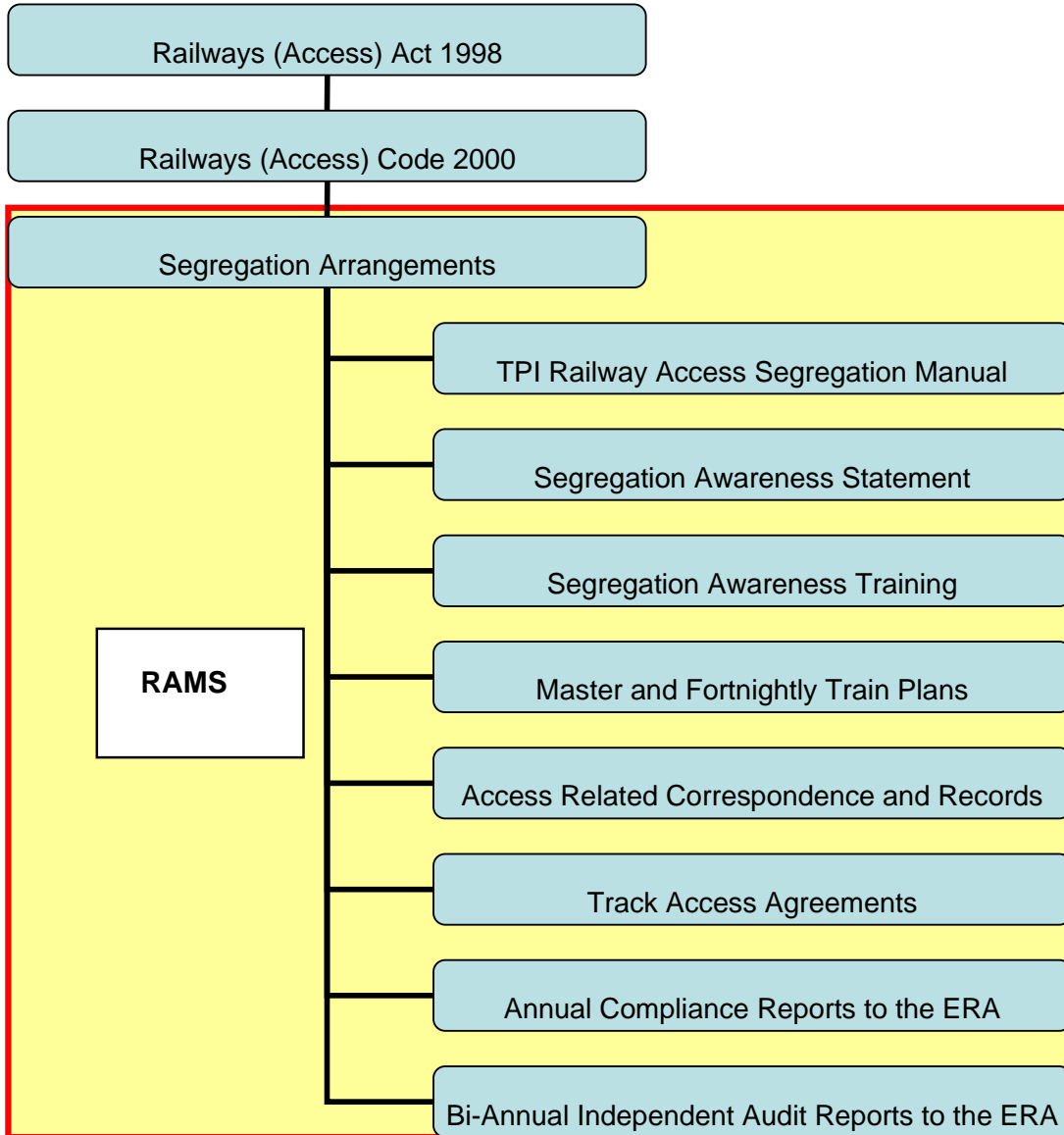
	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 1.4 Hierarchy of Documentation


The hierarchy of documents relating to Segregation requirements is as follows:

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	


	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>



REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 2 MANAGEMENT OF SEGREGATION ARRANGEMENTS

### 2.1 Overview of Access Related Roles and Locations

Procedure R-PR-RA-0009 describes the Access and non-Access related Roles and Responsibilities of TPI staff in regards to Access related functions outlined in Section 2 of the Segregation Arrangements.

The key Access related roles are:

- General Manager, Rail
- Commercial Compliance Officer
- Train Planner
- Track Maintenance Department roles

Each staff member in an Access related function must undergo Segregation Awareness training and sign a Segregation Awareness Statement.


### 2.2 Location Overview

The following table summarises key locations and types of security used.

Location	Description
Train Control, Rivervale	The Train Control centre is a purpose built set of rooms in a secure building which is manned 24 hours a day, locked at all times and monitored by a major security firm. The entrance to the facility is via a series of doors which are key-card locked and key-cards are issued only to staff who require entrance to the Train Control facility. Individual areas of the building will be secured from unauthorised access by staff in accordance with TPI's procedures to ensure protection of Confidential Information.
Thomas Yard, Port Hedland	The Thomas Yard facility is a security patrolled premise with entrance to buildings controlled by Abloy keys which are issued only to staff who require entrance to the buildings. Individual areas of the building will be secured from unauthorised access by staff in accordance with

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	<b>TITLE RAIL ACCESS SEGREGATION MANUAL</b>


	TPI's procedures to ensure protection of Confidential Information.
FMG Hyatt Centre Office, East Perth	The FMG Hyatt Centre Office is located in a secure building which is locked at all times and monitored by a major security firm. The entrance to the facility is via a series of doors which are key-card locked and key-cards are issued only to staff who require entrance to the office. Individual areas of the building will be secured from unauthorised access by staff in accordance with TPI's procedures to ensure protection of Confidential Information.

## 2.3 Types of Confidential Information and Security Arrangements

The following types of Confidential Information are securely stored. The Commercial Compliance Officer will record who has access to documents and information in the Confidential Information Register.

Document and Information Type	Staff Security	Physical Security	Electronic security
Train Schedules	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Access Proposals and Preliminary information.	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Signed Access Agreements	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Correspondence with Interested Entities Proponents and Operators	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Pricing and Financial Information including Invoices and Payments	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Master Train Plan and Fortnightly Train Plans	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	<b>TITLE RAIL ACCESS SEGREGATION MANUAL</b>

Train Graphs and Voice Logging tapes from Train Control	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Train Manifests and operational reports required under Access Agreements	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Any Data Related to the Recording of Usage of the Access Agreement Including the Data Held in the Rail Access Management System	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access

Refer to “Procedures for protecting Confidential Information” (Attachment 1); “Procedure for provision of information to be given to the TPI or FMG Board / CEO / Senior Management”; (Attachment 4); “Procedure to ensure the protection of information provided to FMG Finance” (Attachment 5).

