

TRAIN MANAGEMENT GUIDELINES
TO APPLY TO
THE WESTERN AUSTRALIAN GOVERNMENT
RAILWAYS COMMISSION

DETERMINATION OF
THE WESTERN AUSTRALIAN
INDEPENDENT RAIL ACCESS REGULATOR

IN ACCORDANCE WITH THE REQUIREMENTS OF
SECTION 43 OF THE RAILWAYS (ACCESS) ACT 1998

6 December 2002



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Submissions Received On The WAGR Proposed Arrangement

1. Introduction

The Western Australian Government Railways Commission (WAGR) is a public sector entity that operates the suburban railway passenger services for the Department of Planning and Infrastructure under a formal arrangement.

WAGR has a major role in the Perth passenger transportation network of bus, train and ferry services, carrying 29.5 million passenger journeys in 1999-00 on 234,000 train services. These passenger journeys account for over 99 percent of WAGR's business. WAGR has management and control of 112 kilometres of track, of which 17 kilometres are dual purpose for both passenger rail and freight.

Section 3 of the *WA Railways (Access) Act 1998* ("the Act") defines a "railway owner" to mean the person having the management and control of the use of the railway infrastructure. Within this context, WAGR is considered to be the railway owner for the Western Australian suburban rail infrastructure.

Section 43 of the *Railways (Access) Code 2000* ("the Code") requires the railway owner to prepare and submit to the Regulator a statement of the principles, rules and practices ("the Train Management Guidelines") that are to be applied and followed by the railway owner.

The WAGR Train Management Guidelines (TMG) will be applied in the real time management of services. They will apply in a non-discriminatory way between all users of the network so as to maintain the order of priority of the scheduled train paths.

Under Section 43(3) of the Code, the railway owner is required to obtain the Regulator's approval to the TMG it is proposing to implement. In early December 2001, WAGR submitted its proposed TMG to the Regulator. A copy of the WAGR submission is available on the Office of the Rail Access Regulator's website (www.railaccess.wa.gov.au).

In considering WAGR's proposed TMG, Section 45 of the Code requires that the Regulator publish a notice describing the requirements of Section 43(3) of the Code and a general description of the proposed arrangements in major newspapers, with details on where further information can be obtained and inviting submissions on the proposed arrangements.

To this effect, a notice was placed in *The West Australian* and *The Australian* newspapers on 22 December 2001. Two (2) public submissions were received containing comments relating to WAGR's TMG proposal (refer to Appendix 1 for the list of respondents). These submissions are available on the Office of the Rail Access Regulator's website (www.railaccess.wa.gov.au).

Associated with the TMG is the Train Path Policy (TPP) document. This document is a statement of policy relating to the allocation of train paths and the provision of access to train paths that have ceased to be used. The TPP is designed to ensure that the allocation of train paths is undertaken in a manner that ensures fairness of treatment between operators, acknowledges existing contractual rights and any new contractual rights created under access agreements entered into under the Code.

The Regulator envisages that the TPP and TMG will establish the policy and guidelines respectively within which the specific details of train paths and train management can be negotiated. The approved TPP and TMG will be attached as an appendix to all access agreements negotiated under the Code.

The access agreement will document the negotiated details of the routes to which access is provided, the services to be provided by the operator, the allocation of train paths, prices and charges, route control and management, train control, operations and consultation procedures, and other such matters as detailed in Schedule 3 of the Code.

In issuing the TMG Determination, the Regulator is mindful of the legislative requirements of the *Rail Safety Act 1998* and the role of the Rail Safety Regulator in TMG related areas. The TMG will need to comply with the requirements of the *Rail Safety Act 1998*. Within that context, the Regulator understands that WAGR's requirement to install automatic train protection devices, having passenger car windows not being able to be opened by passengers on some lines and the development of Interface Coordination Plans are requirements of the Rail Safety Regulator.

2. The WA Legislative Context

The legislative requirements in relation to TMG are provided for in Section 43 of the Code and these are as follows.

43. Railway owner to comply with approved train management guidelines

- (1) Subsection (2) applies to the railway owner in relation to a part of the railway network and associated infrastructure to which this Code applies when that owner is performing its functions in relation to that part.*
- (2) The railway owner is to comply with the train management guidelines for the time being approved or determined by the Regulator under this section.*
- (3) As soon as practicable after the commencement of this Code the railway owner is to prepare and submit to the Regulator a statement of the principles, rules and practices (“the train management guidelines”) that are to be applied and followed by the railway owner –*
 - (a) in the performance of the functions referred to in subsection (1); but*
 - (b) only so far as that performance relates to requirements imposed on the railway owner by or under the Act or this Code.*
- (4) The Regulator may –*
 - (a) Approve the statement submitted by the railway owner either with or without amendments; or*
 - (b) if he or she is not willing to do so, determine what is to constitute the train management guidelines.*
- (5) The train management guidelines may be amended or replaced by the railway owner with the approval of the Regulator.*
- (6) The Regulator may, by written notice, direct the railway owner –*
 - (a) to amend the train management guidelines; or*
 - (b) to replace them with other train management guidelines determined by the Regulator,*

and the railway owner must comply with such a notice.

Section 20(4) of the Act provides the framework within which the Regulator’s determination is to be made.

Section 20(4) states:

In performing functions under this Act or the Code, the Regulator is to take into account –

- (a) the railway owner's legitimate business interests and investment in railway infrastructure;*
- (b) the railway owner's costs of providing access, including any costs of extending or expanding the railway infrastructure, but not including costs associated with losses arising from increased competition in upstream or downstream markets;*
- (c) the economic value to the railway owner of any additional investment that a person seeking access or the railway owner has agreed to undertake;*
- (d) the interests of all persons holding contracts for the use of the railway infrastructure;*
- (e) firm and binding contractual obligations of the railway owner and any other person already using the railway infrastructure;*
- (f) the operational and technical requirements necessary for the safe and reliable use of the railway infrastructure;*
- (g) the economically efficient use of the railway infrastructure; and*
- (h) the benefit to the public from having competitive markets.*

The nature of the decision-making power given to the Regulator under Section 43 of the Code is such that it is mandatory in so far as the Regulator must exercise it by taking into account all the factors listed in Section 20(4).