## 2.4 Staff Transfers

Consistent with Section 4.3.1 of the Segregation Arrangements, TPI will manage the transfer of staff as part of its actions to protect Confidential Information and avoid conflict of interest. Restrictions on staff transfers will not apply in the event of emergencies, such as the following:


- Unexpected resignations, temporary or permanent unavailability of senior staff where the vacant position must be filled immediately to ensure safe or productive rail operations; and
- Managing the impact of significant accidents or weather events where such management requires urgent transfer of key senior staff.

Refer to “Use of TPI Staff in an Emergency” (Attachment 2).

## 2.5 Conflicts of Interest

Under Section 3 of the Segregation Arrangements, TPI commits that no person will perform duties concurrently for TPI and FMG in relation to Access related functions. In particular the Commercial Compliance Officer responsible for

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

Access Proposals and responding to Access Proposals and negotiating Access Agreements shall not at the same time perform other duties within TPI or FMG which perform haulage functions or could otherwise affect the operations of Access Seekers.

The following are the main protection control mechanisms which are in place to prevent Conflicts of Interest.

- Segregation Awareness Statements;
- Access related procedures; and
- Protection of Confidential Information.

## 2.6 Duty of Fairness

The Duty of Fairness reflects an obligation to negotiate for and provide Access on a non discriminatory basis. TPI commits to the obligation that, in performing their functions, relevant officers will not have regard to the interests of the railway owner (TPI) in a way that is unfair to persons seeking Access or to other operators.

TPI notes its duty of fairness extends to the application of determinations made by the Regulator under Part 5 of the Code, including in relation to:


- the Segregation Arrangements;
- the Train Management Guidelines;
- the Train Path Policy;
- the Costing Principles; and
- the Overpayment Rules.

## 2.7 Separation of Accounts and Financial Records

TPI will maintain separate accounts, information and financial records which comply with section 6 of the Segregation Arrangements which in turn comply with section 34 of the Act and relevant provisions of the Code.

Access related accounts and financial records will be prepared and processed by FMG's Finance Group.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

The following table sets out how the separation of Access related accounts and records is managed within TPI.

Separation Area	Separation mechanism
Accounts	Segregation Awareness Statements, Secure storage, and Restricted Access to systems.
Financial Records	Segregation Awareness Statements, Secure storage, and Restricted Access to systems.

### 3 COMPLIANCE PLAN


#### 3.1 Breaches and Complaints Management

In accordance with Section 7.3 of the Segregation Arrangements, the following types of behaviour may lead to breaches of compliance and/or complaints.

Each type of behaviour is handled by the corresponding corrective arrangement.

Type of behaviour	Corrective Arrangement
Breach of Segregation obligations	Written Complaint from Access Seeker or other complainant and Internal Investigation by TPI
Disclosure of Confidential Information	Written Complaint from Access Seeker or other complainant and Internal Investigation by TPI
Unfair discrimination	Written Complaint from Access Seeker or other complainant and Internal Investigation by TPI
Conflict of Interest	Written Complaint from Access Seeker or other complainant and Internal Investigation by TPI
Breach of Security	Written Complaint from Access Seeker or other complainant and Internal Investigation by TPI

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

Refer to “Procedure for handling complaints and breaches.”; document R-PR-RA-0008

### 3.2 Bi-Annual Audit and Report

In accordance with section 7.2 of the Segregation Arrangements, the bi-annual Audit will audit the following areas:

<b>Audit area</b>	<b>Audited by</b>	<b>When</b>
Access related financial Accounts	Independent external body	Bi-Annually
Non-Financial Segregation Obligations	Independent external body	Bi-Annually


TPI will provide an Annual Report to the Regulator on the results of these external compliance audits, including all instances of non-compliance and rectification strategies. The report will be made public.

## 4 SUPPORTING DOCUMENTATION AND FORMS

### 4.1 Segregation Awareness Statement

The following Segregation Awareness Statement shall be signed by personnel engaged in Access Related Functions.

<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### **SEGREGATION AWARENESS STATEMENT**

1. As required in Section 31 of the Railways (Access) Act 1998, this statement provides for the person who is signatory to this agreement to maintain confidentiality and not to disclose to persons or organisations outside of the TPI organisation, any “Confidential Information” on rail Access related functions.

“Confidential Information” as defined in Section 31 Clause (2) of the Act means information that has not been made public and that:

- (a) is by its nature confidential;
- (b) was specified to be confidential by the person who supplied it; or
- (c) is known by the person using or disclosing it to be confidential

2. For the purposes of this statement, Confidential Information also includes written, verbal or electronic information relating to Access Proposals, Access negotiations, Access agreements, correspondence on Access, Access invoices and payments and train planning functions dealing with pathways and train consists.

3. The signatory to this statement also commits to complying with the Act as it applies to Access related functions with respect to Section 28 – Duty to Segregate, Section 31 – Protection of Confidential Information, Section 32 – Avoidance of Conflict of Interest, Section 33 – Duty of Fairness and Section 34 – Maintenance of Separate Accounts and Records.


4. The signatory must not use any Confidential Information for his or her own advantage or act in any manner which could cause regulatory non-compliance to The Pilbara Infrastructure Pty Ltd.

5. The signatory must immediately upon demand, deliver to TPI all material including documents, papers, plans, drawings, tapes, disks, computer files or any other medium for storing or recording information, comprising any Confidential Information, including all copies thereof.

#### **AGREEMENT**

In signing this statement, I hereby agree to maintain confidentiality and not to disclose Confidential Information as specified in Section 2.3 of this Segregation Manual. I further understand that I cannot breach the requirements and

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

obligations specified in the Railways (Access) Act 1998 and the Railways (Access) Code 2000.

NAME

POSITION


SIGNATURE

DATE

WITNESS NAME

WITNESS SIGNATURE

<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### Confidential Information Register


***Confidential Information Register***

This register has been prepared as part of TPI's obligations under the Railways (Access) Act 1998, in particular, the segregation arrangements approved under S29 of that Act. The provision of Confidential Information, as defined in the Segregation Arrangements, to any TPI and FMG staff, management, directors, contractors and consultants, must be recorded in this register. Recipients must sign the register to acknowledge both receipt of this information and their acceptance of appropriate obligations under the above Act.

Date	Officer	Contractor/ Consultant	Title	Information provided	Purpose	Segregation Awareness Statement Signed (Y/N)	Signature

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	




	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 4.2 Associated Procedures

This manual has the following procedures provided as attachments.