However, under Section 43 its application is discretionary in so far as the Regulator may allocate such weight to each of the factors listed in Section 20(4) as the Regulator considers appropriate to ensure a balancing of competing and sometimes conflicting interests for the railway owner, access seekers and the community.

3. Discussion Of Issues

Issues considered significant are listed as follows:

- Responsibility for TMG.
- Application of the TMG to operators outside the regime.
- Priority for WAGR (passenger) services.
- Terms and definitions used and relationship of the WAGR Network Rules.
- Cost recovery to the operators where actions by WAGR materially affect operator performance and have a cost impact on the operator.
- Broad powers of WAGR in performing repairs, maintenance and upgrade of the network, and need for a long range possession management process.
- Train Decision Matrix.
- Key Performance Indicators and frequency at which the TMG will be reviewed.
- Issues not covered in WAGR's TMG.

The following discussion commences with a summary of WAGR's position under each of the above headings. This is followed by the Regulator's views and comments.

1. Responsibility for TMG

Summary of WAGR Proposal (entire document)

- The TMG defines WAGR as the entity being responsible for all matters relating to TMG, ranging from maintaining and upgrading of the network to managing daily train services, including emergencies and incidents.

Regulator's views and comments

- In view of the vertically integrated nature of WAGR's services, the Regulator is of the view that there is a need to segregate WAGR's responsibility for TMG from its other functions. Responsibility for implementing the TMG will need to be assigned specifically to the Network and Infrastructure Division, the infrastructure arm of WAGR, rather than generally to WAGR. This would be consistent with the segregation arrangements as approved by the Regulator on 6 June 2002.

- The relationship between WAGR, Network and Infrastructure Division and its operational arm, the Urban Passenger Division, needs to be clarified in the document. More specifically, additional details should be provided on the roles and responsibilities of the Urban Passenger Division in WAGR's train scheduling functions within the TMG.

2. Application of the TMG to operators outside the regime

Summary of WAGR's Proposal (section 1)

- WAGR indicated that the function to which these Guidelines apply is the real time management of train services operating under access agreements between train operators and the WAGR.

Regulator's views and comments

- WAGR has defined the term "access agreement" to mean "the track access agreement entered into under the Railways (Access) Code, between the railway owner (WAGR) and an operator, for access to the railway network by that operator".
- The TMG needs to be consistent and applicable for each allocated train path regardless of whether access applications are made inside or outside the Code so as to maintain the order of the scheduled train paths. Accordingly, WAGR should apply the TMG to all access agreements negotiated outside the Code. A statement to confirm this intent should be included in the TMG.

3. Priority for WAGR (passenger) services

Summary of WAGR Proposal (sections 3, 5, 6)

- WAGR maintains that the safe and reliable operation of the rail-based urban public transport service, which the Government and the users of the system have a right to expect, is paramount and must not be compromised as a result of the presence of other operators on the network.

Regulator's views and comments

- The main object of the Act is to establish a rail access regime that encourages the efficient use of, and investment in, railway facilities by facilitating a contestable market for rail operations. In considering WAGR's proposed TMG, the Regulator is obliged to take into account the differing needs of WAGR, access seekers and the community under Section 20(4) of the Act.
- The principle underlining WAGR's approach to the allocation and management of train paths would appear to be protective of its own passenger services. The

proposed arrangements, if approved, will be conditional on WAGR continuing as the only passenger service provider on the urban network.

4. Terms and definitions used and relationship of the WAGR Network Rules

Summary of WAGR's Proposal (section 4)

- The WAGR TMG submission offers twenty (20) definitions in Section 4 of the document.
- WAGR states that daily issues (such as the imposition of temporary speed restrictions) will be managed in accordance with:
 - ◇ the Network Rules; and
 - ◇ the relevant access agreement.

Regulator's views and comments

- WAGR needs to review and revise the definitions contained in the TMG to ensure that they:
 - ◇ include all terms which require a clear definition in order to understand and implement the guidelines by all parties; and
 - ◇ are consistent with the other documents under the Code, in particular the TPP and Access Agreements.
- Specifically, definitions should be included for the following terms:
 - ◇ Late (sections 6.3, 6.4);
 - ◇ Special Train Notices (section 6.4);
 - ◇ Train Control Centre (section 6.3);
 - ◇ Train Controller (sections 6.1, 6.4);
 - ◇ Train Path (sections 5, 6.2, 6.3, 6.4) – if different from “Schedule Train Path”;
 - ◇ Working Timetables (sections 2, 6.4).
- Specifically, definitions which should be modified are as follows:
 - ◇ “Instructions”: delete the words “WAGR considers upon the exercise of reasonable care” in (b); WAGR will need to provide examples of instructions to “prevent or to minimise the effect of a material breach of an Access Agreement” in (i); and
 - ◇ “Train Control Directions”: delete the words “considered by WAGR upon the exercise of reasonable care to be” in (a).

- A reference should be made to section 6.4.2 within section 6.3.2.
- The “WAGR Network Rules” include WAGR’s Safety Management Plan approved under Section 10 of the *Rail Safety Act 1998* together with any amendments, deletions or additions made in accordance with the Safety Management Plan and all policies and notices issued by WAGR for the purpose of ensuring the safe use of the network. The Regulator also understands that the WAGR Network Rules comply with the National Code of Practice, even though there are some differences in the terminologies used.

5. Cost recovery to operators where actions by WAGR materially affect operator performance and have a cost impact on the operator

Summary of WAGR’s Proposal (section 6)

- WAGR states that a train failure which fouls the network and blocks the passage of trains will be cleared using alternative locomotives and crews at the discretion of WAGR. The strategy adopted will minimise the time the network will be blocked. As an example, assisting locomotives and crews may be from (a) other trains near the vicinity which are being delayed by the failure, or (b) the nearest locomotive depot.
- The actual source will be dependent on the location of the failure with the objective of minimum disruption to the network.
- The failed train will be cleared from the main line to the nearest location where it does not impact on train running and the operator will then be responsible for planning repairs and alternative pathways in conjunction with WAGR.