Document Name	Attachment Number
Procedures for protecting Confidential Information.	1
Use of TPI Staff in an Emergency.	2
Procedure for preparation by Operators of amendments to daily or fortnightly plans for variable services.	3
Procedure for provision of information to be given to the TPI or FMG Board / CEO / Senior Management.	4
Procedure to ensure the protection of information provided to FMG Finance.	5
Procedure for handling complaints and breaches.	6
TPI Roles and Responsibilities	7


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 1

# RAIL ACCESS – PROTECTING CONFIDENTIAL INFORMATION

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 1 PURPOSE

This document describes how Confidential Information is identified, stored, accessed and protected.

## 2 SCOPE

Applies to any information defined as confidential under the Segregation Arrangements.

## 3 PROTECTION OF CONFIDENTIAL INFORMATION

### 3.1 Types of Confidential Information

Confidential Information has the meaning given under section 31(2) of the Act.

#### **Stage 1**

If an Interested Entity or Proponent discloses Confidential Information to TPI, then it is, and shall be taken to have always been, Confidential Information.


Examples of Stage 1 confidential information include:

- Preliminary Information;  
Access Proposals;
- correspondence related to the negotiation of the Access Agreement;

Access-related Confidential Information received in Stage 1 may only be used for the purpose of:

- responding to an Access Application;
- negotiating an Access Agreement; or
- as specifically authorised by an Interested Entity or Proponent..

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

Requests for access and the access negotiation process is managed by TPI's Commercial/Compliance Officer.

For enquiries contact – Spencer Davey – 6218 8888

### **Stage 2**

If an Operator discloses Confidential Information to TPI, then it is, and shall be taken to have always been, Confidential Information. Examples of Stage 2 Confidential Information include:

- the Access Agreement itself and information exchanged in the management of the Access Agreement over time;
- train scheduling/planning data, to the extent it identifies specific haulage operations, including Master Train Plans and Fortnightly Train Plans and voice logging tapes from train control;
- plans, correspondence and negotiations relating to any expansion of Access rights to allow an increase in third party traffic;
- any data related to operations under an Access Agreement including the data held in TPI's Rail Access Management System; and
- billing information.

In addition to the purposes outlined under Stage 1, Access-related Confidential Information may only be used for the purpose of administering an Access Agreement.


## **3.2 Confidential Information Flows**

### **Stage 1**

TPI's Commercial/Compliance Officer is responsible for the handling of Confidential Information. An Access Seeker's Confidential Information will only be disclosed for the purpose of and to the extent necessary to progress an Access Application or respond to an Access Seeker's request.

All staff managing or conducting Access-related functions must undertake segregation awareness training and sign a Segregation Awareness Statement, so that they are aware of and understand TPI's segregation obligations under the Act and the Code, and specifically the need to protect Confidential Information.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

In assessing an Access Proposal, TPI's Commercial/Compliance Officer may disclose the Proponent's Confidential Information to the train control and track managers, provided that disclosure to each recipient is limited to the sole purpose of negotiating an Access Agreement. Such disclosure is necessary in order to determine whether there is sufficient capacity available for the requested train services, evaluate operational requirements, timelines, train configurations, accreditations, wheel profiles and other rolling stock technical details. The Commercial/Compliance Officer is the sole custodian of Confidential Information during Stage 1. Access to Confidential Information by other TPI staff must not occur, other than as described above and to line management for approval purposes.

In the event that an officer from train control or track becomes aware of Confidential Information through this process, that officer shall sign a Segregation Awareness Statement and specifically acknowledge the confidential nature of the information disclosed to it for the purposes of progressing an Access Application.

TPI's Commercial/Compliance Officer maintains a register of those staff, including external contractors/consultants, to who Confidential Information of a Interested Entity or Proponent is disclosed. The register acknowledges receipt of the Confidential Information by the recipient. An Interested Entity or Proponent may view these registers relating to disclosure of its Confidential Information.


TPI provides management reports to both its own Board, the General Manager Rail, and to the FMG Director Operations, CEO and Board members. Use and disclosure of any Interested Entity or Proponent Confidential Information revealed through this reporting is in accordance with the segregation arrangements, including direct reporting to the relevant senior executive only.

These management reports provide financial details at aggregate company level for TPI and do not identify individual Access customers, and reports on other operational and strategic issues. They also include statistics on overall network usage, and safety performance.

Typical reports include:

- operational matters related to the performance of the network and the maintenance work being carried out;
- seeking approval for or reporting progress on capital works;
- reports on significant incidents;

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

- contracts, including Access agreements, that have been entered into but only at broad detail level without disclosure of full terms and conditions; and
- monthly financial reports and commentary at aggregate levels.

When TPI is presenting reports to TPI or FMG management, directors and boards in which Confidential Information is to be presented, the procedures in Attachment 4 shall be complied with to ensure that:

- The Confidential Information presented is clearly identified; and
- Recipients of the information have signed a Segregation Awareness Statement.

Where there is a need for TPI to brief the senior management of TPI or FMG outside of structured meetings and those briefings are likely to result in the disclosure of Confidential Information, particularly related to the identity of the Interested Entity or Proponent, TPI shall ensure that:

- The Confidential Information presented is clearly identified; and
- TPI or FMG management members have signed Segregation Awareness Statements.
- Attachment 4 applies.


All TPI or FMG management and directors provided with Confidential Information must be recorded on the register. The register records both names and position titles for each person.

## **Stage 2**

As in Stage 1, TPI staff responsible for negotiating Access must only disclose Interested Entity, Proponent or Operator Confidential Information for the purpose and to the extent necessary to progress an Access Proposal, respond to a request from an Interested Entity, negotiate an Access Agreement or administer an Access Agreement.

Similar to Stage 1, TPI requires all of its staff managing or conducting Access-related functions to sign a Segregation Awareness Statement, to the effect that they are aware of and understand TPI's segregation obligations under the Act and the Code, and specifically need to protect Confidential Information.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

The Stage 1 obligation for TPI's Commercial/Compliance Officer to maintain a register of those staff, including external contractors/consultants, to whom Confidential Information is disclosed, also applies in Stage 2 but extends to include disclosure of Operator Confidential Information.

That is, the disclosure by TPI of Operators' Confidential Information in the course of the operation/administration of an Access Agreement must be recorded on the register. The register acknowledges receipt of the Confidential Information by the recipient and confirms the recipient's awareness of the confidential nature of the information through the acknowledgement of the Segregation Awareness Statement by the recipient. An Operator may view these registers relating to disclosure of its Confidential Information.

Custody of Confidential Information is the responsibility of multiple staff members within TPI and FMG including the Commercial Compliance Officer, train control and track maintenance staff.


Similar to Stage 1, the use and disclosure of Operator Confidential Information by TPI as part of management reports to both its own Board and to the General Manager, Rail, and to the FMG Director Operations, CEO and Board members is in accordance with these segregation arrangements. The Commercial Compliance Officer maintains a distribution list for such information that is strictly limited to the small number of FMG's senior executives and Board members identified as being necessary to disclose Access Seeker Confidential Information for the purpose of managing an Access Agreement.