Regulator’s views and comments

- Section 6.3.3 covering network blockage and the process for clearing such blockages focuses only on a strategy to minimise the time the network will be blocked. It does not provide the detail sought by access seekers as to how this strategy will be achieved and what the obligations of the parties are in achieving the intended outcome.
- The TMG also does not discuss the cost of clearing the blockage, cost recovery, indemnity provisions, or consultation requirements.
- WAGR should address the details of:
 - ◇ how the network blockages will be cleared;
 - ◇ what parties are responsible for what aspects of the recovery process;

- ◇ the principles by which costs are to be quantified and recovered, where appropriate;
 - ◇ what indemnities are required and provided; and
 - ◇ operators' obligations.
- These details should be contained in both the TMG and the access agreement. Although the same level of detail is not required in both documents it is important that the information is consistent between the two documents.
 - This is primarily a network management issue and should be addressed from that perspective. The TMG should contain a description of the priority for implementing the clearance process, for example:
 - ◇ trains and resources of the operator who has blocked the network;
 - ◇ other trains near the vicinity which are being delayed by the failure; or
 - ◇ the nearest locomotive depot.

The Access Agreement should provide the detail of the conditions to be imposed, obligations of parties, insurance and indemnity, and cost recovery mechanisms.

6. Broad powers of WAGR in performing repairs, maintenance and upgrade of the network, and need for a long range possession management process

Summary of WAGR's Proposal (section 6)

- WAGR states that it has the right, without the consent of notice to the operator, effect repairs, maintenance or upgrading of the network, or take possession of any part of the network, at any time. If repairs, maintenance or upgrading of the network, or taking possession of the network are likely to affect the scheduled train paths, WAGR will, prior to commencement of works:
 - ◇ take all reasonable steps to minimise any disruption to the scheduled train paths;
 - ◇ notify the operator of the works as soon as reasonably practicable; and
 - ◇ use its best endeavours to provide an alternative path.

Regulator's views and comments

- There is a perceived lack of definition in the process of when interruptions to normal train path movements may take place due to maintenance, repair or upgrading activities by WAGR. Opinions also indicated that the approach needed to be reasonable from the perspective of the operator.

- The Regulator's primary interest in relation to this matter is to ensure the network is maintained to a standard which is safe and fit for purpose and that users are provided with an effective process for real-time management of services.
- The Regulator will require WAGR as the railway owner to have a documented long range possession management process and this should be clearly outlined within the TMG. This must be in a format that is acceptable to the Regulator.
- The long term planning process should include indicators as to the type of repair/ maintenance/ upgrade, anticipated duration of the work, anticipated nature and type of disruption to services, and the method for communication/ consultation on these issues between WAGR and operators.
- An annual planning process should provide a more specific set of information regarding the timing, location, duration, disruption, and communication process for the planned work. Where specific train paths are expected to be varied, this information should be made available at the earliest practicable time to the effected parties.
- WAGR will need to provide operators with a time profile of its schedule of repair, maintenance or upgrading works to be undertaken and the length of potential disruptions. In instances when WAGR is unable to meet an identified time commitment, it will need to advise the operators of the revised time profile as soon as possible. The Regulator expects that further detail of track possession and track maintenance practice will be addressed in individual access agreements if required.
- The Regulator has received advice indicating that the Regulator does not have the power to make determinations relating to the compensation of operators for adverse impacts of WAGR track possession management. The Regulator would expect that these issues would be addressed in the relevant access agreement. Nevertheless, if it can be proven that WAGR has unjustifiably disrupted the train paths of one operator more than another operator, the Regulator may consider whether WAGR has breached the provisions of Section 34A of the Act which deals with conduct aimed at hindering or preventing access.
- The Regulator would expect that scheduled train paths to be minimally affected by planned track maintenance activities, but at this stage is of the view that it is not reasonable to require WAGR to ensure that these train paths would not be affected. However, if through performance monitoring, the Regulator finds that certain train paths or individual operators are unacceptably affected, then consideration will be given to addressing this issue by either amending the TMG or reflecting the reduced service level in the ceiling for that route section. In any event, access seekers should be negotiating suitable arrangements with WAGR as part of their access agreement.

- Access agreements provide for the establishment key performance indicators (KPIs) which are to be agreed between the railway owner and the operator. These KPIs include performance measures for both the operator and the railway owner. Reference should be included in the TMG to the fact that agreed KPIs in the access agreement will establish a method of measuring performance in this area by way of agreed standards to be achieved and through the monitoring and review of actual performance against these standards.

7. Train Decision Matrix

Summary of WAGR's Proposal (section 6)

- Section 6.2 of the TMG provides a Traffic Management Decision Making Matrix (“the matrix”) with some explanatory notes.

Regulator's views and comments

- A statement dealing with appropriate training and conformance in the use of the matrix should also be included in the TMG.
- Expansion of this section of the TMG should be undertaken to provide a clearer and more comprehensive coverage of the process. This will benefit the understanding of train management for all parties as part of the WAGR network. Apart from the completed matrix, the following items should be included:
 - ◇ a definition of “on-time” (healthy), “late” (unhealthy), and trains running “ahead”;
 - ◇ a definition of the tolerances allowed on various train paths, including running time tolerances;
 - ◇ any “special conditions” to be applied in the decision process:

The Regulator is agreeable to WAGR having a degree of discretion to operate outside the matrix (for events defined within the matrix) to ensure safe and efficient operations. However, these “special conditions” are to be the exception rather than the rule. WAGR will need to detail its proposed authorisation process to manage these “special conditions” in the TMG, and will be required to report to the Regulator on the number and nature of these instances. Other than for reasons of safety, “special conditions” afforded to an operator with multiple trains must not impact on any other operators’ trains; and

- ◇ the decision process for events which occur outside of those defined within the matrix.

8. Key Performance Indicators and frequency at which the TMG will be reviewed

Summary of WAGR's Proposal (sections 8)

- WAGR states that KPIs allowing monitoring of WAGR's application of the TMG will be developed in consultation with all operators on the WAGR network and published by WAGR thereafter in each Annual Report.
- With the agreement of the parties, penalties and/or bonuses in relation to train management performance by both WAGR and the Operator may be negotiated within the context of an access agreement. No penalties will be applied to an Operator in relation to a train that enters the network as a healthy train and is delayed on the network due to no fault of the Operator.

Regulator's views and comments

- The Regulator will be developing a KPI reporting system in consultation with stakeholders. For the purpose of this Determination it is suffice to note the following KPIs that the Regulator may use to assess the effectiveness of the TMG:
 - ◇ number and percentage of healthy services that exit the network within tolerance;
 - ◇ number and percentage of unhealthy services that do not deteriorate further, within tolerance;
 - ◇ number and percentages of unhealthy services that exit the network within tolerance;
 - ◇ number and percentage of services which are operated in a healthy manner; and
 - ◇ track quality measured by an index with component measures such as rail service level, alignment, twist cross level and gauge variation.
- The Regulator has a number of powers to monitor compliance by WAGR with the TMG. Annual audit programs will be the key monitoring tool for assessing compliance.
- The annual independent external audit required for WAGR's other access arrangements will include an assessment of WAGR's compliance with the TMG. As mentioned in previous Determinations, WAGR will need to advise the Regulator who it intends to engage for the purpose of conducting the annual audit at the appropriate time. The Regulator may select and manage the auditor. At the minimum, the Regulator's approval of the scope of the annual audit will be

required and the final audit report will be made available to the Regulator and the public.

- The annual independent external audit may be supplemented by special audits, which would be commissioned following the identification of a material complaint.
- Schedule 3 of the Code requires KPIs to be included in WAGR's access agreement. These KPIs will be specific to the access agreement and are subject to measurement and review. A statement to confirm the intended inclusion of operator specific KPIs within individual access agreements should be included in the TMG.
- Under Section 12(1)(a) of the Act, the Code must be subject to a full public consultative review process on the third anniversary of its commencement. The Code came into operation on 1 September 2001 and the Regulator intends using the review of the Code at that time to also trigger a review of, among others, the TMG.
- Under Section 43(5) of the Code, the TMG may be amended or replaced by WAGR with the approval of the Regulator.
- Under Section 43(6) of the Code, the Regulator may, by written notice, direct the railway owner to either amend the TMG or to replace them with another TMG as determined by the Regulator, and the railway owner must comply with such a notice.
- Stakeholders and WAGR have the ability to express any concern which may arise at any time. The Regulator will investigate such claims and if the need arises the Regulator will review the TMG prior to 1 September 2004.

9. Issues not covered in WAGR's TMG

Regulator's views and comments

- The Code defines an "operator" as an entity to which access is provided under an access agreement but requires the operator to show that either its management and staff have the necessary knowledge and experience, or it will be able to, and will, engage the services of another entity whose management and staff have the necessary knowledge and experience to carry on the proposed rail operations (Section 14(1)(a) of the Code).

In effect, the Code provides for the likelihood of an access seeker engaging a third party as its agent or contractor who is accredited to carry on the proposed rail operations. As a matter of clarification, WAGR should, in section 1, acknowledge the right of an access seeker to appoint or engage a third party as

its agent or contractor to exercise the rights or the performance of any obligations required by the TMG.

4. Regulator's Required Amendments

In assessing WAGR's proposed TMG, consideration has been given to WAGR's differing business focus and the likelihood of access being sought on the network.

In any event, the Regulator is satisfied that the TMG to apply to WAGR is consistent with and similar to the TMG that was approved for WestNet Rail (WNR), the State's other railway owner.

The assessment in this Determination has addressed each section of WAGR's proposed TMG dated December 2001. The refinements and additions that are being sought to WAGR's proposal have accordingly been directed to the appropriate section of the submission.

In subsequent discussions, WAGR has agreed to implement a number of the suggested changes detailed below. Even so, these required amendments are provided in full in the following table so that stakeholders can gauge the changes that are being required of WAGR on its TMG as lodged with the Regulator on 7 December 2001.

It is the view of the Regulator that the required amendments below appropriately address and balance the differing needs of WAGR, access seekers and the community under Section 20(4) of the Act. In addition, the required amendments detailed below have also taken into account the issues to be considered by the Regulator under Section 41(b) of the Code, being:

- the comments derived from public submissions;
- the "public interest" as determined by the Regulator; and
- any other issues that the Regulator considers to be relevant.

The adoption of these required amendments in the Train Management Guidelines should ensure the effectiveness of the State's access regime, in addition to meeting the requirements of Section 20(4) of the Act and Section 41(b) of the Code.

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<p><i>Section 1</i> Introduction</p> <p>The following Train Management Guidelines set out the principles, rules and practices that are applied and followed by the Western Australian Government Railways Commission (WAGR) in its performance of functions related to requirements</p>	<p><i>Section 1</i></p> <ul style="list-style-type: none"> ▪ Clarify responsibility for the TMG within WAGR, which should be the Network and Infrastructure Division rather than simply WAGR. ▪ Define the relationship between WAGR,