Where Access-related Confidential Information is required to be disclosed during the course of management meetings involving representatives of the arm of TPI or related entities of TPI involved in operating train services, the same control measures as those outlined above for senior TPI or FMG management meetings will also apply to parties receiving Confidential Information. Disclosure of such Confidential Information will only occur in these meetings where necessary, such as for the purpose of improving productivity and safety performance of the rail network.

### **3.3 Location of TPI Premises where Confidential Information is stored**

The following table summarises key locations and types of security used.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	<b>TITLE RAIL ACCESS SEGREGATION MANUAL</b>

<b>Location</b>	<b>Description</b>
Train Control, 87 Adelaide Terrace, East Perth	The Train Control centre is a purpose built set of rooms in a secure building which is manned 24 hours a day, locked at all times and monitored by a major security firm. The entrance to the facility is via a series of doors which are key-card locked and key-cards are issued only to staff who require entrance to the Train Control facility. Confidential Information is securely stored in lockable storage. The facility is locked when not in use. Individual areas of the building will be secured from unauthorised access by staff in accordance with TPI's procedures to ensure protection of Confidential Information.
Thomas Yard, Port Hedland	The Thomas Yard facility is a security patrolled premises with entrance to buildings controlled by Abloy keys which are issued only to staff who require entrance to the buildings. Confidential Information is securely stored in lockable storage. The facility is locked when not in use. Individual areas of the building will be secured from unauthorised access by staff in accordance with TPI's procedures to ensure protection of Confidential Information.
FMG Hyatt Centre Office, East Perth	The FMG Hyatt Centre Office is located in a secure building which is locked at all times and monitored by a major security firm. The entrance to the facility is via a series of doors which are key-card locked and key-cards are issued only to staff who require entrance to the office. Confidential Information is securely stored in lockable storage. The facility is locked when not in use. Individual areas of the building will be secured from unauthorised access by staff in accordance with TPI's procedures to ensure protection of Confidential Information.


### **3.4 Types of Confidential Information and Security Arrangements**

The following types of Confidential Information must be securely stored. The Commercial Compliance Officer records who has access to documents and information in the Confidential Information Register.

Document and	Staff Security	Physical Security	Electronic security
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<b>REV NO.</b> 6	<b>ISSUE DATE</b> 4 APRIL 2013	<b>PREPARED BY:</b> E. MILLER	<b>REVIEWED BY</b> S. DAVEY	<b>APPROVED BY:</b>
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-MA-RA-0001</b>	
	<b>SECTION MANUALS</b>	<b>TITLE RAIL ACCESS SEGREGATION MANUAL</b>	

Information Type			
Train Schedules	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Access Proposals and Preliminary information.	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Signed Access Agreements	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Correspondence with Interested Entities, Proponents and Operators	Segregation Awareness Statements	Swipe Card to premises and locked hardcopy storage.	Restricted access
Pricing and Financial Information including Invoices and Payments.	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Master Train Plan, Fortnightly Train Plans	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Train Graphs and Voice Logging tapes from Train Control	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Train Manifests and operational reports required under Access Agreements	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access
Any Data Related to the Recording of Usage of the Access Agreement Including the Data Held in the Rail Access Management System	Segregation Awareness Statements	Swipe Card to hardcopy premises and locked storage.	Restricted access

<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### 3.5 Hardcopy Access

#### **Stage 1**

Any written or electronic Confidential Information received by the Commercial/Compliance Officer in performing Access-related functions must be kept on TPI files within the TPI premises listed above.

These files must only be accessible to the Commercial/Compliance Officer who will control access of other TPI staff for the purpose of processing an Access Application, or negotiating an Access Agreement.

The Commercial/Compliance Officer must also:

- keep a record of staff that have accessed an Interested Entity or Proponent’s Confidential Information and the purpose for which the information was used; and
- ensure relevant officers accessing Interested Entity or Proponent’s Confidential Information sign-in and sign-out Confidential Information each time it is utilised.
- TPI may be required to disclose data, including confidential data, in relation to the following matters:
  - the requirements of section 7(1)(b)(i) of the Code; or
  - other legislative requirements, such as the Rail Safety Act.

In disclosing any confidential data for these reasons, TPI must protect the confidential basis of the source data.


#### **Stage 2**

Stage 1 obligations also apply in Stage 2, however, are extended to cover Operator Confidential Information as well as Interested Entity and Proponent Confidential Information.

TPI staff involved in the Access related functions listed in Section 2 are located at three locations, as below. The respective staff responsibilities for specific components of the Access related functions during Stage 2 are listed below.

- Train Control Centre at 87 Adelaide Terrace, East Perth (“Train Control Centre”), responsible for:
  - Management of Access Agreements; and

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

- Regulatory compliance (partly).
- Thomas Marshalling Yard and office, 20 km south of Port Hedland (“Thomas Yard”), responsible for:
  - Negotiation of Access Agreements;
  - Regulatory compliance (partly);
  - Infrastructure maintenance;
  - Capacity management; and
  - Interface emergencies.
- FMG Head Office at the Hyatt Centre, 87 Adelaide Terrace, East Perth (“Hyatt Centre”), responsible for:
  - Regulatory compliance (partly) and;
  - Corporate services.

All information must be stored in a secured compactus or similar facility at each site, with respective storage areas referred to as “Access management areas”. Such areas must be locked when not attended by TPI staff. The Train Control Centre must be secured with entry controlled by TPI. Entry to the Access management areas is only available to staff who have signed TPI’s Segregation Awareness Statement, and who are approved by TPI’s General Manager, Rail.


### 3.6 Electronic Access

#### **Stage 1**

TPI shares an IT network with FMG. To ensure Interested Entity and Proponent’s Confidential Information is only accessed by the Commercial/Compliance Officer for the purpose of negotiating an Access Agreement, access to Confidential Information held electronically is subject to limited access, with password protection and other computer security controls in place to prevent unauthorised access.

The access of users across TPI/FMG’s computer network must be restricted to immediate functional areas and related areas. User ID’s, passwords and access to any given part of the network are allocated by line managers at the commencement of the staff member’s employment. Access to areas of the network that apply to Access related functions are automatically restricted to all

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

staff, unless authorisation is given by the General Manager, Rail. All such authorisations are recorded in the register and authorised staff are required to sign the Segregation Awareness Statement.

### **Stage 2**

A shared IT network between TPI and FMG also applies in Stage 2. Under Stage 2, Operator's Confidential Information is only accessed by the Commercial/Compliance Officer (or other staff in the TPI Network group responsible for negotiating Access) for the purpose of either negotiating or administering an Access Agreement. The same limitations on access described in Stage 1, in terms of security measures apply.