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<p>imposed on WAGR by or under the Railways (Access) Act 1998 or the Railways (Access) Code 2000.</p> <p>Specifically, the function to which these Guidelines apply is the real-time management of train services operating under Access Agreements between train operators and WAGR.</p> <p>The purpose of these Guidelines is to establish a common understanding between the train operator and the WAGR on the obligations required from both parties to ensure that the management of trains is undertaken in the mutual interest of all users of the WAGR railway network.</p> <p>These Train Management Guidelines are submitted to the Rail Access Regulator under section 43 of the Railways (Access) Code 2000. Under that section, the Regulator may approve these guidelines as submitted by WAGR either with or without amendments, or may reject these guidelines and determine what are to constitute the train management guidelines. The Regulator is required by section 45 of the Code to seek public comment before approving these train management guidelines submitted by WAGR. The train management guidelines may be amended or replaced by the railway owner with the approval of the Regulator. The Regulator may direct WAGR to amend these Train Management Guidelines or to replace them with other Guidelines determined by the Regulator.</p> <p>These Train Management Guidelines will form a schedule to all Access Agreements made under the Railways (Access) Code 2000.</p>	<p>Network and Infrastructure Division and Urban Passenger Division.</p> <ul style="list-style-type: none"> ▪ Provide additional details on the roles and responsibility of the Urban Passenger Division in WAGR's train scheduling functions. ▪ State that the TMG will apply to all users of the network regardless of whether access is made inside or outside the Code. ▪ Acknowledge the right of an access seeker to engage a third party as its agent or contractor to exercise the rights or the performance of any obligations required by the TMG.
<p><i>Section 2</i> <i>Associated reference documents, including procedures, rules, standards, acts and regulations</i></p> <p>These Train Management Guidelines must be read in conjunction with the following associated reference documents, all of which are publicly available and may be obtained from WAGR.</p> <ul style="list-style-type: none"> ▪ WAGR Network Rules; ▪ Appendix to the WAGR Network Rules; ▪ WAGR Rail Infrastructure Codes of Practice and Procedures; ▪ WAGR Operating Procedure for Traffic Management (4010-409-001); ▪ WAGR Emergency Management Plan; ▪ WAGR Procedure for Emergency Management – Urban Electrified Area (4010-409-501); ▪ WAGR Working Timetables; ▪ Rail Safety Act 1998 (WA); ▪ Rail Safety Regulations 1999 (WA); 	<p><i>Section 2</i></p>

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<ul style="list-style-type: none"> ▪ Railways (Access) Act 1998 (WA); ▪ Railways (Access) Code 2000 (WA); ▪ Australian Standard – Railway Safety Management (AS4292.1 (Part 1)); ▪ Australian Dangerous Goods Code (Volume 1) (Requirements and Recommendations) comprising: <ul style="list-style-type: none"> ▪ The Australian Code for Transport of Dangerous Goods by Rail and Road; ▪ Dangerous Goods – Initial Response Guide (SAA/NZS HB76:1997); ▪ Dangerous Goods (Transport) (Road and Rail) Regulations. <p>WAGR is aware of and undertakes to comply with the requirements of all the above referenced and associated documents. All Operators seeking to run trains on the WAGR network must also be aware of and undertake to comply with the requirements of the above referenced and associated documents.</p>	
<p><i>Section 3</i> <i>Principle governing the use of the WAGR rail network</i></p> <p>The reason for the existence of the WAGR urban rail network, and its essential function, is to provide a safe, reliable and efficient rail-based public transport service within metropolitan Perth. Certain performance standards for the provision of that public transport service are required by Government, which funds the urban rail network and the public transport service. WAGR currently operates a rail-based public transport service that is close to world best practice in terms of on-time running (within three minutes of schedule) and the use of safe systems such as Automatic Train Protection. The Government and the users of the system have a right to expect that these standards will be maintained.</p> <p>The State rail access regime requires that third party operators be permitted to negotiate agreements to use the WAGR network and WAGR is committed to facilitating such use. However, WAGR maintains that the safe and reliable operation of the rail-based urban public transport service is paramount and must not be compromised as a result of the presence of other operators on the network. This principle underlies WAGR's approach to train management.</p>	<p><i>Section 3</i></p>
<p><i>Section 4</i> <i>Definitions</i></p> <p>WAGR provides definitions for twenty (20) aspects related to Train Management Guidelines:</p> <ul style="list-style-type: none"> (i) Access Agreement (ii) Accredited Operator 	<p><i>Section 4</i></p> <ul style="list-style-type: none"> ▪ Ensure all terms and definitions are consistent with other documents under the Code, in particular the TPP and Access Agreement.

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<ul style="list-style-type: none"> (iii) Automatic Train Protection (iv) Dangerous Goods Code (v) Instructions (vi) Interface Coordination Plan (vii) Network (viii) Operator (ix) Scheduled Train Paths (x) Service (xi) Standards (xii) Train Control Directions (xiii) Train Manifest (xiv) Train (xv) Healthy Train (xvi) Unhealthy Train (xvii) Failed Train (xviii) Traffic Control (xix) WAGR (xx) WAGR's Network Rules 	<ul style="list-style-type: none"> ▪ Delete the definition for Accredited Operator. ▪ Specifically, definitions should be included for the following terms: <ul style="list-style-type: none"> ◇ Late (sections 6.3, 6.4); ◇ Special Train Notices (section 6.4); ◇ Train Control Centre (section 6.3); ◇ Train Controller (sections 6.1, 6.4); ◇ Train Path (sections 5, 6.2, 6.3, 6.4) – if different from “Schedule Train Path”; and ◇ Working Timetables (section 2, 6.4). ▪ Specifically, definitions which should be modified are as follows: <ul style="list-style-type: none"> ◇ “Instructions”: delete the words “WAGR considers upon the exercise of reasonable care” in (b); WAGR will need to provide examples of instructions to “prevent or to minimise the effect of a material breach of an Access Agreement” in (i); and ◇ “Train Control Directions”: delete the words “considered by WAGR upon the exercise of reasonable care to be” in (a).
<p><i>Section 5</i> <i>Prerequisites</i></p> <p>The following essential criteria must be met before a service will be permitted to operate on the network:</p> <ul style="list-style-type: none"> ▪ The Operator must hold an appropriate current accreditation under the Rail Safety Act 1998. ▪ The Operator must have an Access Agreement and have fulfilled all the terms and conditions in that agreement, including those related to insurance and current driver accreditation. ▪ The rollingstock must meet WAGR's specifications for operation on the network. This includes, but is not limited to, compliance with the clearance envelope, a requirement to ensure passenger car windows can not be opened by passengers on some lines because of limited side clearances, and a requirement that toilet waste is kept within the train and not permitted to be released on to the track. Certain train paths, eg during peak periods, may be available only to trains fitted with Automatic Train Protection devices. ▪ The Operator and WAGR must have agreed to an Interface Coordination Plan, and complied with all the requirements of that Plan. ▪ The Operator, in accordance with the access agreement, must provide WAGR with the information required for a train manifest. When this condition has been satisfied the service will be admitted to the network and managed in accordance with these Train Management Guidelines. 	<p><i>Section 5</i></p>

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<p><i>Section 6</i> <i>Principles of train management</i></p> <p>Set out below are the principles, rules and practices of normal train management. These include the principles to be applied in circumstances where services become interrupted due to matters which occur outside of the control of WAGR, necessitating a need to resolve the competing interests of users of the network. The principles, including any amendments, will be applied in a non-discriminatory manner between all users of the network in order to maintain, as near as possible, the order of priority of scheduled train paths.</p> <p>6.1 General principles of train management</p> <p>It is the responsibility of WAGR to provide a safe and fit for purpose railway network and infrastructure, in accordance with its accreditation requirements under the Rail Safety Act 1998 and in accordance with the requirements of the associated reference documents listed in section 2 of these Guidelines. It is the responsibility of WAGR to provide the appropriate access and running rights to allow the Operator to conduct business, and to manage the network on agreed entry/exit times. This includes the provision of suitably trained and experienced train controllers.</p> <p>It is the responsibility of the Operator to manage and carry out its train running operations in accordance with the appropriate rules and relevant procedures as specified in the associated reference documents listed in section 2 of these Guidelines, as well as utilise its rollingstock in accordance with its accreditation requirements under the Rail Safety Act 1998. The Operator must ensure operating integrity, including train crewing, locomotives, railcars, other rollingstock and loading, in order for train schedules to be met. This includes the provision of suitably trained, experienced and accredited train crews, and the provision of rollingstock which meets WAGR's specifications for operation on the network.</p> <p>It is the responsibility of both WAGR and the Operator to ensure that operational safety is maintained through compliance with safeworking rules, regulations and procedures.</p> <p>WAGR and the Operator are required at all times to comply with:</p> <ul style="list-style-type: none"> ▪ all applicable safety standards and laws dealing with safety; ▪ the requirements contained in the associated reference documents listed in section 2 of these Guidelines; 	<p><i>Section 6</i></p>

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<ul style="list-style-type: none"> ▪ all other applicable statutes and regulations; and ▪ the terms and conditions set out in the Access Agreement for Track Access governing the Operator's access to the Network. <p>6.2 Infrastructure Issues</p> <p><i>6.2.1 Operator and track access consultation protocols</i></p> <p>The Operator and WAGR will comply with the coordination protocols agreed in the Interface Coordination Plan.</p> <p>Should WAGR become aware of an infrastructure failure on its network which may have the potential to cause a deviation from scheduled train paths, resulting in the the predicted exit time from the network to vary from the scheduled exit time, WAGR will advise the Operator as early as possible of the magnitude of the failure and the estimated revised time of the service's exit from the network. This advice will take into account the magnitude of the deviation from schedule and the duration of the remaining journey on the network.</p> <p>Should the Operator become aware of an infrastructure failure on the network, or a potential deviation from the schedule, the Operator must advise WAGR at the earliest possible time of the event and the magnitude of the deviation.</p> <p>In order to fulfil the above consultation process, unless otherwise agreed, the Operator and WAGR will establish a 24 hour communication link within the context of the Interface Coordination Plan.</p> <p><i>6.2.2 Maintenance provisions</i></p> <p>WAGR, without the consent of or notice to the Operator, has the right to effect repairs, maintenance or upgrading of the network, or take possession of any part of the network, at any time.</p> <p>In doing so, if there is there likely to be an effect on scheduled train paths, WAGR will, prior to commencement of any works;</p> <ul style="list-style-type: none"> ▪ take all reasonable steps to minimise disruptions to scheduled train paths; ▪ provide notification of the works to the Operator as soon as reasonably practicable; and ▪ use its best endeavours to provide an alternative train path. <p><i>6.2.3 Management of emergencies</i></p> <p>In the event of an emergency which requires WAGR to close all or part of the network, WAGR</p>	<ul style="list-style-type: none"> ▪ Provide a more detailed description of WAGR's maintenance and possession management process. ▪ State that WAGR will provide operators with a time profile of the works to be undertaken and the length of potential disruptions in a format that is acceptable to the Regulator. In instances when WAGR is unable to meet an identified time commitment to repairing, upgrading or maintaining the track, it needs to advise the operators of its revised time profile as soon as possible.

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<p>will, in accordance with the WAGR Emergency Management Plan, WAGR Procedure for Emergency Management and the relevant Interface Coordination Plans:</p> <ul style="list-style-type: none"> ▪ notify all affected Operators as soon as practicable of the nature of the incident; ▪ notify all affected Operators as soon as practicable of the likely effect on scheduled train paths and the estimated duration of the incident; and ▪ develop with the Operator(s) a recovery plan in accordance with the provisions of the relevant access agreement(s). <p>6.3. Operational Issues</p> <p><i>6.3.1 Management of daily issues related to train operations</i></p> <p>Daily issues (such as the imposition of temporary speed restrictions) will be managed in accordance with;</p> <ul style="list-style-type: none"> ▪ the Network Rules; and ▪ the relevant access agreement. <p><i>6.3.2 Use of the network in accordance with scheduled train paths</i></p> <p>WAGR will ensure that services operate according to scheduled train paths so that a service which enters the network on-time will exit the network on- time, subject to:</p> <ul style="list-style-type: none"> ▪ safety considerations; ▪ matters outside the reasonable control of WAGR, which affect the ability of WAGR to provide the scheduled train paths; ▪ advice from the Operator 3 minutes prior to the scheduled departure time that the service will be ready for departure on-time; ▪ presentation of Operator's train on time; and ▪ any other emergencies that may affect the operation of services. <p>A train which is late entering the network or is delayed within the network will be managed with reasonable endeavour by WAGR to make up time dependent upon:</p> <ul style="list-style-type: none"> ▪ the degree of lateness; ▪ conformance to the network operating requirements; ▪ how the train has performed in relation to the section running times as it proceeds; and ▪ the obligations WAGR has in relation to the operation of other trains on the network. <p>WAGR will use its best endeavours to accommodate a Service which is running early or late, is presented at the point of entry to the Network late or is presented at the point of entry to the Network more than 3 minutes early by</p>	<ul style="list-style-type: none"> ▪ A reference should be made to section 6.4.2 within section 6.3.2.