Over the course of an Access Agreement, TPI may also collect potentially Confidential Information in relation to an Operator's haulage operations, including number and size of trains and tonnages carried. This information is stored in an operations management system. Access to this information is password protected and limited to relevant TPI staff. The Commercial/Compliance Officer, in liaison with the General Manager, Rail, must authorise all access to third party's confidential data held in the operations management system and may only grant access to persons who have signed Segregation Awareness Statements.


### **3.7 Staff Issues**

Effective segregation arrangements require policies and procedures to be in place to address the movement of staff with access to Confidential Information. This shall apply to internal staff transfers as well as the use of external contractors/consultants.

#### **Transfers**

TPI will preclude the ability of senior staff (staff at management level and above including the Commercial/Compliance Officer) to transfer between positions involved in performing Access-related functions and positions involved in performing other functions where the occupant of the Access-related position concerned is required to sign TPI's Segregation Awareness Statement, except where the person transferring from that Access-related position first spends at least one year undertaking other Access-related functions within the Rail Infrastructure Division which do not require the signing of TPI's Segregation Awareness Statement.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

The limitations in this section do not apply under emergency circumstances. If TPI believes there is an emergency and cannot obtain staff other than from its above rail team, then it may use such staff in these positions after it advises the Regulator of:

- The circumstances giving rise to the emergency;
- The expected duration of the emergency; and
- The steps TPI will take to protect against a conflict of interest in these circumstances including those people who are proposed to be used signing a Segregation Awareness Statement.

### ***Consultants***

From time to time in the course of Access negotiations or in the duration of an Access Agreement it may be necessary for TPI to disclose Confidential Information to its external consultants and advisers. Where it is necessary for TPI to disclose Confidential Information to a consultant, the consultant is required to sign TPI's Segregation Awareness Statement. The following obligations apply in these circumstances.

#### ***Stage 1***

Consultants must be managed such that they are not in a position to disclose Interested Entity or Proponent Confidential Information inappropriately. This must include an obligation to only use such information for the purpose for which it was provided and to not disclose it to other areas of TPI/FMG.

Consultants who work for the company for a specified period of time must be included as a staff member for the purpose of the segregation arrangements.

#### ***Stage 2***


The same obligations as in Stage 1 apply, but they also apply to information disclosed during the operation of an Access Agreement.

## **3.8 Documentation**

### ***Segregation Awareness Statement***

#### ***Stage 1***

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

Where an employee, or contractor/consultant, of TPI has prescribed duties which include managing or conducting Access-related functions, TPI must, at the time of their permanent or temporary appointment, require the employee to sign a Segregation Awareness Statement that they are aware of their responsibilities and obligations under the Act and the Code and specifically as it relates to Confidential Information as defined in the Act and the Code and in these segregation arrangements.

### ***Stage 2***

Stage 1 obligations also apply in Stage 2.

### ***Advice regarding confidentiality***


#### ***Stage 1***

TPI must inform Interested Entities and Proponents of their rights to confidentiality.

#### ***Stage 2***

TPI must inform Operators of their rights to confidentiality in the administration of the agreement upon commencement of the Stage 2 arrangements.


<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 2

### RAIL ACCESS – USE OF TPI STAFF IN AN EMERGENCY

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

## 1 PURPOSE

This document describes how and when TPI Staff may undertake other duties in an emergency, taking into account its obligations under the Railways (Access) Act 1998 and the approved Segregation Arrangements.

## 2 SCOPE

Applies to all transfers of Senior staff in an emergency situation.

## 3 STAFF TRANSFERS IN EMERGENCY SITUATIONS

### 3.1 Overview of Staff Transfer situations, other than in an emergency

#### *Stage 1*

Under Stage 1, the Commercial/Compliance Officer is responsible for Access negotiations and manages the handling of Confidential Information across TPI during negotiations with <sup>2</sup>Proponents. This officer will not undertake duties in other areas of TPI/FMG which place the officer in a position of conflict of interest. As such, the Commercial/Compliance Officer will not work on matters for other areas of TPI/FMG, either on a temporary or permanent basis, in respect of which they have had access to Proponent Confidential Information or the activities of the area could affect the Proponent's operations. In the case of a permanent transfer, the limitation will apply for a period of 3 months.

#### *Stage 2*


Under Stage 2, there will be more staff potentially with access to Confidential Information of Interested Entities, Proponents and Operators. All such staff shall undertake Segregation Awareness Training and be signatories of the Segregation Awareness Statement.

Under Stage 2 there will be a requirement that a Senior staff member who transfers from the below rail area of TPI to other areas of TPI/FMG on either a

<sup>2</sup> Interested Entities are not involved in negotiations.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

temporary or a permanent basis will not be permitted to work on matters in respect of which they have had access to Proponent or Operator Confidential Information or the activities of the area could affect the Proponent's or Operator's operations. In the case of a permanent transfer, the limitation will apply for a period of 12 months.

There are no restrictions on the transfer of Non-Senior staff between below rail and above rail functions. Any staff member transferring into a below rail position who can be reasonably expected to handle Confidential Information will undertake Segregation Awareness Training and sign the Segregation Awareness Statement.

### **3.2 Transfer of staff in the event of an emergency**

The above limitations will not apply under emergency circumstances. If TPI believes there is an emergency and cannot obtain staff other than from its above rail team, then it may use such staff in these positions. At that time, the General Manager, Rail must advise the Economic Regulation Authority in writing of the following:


- The circumstances giving rise to the emergency;
- The type of emergency;
- The expected duration of the emergency;
- The roles of staff being transferred ie the from-role and to-role;

As part of this advice, TPI must also indicate the steps it will take to protect against a conflict of interest in these circumstances.

The minimum steps must include:

- The staff member concerned, being advised by preferably the Commercial Compliance Officer, or in that person's absence, the General Manager, Rail of the staff member's responsibility under the Railways (Access) Act 1998 and the approved Segregation Arrangements.
- The staff member concerned must sign a Segregation Awareness Statement.
- When a choice of suitable staff is available, the criteria for staff selection must include evaluation of the degree of conflict of interest that exists for respective candidates.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

Further steps that may be taken, if possible, include the following:


- The staff member concerned undertaking only those duties necessary to manage the emergency.
- The staff member concerned having access only to those files and documents that are necessary to manage the emergency.

### 3.3 Emergency transfer Log

The following log shall be kept to record transfers in an emergency situation:

Name	From-Role	Date-from	To-Role	Date-To


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 3

### RAIL ACCESS – PREPARATION BY OPERATORS OF AMENDMENTS TO DAILY OR FORTNIGHTLY PLANS FOR VARIABLE SERVICES

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 1 PURPOSE

This document describes how proposed amendments to daily or fortnightly plans for services which experience variable demand or variable destinations are handled.

## 2 SCOPE

Applies to any proposed amendments to daily or fortnightly plans for variable services.