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<p>providing a Train path for that Service at WAGR's first available opportunity.</p> <p>Both WAGR and the Operator will use their best endeavours to:</p> <ul style="list-style-type: none"> ▪ ensure that such Services which are running or presented late recover the lost time; and ▪ ensure that such Services which are presented more than 3 minutes early depart the Network no later than the scheduled time. <p>WAGR may issue Instructions to the Operator and these Instructions may include but are not limited to instructions or directions:</p> <ul style="list-style-type: none"> ▪ to cease use of a Scheduled Train Path by the Service and for the Service to proceed over such path on the Network as WAGR nominates; ▪ to continue use by the Service of the Network subject to such variation of the applicable Scheduled Train Path or the Service or the composition or quality of Trains as WAGR nominates; ▪ to cause the Service to proceed to a point on the Network and stand there until WAGR issues a further instruction or direction in relation to the Service; or if the Service operates outside of its Scheduled Train Path, to delay or redirect the Service to allow access to the Network by another operator of a Train (including, if relevant, WAGR) whose service would, but for the delay or redirection of the Operator's Service, be delayed or further delayed. <p>In these circumstances WAGR will:</p> <ul style="list-style-type: none"> ▪ in giving any Instruction endeavour to minimise disruption to the Operator's Services; and ▪ other than in an emergency, consult with the Operator in giving an Instruction concerning the use of an Operator's locomotive and its crew for the purpose of assisting in the clearing of a Network blockage. ▪ if an Instruction which varies the Operator's Train Paths is intended by WAGR to be permanent, such permanent effect of the Instructions will not take effect until the appropriate procedures for permanent variation of a Train Path has been satisfied. Until the procedure had been satisfied such Instruction will have a temporary effect. ▪ As soon as is reasonably practicable and in any event before an Instruction becomes effective, WAGR must give to the Operator a written copy of the Instruction if such Instruction is ordinarily given in writing by WAGR to Operators. <p>The Operator will comply with all Instructions and</p>	

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<p>will promptly inform all relevant Train crew of those Instructions and any changes to them. The Operator will also generally inform all relevant Train crew of WAGR's Network Rules and any general notices and other information notified to the Operator by WAGR and will promptly inform the Operator of any changes made by WAGR. If an Instruction is a Train Control Direction, it must be complied with immediately. Unless the Train Control Centre gives an Instruction that is a Train Control Direction, the Operator need only comply with an Instruction if is given a reasonable time before the required time for compliance.</p> <p>The Operator must comply with all Instructions in such a way as to reasonably minimise disruption to any other Operator's use of the Network. WAGR is not responsible for any delay suffered or cost incurred by the Operator in complying with a proper Instruction of WAGR, and the Operator releases WAGR from any claim arising from such compliance.</p> <p>The Operator is not responsible for any delay suffered or cost incurred by WAGR in the Operator complying with a proper Instruction of WAGR, and WAGR releases the Operator from any such claim arising from such compliance.</p> <p><i>6.3.3 Network blockage</i></p> <p>A train failure which blocks the network, and therefore the passage of other trains, will be cleared using alternative locomotives and crews at the discretion of WAGR. The strategy adopted will minimise the time the network will be blocked. As an example, assisting locomotives and crews may be sourced from :</p> <ul style="list-style-type: none"> ▪ other trains near the vicinity which are being delayed by the failure; or ▪ the nearest locomotive depot. <p>The actual source will be dependent on the location of the failure and the logistics involved in achieving the minimum disruption to other services using the network.</p> <p>A failed train will be cleared from the main line to the nearest location where it will not impact on train-running. The train's Operator will then be responsible for undertaking repairs and liaising with WAGR to arrange an alternative pathway.</p> <p><i>6.3.4 Operator's recovery plan</i></p> <p>In clearing a failed Operator's train from the network, the Operator will be consulted to consider alternatives, which may include:</p> <ul style="list-style-type: none"> ▪ reduction of loading; ▪ continuation of the service at reduced speed; 	<ul style="list-style-type: none"> ▪ Detail how the strategy to minimise the time the network will be blocked needs to be provided together with the obligations of the parties in achieving the intended outcome. ▪ Discuss the cost of clearing the blockage, cost recovery, indemnity provisions, and consultation requirements. In particular, the details of: <ul style="list-style-type: none"> ◇ how the network blockages will be cleared; ◇ what parties are responsible for what aspects of the recovery process; ◇ the principles by which costs are to be quantified and recovered, where appropriate; ◇ what indemnities are required and provided; and ◇ operators' obligations. ▪ Consistency in this area between the TPP, TMG and the draft access agreement needs to be ensured.