## 3 AMENDMENTS TO DAILY OR FORTNIGHTLY PLANS FOR VARIABLE SERVICES

Operators may prepare amendments to daily or fortnightly plans for services which experience variable demand or variable destinations provided that they do not interfere with other operators rights and subject to TPI having ultimate control of such changes.

### 3.1 Notification period

The operator must supply TPI with their proposed amendment, in writing or electronic format, at least 48 hours (or such other timeframe as agreed in the operator's Access Agreement with TPI) prior to the earlier of the time of commencement of the proposed amendment or the original commencement of the service.


If the amendment is not received in the agreed timeframe, the proposed amendment may be denied by TPI.

### 3.2 Interference with other operator's rights

If TPI deems that the proposed amendment may potentially interfere with other operators rights, or it cannot be reasonably accommodated given capacity or operational constraints of the railway, then TPI may deny the amendment.

TPI will respond to the operator, initially verbally or electronically and subsequently in writing or electronically as soon as possible. It will use reasonable endeavours to respond at least 24 hours prior to the earlier of the time

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

of commencement of the proposed amendment or the original commencement of the service.


### **3.3 Agreed Penalty**

As part of the negotiation of an operator's Access Agreement, TPI will seek to establish an agreed penalty rate for amendments to services. The rates and conditions will be specified in the operators Access Agreement with TPI.

### **3.4 Confidentiality Provisions**

All correspondence, email and discussions, in relation to the proposed amendments and the response by TPI, constitute Confidential Information and must be handled in accordance with the segregation arrangements and segregation manual.


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 4

### RAIL ACCESS - PROVISION OF INFORMATION TO THE TPI OR FMG BOARD/CEO/SENIOR MANAGEMENT

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>		
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>		

## 1 PURPOSE

This document describes procedures to manage the provision of Confidential Information to senior management in TPI or FMG, to ensure compliance with obligations and approved segregation arrangements under the Railways (Access) Act 1998.

## 2 SCOPE

Applies to the provision of Confidential Information to the directors and senior management of TPI and FMG (“directors and senior management”). The provision to and use of Confidential Information, as described in the Segregation Arrangements and the Segregation Manual, by directors and senior management, is limited to the purposes of:

- Responding to an Access Proposal;
- Negotiating or executing an Access Agreement; or
- Administration or management of an Access Agreement.

## 3 PROCEDURES

### 3.1 Stage 1

If an Interested Entity or Proponent discloses Confidential Information to TPI, then it is, and shall be taken to have always been, Confidential Information.


Examples of Stage 1 Confidential Information include:

- Preliminary Information;  
Access Proposals;
- correspondence related to the negotiation of the Access Agreement;

### **Segregation Awareness Training and Segregation Awareness Statement**

All directors and senior management that can reasonably be expected to be provided with Confidential Information, shall under take segregation awareness training, and sign the Segregation Awareness Statement. Training and induction

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

programs for new directors and senior management shall include segregation awareness training. TPI's Commercial/Compliance Officer is responsible for coordinating the training and managing the statements.

Contact Spencer Davey, phone 6218 8888

### **Confidential Information Register**

The provision of any Confidential Information to directors and senior management, including verbal briefings and discussions at occasional meetings, shall be recorded in the Confidential Information Register ("register"). TPI's Commercial/Compliance Officer is responsible for managing the register.

Contact Spencer Davey, phone 6218 8888

### **Management Reports**

The content and provision of reports to directors and senior management, and their use of these reports, shall be based on the following principles:


- The provision of information in regards to Access Proposals shall be restricted to allowing a response to an Access Proposal, negotiating or executing an Access Agreement;
- Recipients of reports containing Confidential Information must have signed a Segregation Awareness Statement.
- Any directors and senior management who are not prepared to sign a Segregation Awareness Statement may not receive a copy of the report and must not be present when the reports are discussed;
- The identity of Interested Entities and Proponents must not be disclosed (unless their identity is not Confidential Information);
- Only broad level detail of the terms of Access Agreements may be disclosed;
- Reports on relevant operational matters, including usage and performance of the railway network, maintenance programs, operating and capital costs, revenue and other financial information, incident management and audits shall be presented on an aggregate basis; and
- All Confidential Information in reports shall be clearly identified.

### **Occasional Meetings**

Meetings held with directors and senior management, where Confidential Information relating to Interested Entities and Proponents is disclosed, shall be based on the principles in Section 5.1.3.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

Further, the disclosure of any Confidential Information at occasional meetings must be authorised by the General Manager, Rail.


### **Other Forms of Communication**

Other forms of communication involving directors and senior management, including emails, memos, letters, telephone calls, and occasional discussions, involving Confidential Information relating to Interested Entities and Proponents, must comply with the control measures in this document.

### **3.2 Stage 2**

If an Operator discloses Confidential Information to TPI, then it is, and shall be taken to have always been, Confidential Information. The control measures described in Stage 1 apply to Stage 2.


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 5

### RAIL ACCESS - PROVISIONS TO ENSURE PROTECTION OF INFORMATION TO BE GIVEN TO FMG FINANCE

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 1 PURPOSE

This document describes procedures to manage the provision of Confidential Information to FMG Finance, to ensure compliance with obligations and approved segregation arrangements under the Railways (Access) Act 1998.

## 2 SCOPE

Applies to the provision of Confidential Information by TPI to FMG Finance for the purpose of that group:

- preparing and issuing invoices to, and collecting payments from Operators;
- managing the accounts and financial records of Operators;
- supporting TPI in its regulatory accounting responsibilities; and
- undertaking statutory and cost accounting functions on behalf of TPI.

## 3 PROCEDURES


### 3.1 Stage 1

In Stage 1, the primary responsibility of FMG Finance will be to support TPI in its maintenance of financial records and reporting obligations under the Railways (Access) Act 1998 and Railways (Access) Code 2000 (“Act” and “Code” respectively). The Confidential Information provided by TPI to FMG Finance, to enable the preparation of such records and reports will include:

- Railway operational usage and performance;
- Railway operational cost data, including maintenance, plant, leases, staffing, contractors and head office costs; and
- Railway capital expenditure for capacity expansion purposes.

Confidential Information prepared by FMG Finance will include financial records and reports. During Stage 1, there will be no accounts issued to third party operators on the railway.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### **Segregation Awareness Training and Segregation Awareness Statement**

All existing and new FMG Finance staff that can reasonably be expected to be provided with Confidential Information, shall under take segregation awareness training, and sign the Segregation Awareness Statement.

TPI's Commercial/Compliance Officer is responsible for coordinating the training and managing the statements.

Contact                      Spencer Davey, phone 6218 8888

### **Confidential Information Register**

The provision of any Confidential Information to FMG Finance staff, including verbal briefings and discussions at occasional meetings, shall be recorded in the Confidential Information Register ("register"). Likewise, all records and reports prepared by FMG Finance, on behalf of TPI shall be recorded in the register.

TPI's Commercial/Compliance Officer is responsible for managing the register.

Contact                      Spencer Davey, phone 6218 8888


### **Storage of Confidential Information by FMG Finance**

Confidential Information provided by TPI to FMG Finance Staff, and records and reports generated by FMG Finance must be secured. Refer to Attachment 1 "Protection of Confidential Information".

Electronic information, records and reports must be stored in a restricted access area within the FMG Finance part of the computer network. Access to such areas is limited to staff who are authorised by the General Manager, Rail and who have signed the Segregation Awareness Statement.

Hard copy information, records and reports must be stored in a lockable filing cabinet, compactus or similar storage facility. The facility must be locked at all times it is not in use. Access to the storage facility is limited to staff who are authorised by the General Manager, Rail and who have signed the Segregation Awareness Statement.

<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### 3.2 Stage 2

In Stage 2, Confidential Information will include, in addition to that of Stage 1, information provided by TPI to FMG Finance, and invoices and reports prepared by FMG Finance as part of the operation of an Access Agreement and statutory reporting.

Information provided by TPI to FMG Finance includes:


- Operational data required to prepare invoices for Operators; and
- Operational and capital cost data required for the preparation of documents described below.

Information, accounts, records, invoices and reports generated by FMG Finance includes:

- invoices issued to Operators; and
- correspondence and other communications with Operators in regards to the collection of payments.

The control measures described in Stage I apply to Stage 2.


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 6

# RAIL ACCESS – HANDLING COMPLAINTS AND BREACHES

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 1 PURPOSE

This document describes how complaints from Interested Entities, Proponents and Operators are handled.

## 2 SCOPE

Applies to any formal complaints received from Interested Entities, Proponents or Operators.

## 3 COMPLAINTS AND BREACH MANAGEMENT

### 3.1 Overview of Complaints and Breach Management

The complaints and breach handling procedure detailed below form part of TPI's Segregation Arrangements. Interested Entities, Proponents and Operators can approach the Economic Regulation Authority (ERA) if they consider a segregation breach may have occurred. The Railway (Access) Act 1998 provides wide powers for the ERA to investigate any alleged breaches of the segregation arrangements.


#### Stage 1

If an Interested Entity or Operator considers that TPI has breached its legislative segregation obligations, they may lodge a written complaint with TPI.

TPI will conduct an investigation of any complaint and advise the complainant in writing of the outcome of the investigation and TPI's proposed response, if any. TPI will advise the ERA as per section 5.2 below.

TPI will report any breach of the segregation arrangements of which it becomes aware to the ERA in writing within 5 business days. TPI notes that the Regulator has the ability to commission special audits on any issue or area where additional assurance is sought.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## **Stage 2**

The complaints handling procedure in Stage 1 will also apply in Stage 2. However, it will be extended to cover possible breaches of these segregation arrangements in relation to Operator Confidential Information as well as Access Seeker Confidential Information.

In accordance with Section 7.3 of the Segregation Arrangements, the following types of behaviour may lead to breaches of compliance and/or complaints.

Each type of behaviour is handled by the corresponding corrective arrangement as described in the following table.


<b>Type of behaviour</b>	<b>Corrective Arrangement</b>
Breach of Segregation obligations	Written Complaint from Interested Entity, Proponent, Operator or other complainant and Investigation by TPI
Disclosure of Confidential Information	Written Complaint from Interested Entity, Proponent, Operator or other complainant and Investigation by TPI
Unfair discrimination	Written Complaint from Interested Entity, Proponent, Operator or other complainant and Investigation by TPI
Conflict of Interest	Written Complaint from Interested Entity, Proponent, Operator or other complainant and Investigation by TPI
Breach of Security	Written Complaint from Interested Entity, Proponent, Operator or other complainant and Investigation by TPI

### **3.2 Receipt of Complaint**

As soon as a Complaint is received, the General Manager, Rail and the Commercial Compliance Manager must be notified.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	



	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

If the Complaint was received other by a formal written signed letter with a company letterhead, then the Complainant shall be asked to supply it in that format.

TPI will advise the ERA within 10 business days of any complaint it receives and the action it is taking to investigate the complaint. TPI will use reasonable endeavors to complete its investigation and advise the complainant and the ERA of the result within 30 days of receiving its complaint.

### 3.3 Record of Complaint


The Commercial Compliance Manager shall record the summary details of the Complaint in the Complaints Register, as shown in the table below. The written complaint shall be kept on file in a secure location with the Complaint reference number annotated on it.

Complaint No.	Date of Complaint	Complainant	Complaint Received in writing? Y/N	Investigation Leader	Regulator notified? Y/N

### 3.4 Appointment of Investigator

By default, the appointed Investigator is the Commercial Compliance Officer. However, the General Manager Rail may appoint another investigator if the nature of the complaint relates to the Commercial Compliance Officer. If the complaint relates to the General Manager Rail, then an external investigator may be appointed by the Director of Operations, FMG.

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

### 3.5 Investigation process and preservation of evidence

The Investigator shall ensure, where possible, that the following evidence is gathered and retained in a secure location.

- Records including written and email correspondence.
- System Access Logs.
- Witness statements.
- Details of Telephone conversations.
- Relevant dates and times.

### 3.6 Final Investigation Report


The Investigator shall provide a final report to General Manager, Rail (or the Director of Operations, FMG if the complaint relates to the General Manager, Rail) within 7 days of the receipt of the written complaint.

### 3.7 Investigation Report format

The Investigation Report shall include as a minimum the following sections.

- The name of the Complainant
- The date of the Complaint
- The name of the Investigator (and any assistant investigators).
- The evidence gathered in section 5.5
- A summary of the findings including any breaches that have occurred
- The recommended Corrective Actions to prevent the same or a similar complaint from being received in the future

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>


### 3.8 Notification of Breaches to Economic Regulation Authority

TPI will report any breach of the segregation arrangements of which it becomes aware to the ERA in writing within 5 business days. The correspondence to the ERA will use report format described in section 5.7. TPI notes that the Regulator has the ability to commission special audits on any issue or area where additional assurance is sought.

The Commercial Compliance Manager shall record the summary details of the Breach as shown in the table below.

Breach No.	Date of Breach	Details	Regulator notified? Y/N


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## ATTACHMENT 7

### RAIL ACCESS – ROLE DESCRIPTIONS

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## 1 PURPOSE

This document describes TPI staff Roles and Responsibilities.

## 2 MANAGEMENT OF SEGREGATION ARRANGEMENTS

### 2.1 Overview of Access Related Roles and Locations


The following tables describe the Access related Roles and Responsibilities of TPI staff.

Staff in Access related roles are required to sign Segregation Awareness Statements.