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<ul style="list-style-type: none"> ▪ arrangements for an alternative locomotive to be used to continue the service; or ▪ amalgamation with another service. <p><i>6.3.5 Management of Emergencies and Incidents</i></p> <p>All operational emergencies are to be managed in accordance with the Interface Coordination Plans, WAGR's Emergency Management Plan and WAGR's Procedure for Emergency Management – Urban Electrified Area (4010-409-501).</p> <p>All operational incidents, including Category A and Category B notifiable occurrences as defined under the Rail Safety Act and Regulations, are to be managed in accordance with the Interface Coordination Plans, WAGR's Network Rules and such other legislation as may apply. This includes incidents resulting in environmental pollution or public health risks.</p> <p>6.4 Operations conflict resolution procedures and protocol</p> <p><i>6.4.1 Real-time allocation of train paths</i></p> <p>Scheduled train paths will have been established under an access agreement and will be promulgated by:</p> <ul style="list-style-type: none"> ▪ The issue of working timetables; ▪ The issue of special train notices where the train path is not permanently scheduled. <p>If an Operator requests an ad hoc or alternative train path, in determining such a train path, WAGR will take into consideration the need to ensure that established urban passenger train schedules are maintained on the network. In these circumstances, an ad-hoc or alternative train path will be issued by WAGR under the authority of its General Manager Network and Corridor, by a train controller or another person authorised by WAGR.</p> <p><i>6.4.2 Resolution of train path priority due to unhealthy services</i></p> <p>In the event of a conflict of train paths resulting from an unhealthy train, the WAGR train controller will use the following matrix (<i>matrix not attached in the Determination</i>).</p> <p>Rule 1 –Train B may be given preference on condition Train A will still meet On Time exit objective.</p> <p>Rule 2 – Both trains must meet On Time exit objective.</p> <p>Rule 3 – Train A may be given preference on condition Train B will still meet On Time exit objective.</p> <p>Rule 4 –Give priority to train where performance indicates it will lose least or no more time and</p>	<ul style="list-style-type: none"> ▪ A statement dealing with appropriate training and conformance with the use of the Matrix should be included. ▪ Expand the section to take into account the need for a clearer and more comprehensive coverage of the process. The following items should be included: <ul style="list-style-type: none"> ◇ a definition of “on-time” (healthy), “late” (unhealthy), and trains running “ahead”; ◇ a definition of the tolerances allowed on various train paths, including running time tolerances; ◇ any “special conditions” to be applied in the train decision matrix. Detail WAGR's proposed authorisation process to manage these “special conditions” and how it intends to report these instances to the Regulator; and ◇ the decision process for events which occur outside of those defined within the matrix.

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<p>even make up time and hold the gain.</p> <p>The primary objective in resolving conflicts is that healthy trains should stay healthy. WAGR will use best endeavours to ensure that unhealthy trains are managed so that where possible they still achieve an on time exit from the network. With late running trains, this includes trying to ensure they lose no more time, where possible make up time and then hold the gain throughout their journey.</p> <p>In considering whether to apply rules 1 or 3, a train controller, or another person authorised by the General Manager, Network and Corridor, may give consideration to the operational characteristics of the two trains concerned, for example a through train (eg. an express, a freight train or a country passenger train) may be given precedence over a train that will stop at all stations, since this action is likely to minimise the duration of the conflict. A train capable of rapid acceleration may be given precedence over a slower train, since this is also likely to minimise the duration of the conflict. Such precedence will only be given if it does not unreasonably delay the other train.</p> <p>When making judgments with respect to the rules, a train controller, or another person authorised by the General Manager, Network and Corridor, will give priority to minimising disruptions to the urban passenger train timetables and use all reasonable endeavours to maintain the on-time running of the public transport system.</p> <p>However, the nature of the urban rail network is such that trains can rarely be directed off the main line to allow a following train to pass. Thus if a late train enters a section behind a train that it would, had it not been late, have preceded, it is likely to have to remain behind that train for the duration of its journey. Given the relatively short section running times on the urban network, this will rarely result in major delays.</p>	
<p><i>Section 7 Disputes</i></p> <p>If an Operator has reason to believe that a train controller has not complied with these principles, rules and procedures, the Operator will notify the General Manager, Network and Corridor, in writing, as soon as practicable after the incident, with such evidence as supports the Operator's belief. The General Manager, Network and Corridor will investigate the allegation and provide a written response to the Operator within 10 days, advising the outcome of the investigation and what, if any, remedial action is proposed to be</p>	<p><i>Section 7</i></p>

WAGR's proposed Train Management Guidelines	Changes required to WAGR's Train Management Guidelines
<p>taken.</p> <p>If a dispute related to train management arises between the parties to an Access Agreement they must use reasonable endeavours and act in good faith to settle the dispute as soon as practicable in accordance with the dispute resolution procedures set out in the Access Agreement.</p> <p>If such resolution is not achievable within the contractual framework of the Access Agreement, either party or both parties will notify the Regulator of a dispute under the Railways (Access) Code 2000.</p>	
<p><i>Section 8</i> <i>Performance monitoring</i></p> <p>Key performance indicators allowing monitoring of WAGR's application of these principles will be developed in consultation with all operators on the WAGR network by June 2002 and published by WAGR thereafter in each Annual Report.</p> <p>With the agreement of the parties, penalties and/or bonuses in relation to train management performance by both WAGR and the Operator may be negotiated within the context of an access agreement. No penalties will be applied to an Operator in relation to a train that enters the network as a healthy train and is delayed on the network due to no fault of the Operator.</p>	<p><i>Section 8</i></p> <ul style="list-style-type: none"> ▪ Indicate that KPIs will be developed by the Regulator in consultation with stakeholders to assess the effectiveness of the TMG. ▪ Include a statement to confirm the intended inclusion of operator specific KPIs within individual access agreements. ▪ Explain that WAGR's compliance with the TMG will be subjected to an annual independent external audit. The Regulator may select and manage the auditor with costs paid by WAGR. At the minimum, the Regulator's approval of the scope of the audit will be required and the final audit report will be made available to the Regulator and the public. ▪ The Regulator can also commission special audits on any TMG issue or area where additional assurance is sought. ▪ Add "Stakeholders have the ability to express any concern to the Regulator which may arise at anytime and the Regulator will investigate such claims". ▪ State that the Regulator has the power under the Code to amend the TMG at any time and access seekers and operators can at any time request the Regulator to consider amendments.

5. Determination

The proposed Train Management Guidelines submitted by WAGR dated 7 December 2001 is not approved. WAGR will be required to make the amendments as tabled in section 4 of this Determination and resubmit them for the Regulator's consideration within 60 days of the receipt of the Determination. The Regulator notes that in the event that agreement is not reached on the required amendments, the Regulator may give directions in writing to effect the necessary changes under Section 43(4) of the Code.

Should it ever become apparent that there is another operator seeking access in the same competitive market as WAGR, then the Regulator may review the TMG arrangements and may require changes to them.

Dr Ken Michael
ACTING RAIL ACCESS REGULATOR

6 December 2002

Appendix 1 – Submission Received On The WAGR Proposed Arrangement

1. Keith Jones
2. Leisure Rail WA Ltd