#### TPI Rail Management

Role	Responsibilities	Location	Direct Report	Exposure to Interested Entity, Proponent and Operator Information
General Manager, Rail (previously titled Head of Rail)	<p>Line responsibility for rail infrastructure and haulage operations including compliance with key legislation such as the Rail Safety Act and the Railways (Access) Act and Code.</p> <p>Reviews and approves responses to Access Seekers.</p> <p>Participates in negotiating Access Agreements.</p> <p>Reviews and Approves Access Agreements.</p>	Thomas Yard, Port Hedland	Director, Operations (previously titled Chief Operating Officer)	Significant


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	<b>TITLE</b> <b>RAIL ACCESS SEGREGATION MANUAL</b>

Commercial Compliance Officer	<p>Receive applications from Access Seekers.</p> <p>Prepares draft responses to Access Seekers.</p> <p>Negotiates Access Agreements.</p> <p>Prepares draft Access Agreements.</p> <p>Processes correspondence with Access Seekers.</p> <p>Maintains a list of approved staff in Access related functions and their access level within RAMS.</p> <p>Manages the Confidential Information Register, audits and day to day compliance with the Act and Code.</p>	Thomas Yard, Port Hedland	General Manager, Rail	Significant
Superintendent Train Control	<p>Manages the Train Control facility and assists the General Manager, Rail with maintaining the Train Path Policy and the Train Management Guidelines. Owner of the Rule Book and Safeworking procedures.</p> <p>Supervises Train Planner and Train Controller.</p>	Train Control, 87 Adelaide Terrace East Perth	Manager Operations	Significant
Train Planner	Prepares the Master Train Plan and Fortnightly Train Plan for the TPI Network.	Train Control, 87 Adelaide Terrace East Perth	Manager Operations	Significant


## Track Maintenance

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
6	4 APRIL 2013	E. MILLER	S. DAVEY	

	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	<b>TITLE RAIL ACCESS SEGREGATION MANUAL</b>

Role	Responsibilities	Location	Direct Report	Exposure to Interested Entity, Proponent and Operator Information
Manager Track Maintenance	Manages the Track Maintenance Team. Approves and reviews the wheel rail interface including wheel profile, maximum axle load, maximum train length and maximum train speed.	Thomas Yard, Port Hedland	General Manager, Rail	Significant
Track Engineer	Specifies and reviews the wheel rail interface including wheel profile, maximum axle load, maximum train length.	Thomas Yard, Port Hedland	Manager Track Maintenance	Significant
Track Maintenance Planner	Plans and manages the track and rail formation maintenance program.	Thomas Yard, Port Hedland	Manager Track Maintenance	Not significant
Track Inspector	Inspects track and prepares work orders for track maintenance.	Thomas Yard, Port Hedland	Manager Track Maintenance	Not significant

<b>REV NO.</b>	<b>ISSUE DATE</b>	<b>PREPARED BY:</b>	<b>REVIEWED BY</b>	<b>APPROVED BY:</b>
6	4 APRIL 2013	E. MILLER	S. DAVEY	


	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## Rail Systems

Role	Responsibilities	Location	Direct Report	Exposure to Interested Entity, Proponent and Operator Information
Manager Rail Systems	Manages the Signals & Communications Team. Approves and reviews the signals & communications system design including the system of trackside and onboard safeworking equipment.	Thomas Yard, Port Hedland	General Manager, Rail	Significant
Rail Systems Superintendent	Specifies and reviews the signals & communications system design including the system of trackside and onboard safeworking equipment.	Thomas Yard, Port Hedland	Manager Rail Systems	Not significant
Rail Systems Technicians	Maintains Signals & Communications system.	Thomas Yard, Port Hedland	Rail Systems Superintendent	Not significant

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>


## 2.2 Overview of Non-Access Related Roles and Locations

The following tables describe the non-Access related functions within TPI.

### TPI Operations

Role	Responsibilities	Location	Direct Report
Manager Operations	Manages the efficient and safe operation of TPI rolling stock.	Thomas Yard, Port Hedland	General Manager, Rail
Superintendent Rail Crew	Manages Rail Crew Supervisors	Thomas Yard, Port Hedland	Manager Operations
Rail Crew Supervisors	Supervises Train Drivers and performs yard shunting duties.	Thomas Yard, Port Hedland	Superintendent Rail Crew
Train Drivers	Drive TPI trains	Thomas Yard, Port Hedland	Rail Crew Supervisors
Train Controllers	Execution of the Fortnightly Train Plan and the control, monitoring and recording of day to day train movements on the TPI network.	Train Control, 87 Adelaide Terrace East Perth	Superintendent Train Control


REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	DOCUMENT NUMBER <b>R-MA-RA-0001</b>
	SECTION <b>MANUALS</b>	TITLE <b>RAIL ACCESS SEGREGATION MANUAL</b>

## TPI Rollingstock Maintenance

Role	Responsibilities	Location	Direct Report
Manager Rollingstock Maintenance	Manages the maintenance of TPI rolling stock.	Thomas Yard, Port Hedland	General Manager, Rail
Maintenance Engineer	Approves design of rolling stock and associated maintenance facility	Thomas Yard, Port Hedland	Manager Rollingstock Maintenance
Maintenance Planner	Plans the maintenance of TPI rolling stock	Thomas Yard, Port Hedland	Manager Rollingstock Maintenance
Superintendent Maintenance	Manages Maintenance Supervisors	Thomas Yard, Port Hedland	Manager Rollingstock Maintenance
Maintenance Supervisors	Supervises Maintenance Technicians	Thomas Yard, Port Hedland	Superintendent Maintenance
Maintenance Technicians	Maintains TPI Rolling stock	Thomas Yard, Port Hedland	Maintenance Supervisors

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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	<b>TPI RAIL ACCESS MANAGEMENT SYSTEM</b>	<b>DOCUMENT NUMBER R-MA-RA-0001</b>
	<b>SECTION MANUALS</b>	<b>TITLE RAIL ACCESS SEGREGATION MANUAL</b>

### Safety Department

Role	Responsibilities	Location	Direct Report
Superintendent Safety	Safety audits and investigations	Thomas Yard, Port Hedland	General Manager, Rail
Safety Officer	Assists Superintendent Safety	Thomas Yard, Port Hedland	Superintendent Safety

### Technical Department

Role	Responsibilities	Location	Direct Report
Technical Manager	Manages rail projects	Thomas Yard, Port Hedland	General Manager, Rail
Manager Accreditation	Manages interface between the Accredited Owner and Operator (TPI) and the Office of Rail Safety. Assists Technical Manager with managing rail projects	Thomas Yard, Port Hedland	Technical Manager
Projects Officer	Assists Technical Manager with managing rail projects	Thomas Yard, Port Hedland	Technical Manager
Document Controller	Maintains Controlled documents including the Rule Book and Safeworking procedures.	Thomas Yard, Port Hedland	Manager Accreditation

REV NO.	ISSUE DATE	PREPARED BY:	REVIEWED BY	APPROVED BY:
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