

**Western Australian Government Railways Commission**

**Statement of Policy  
Relating to the  
Allocation of Train Paths**

## Statement of Policy

### Relating to the Allocation of Train Paths

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#### Contents

1. Introduction .....	3
2. Associated Reference Documents, Including Procedures, Rules, Standards, Acts and Regulations .....	4
3. Principle governing the use of the WAGR rail network.....	5
4. Definitions .....	6
5. Management of train paths .....	8
5.1 Master control diagrams .....	8
5.2 Allocation of train paths .....	8
5.3 Request for train paths that would result in capacity constraints .....	8
5.4 Competition for train paths.....	9
5.5 Temporary variations of train paths. ....	9
5.6 Permanent variations to scheduled train paths by agreement between the parties.....	10
5.7 Maintenance provisions .....	11
5.8 Removal of train path for under- utilisation .....	11
5.9 Review of scheduled train paths .....	11
5.10 Cancellation of services using scheduled train paths .....	12
5.11 Provision of access to train paths that have ceased to be used .....	13
6. Disputes .....	14
7. Performance monitoring .....	15

## 1. INTRODUCTION

The following Statement of Policy will be applied by the Western Australian Government Railways Commission (WAGR) in its performance of functions related to requirements imposed on WAGR by or under the Railways (Access) Act 1998 or the Railways (Access) Code 2000.

Specifically, the function to which this Statement of Policy applies is the allocation of train paths by WAGR on the urban rail network and the provision of access to train paths on that network that have ceased to be used. This Statement Of Policy applies to train paths allocated with respect to Access Agreements made under the Railways (Access) Code 2000 and to train paths allocated with respect to access arrangements made other than under that Code.

The purpose of the policy is to ensure that the allocation of train paths is undertaken in a manner that ensures fairness of treatment between operators and to acknowledge the existing contractual rights and any new contractual rights created by the code.

With the aim of maximising the use of the network, the policy establishes a set of principles under which an Operator has an entitlement to access train paths on the WAGR network and the circumstances under which variation to those train paths may occur.

This Statement of Policy is submitted to the Regulator under section 44(2) of the Railways (Access) Code 2000. Under section 44(3), the Regulator may approve this Statement of Policy as submitted by WAGR either with or without amendments, or may reject it and determine what is to constitute the Statement of Policy. The Regulator is required by section 45 of the Code to seek public comment before approving the Statement of Policy submitted by WAGR. The Statement of Policy may be amended or replaced by the railway owner with the approval of the Regulator. The Regulator may direct WAGR to amend the Statement of Policy or to replace them with another Statement of Policy determined by the Regulator.

This Statement of Policy will form a schedule to all Access Agreements made under the Railways (Access) Code 2000.

## **2. ASSOCIATED REFERENCE DOCUMENTS, INCLUDING PROCEDURES, RULES, STANDARDS, ACTS AND REGULATIONS**

This Statement of Policy must be read in conjunction with the following associated reference documents, all of which are publicly available and may be obtained from WAGR.

- 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);
- 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:
  - 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.

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.

### **3. PRINCIPLE GOVERNING THE USE OF THE WAGR RAIL NETWORK**

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.

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 the allocation and management of train paths.

#### 4. DEFINITIONS

**“Access Agreement”** means 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.

**“Accredited Operator”** means an operator who is accredited or taken to be accredited under the Rail Safety Act 1998.

**“Automatic Train Protection”** means an on-board electronic system which monitors the train speed and the status of signals, applying warnings and automatic braking to prevent the train going past a signal at danger or exceeding the speed limit.

**“Dangerous Goods Code”** means the Australian Code for the Transport of Dangerous Goods by Road and Rail prepared by the National Road Transport Commission (or successor body) from time to time.

**“Interface Coordination Plan”** means the arrangement entered into by WAGR and the Operator in accordance with the requirements of the Rail Safety Act 1998 and the Australian Standard – Railway Safety Management, AS 4292.1 (Part 1), for ensuring the appropriate management of all coordination required between the parties with respect to managing or carrying out safety related activities associated with train operations.

**“Master Control Diagrams”** cover specific parts of the Network and show:

- (a) all train movements scheduled and included in the working timetable as permanent train movements;
- (b) all train movements which have been proposed and agreed to between the parties to an access agreement and for which the agreement reserves that path for a train operator; and
- (c) all planned train movements for which advice has been given to the train operator that the path for the train movement is available and able to be practicably operated but for which no contractual agreement has been reached.

**“Network”** means that part of the rail permanent way, controlled by WAGR, which is delineated, described or defined in Schedule 1 of the Railways (Access) Code 2000.

**“Operator”** means a person to whom access is provided to the network under an access agreement, whether or not that agreement is made under the Railways (Access) Code 2000, for the purpose of running trains.

**“Scheduled Train Paths”** means the entitlements of the Operator to use the network between the times and locations set out in the access agreement and as amended, or varied permanently in accordance with that agreement.

**“Service”** means a train operated by the Operator using the network by means of which the Operator provides railway freight or passenger services.

**“Special Events”** are those occasions when there is exceptional demand for public transport services to and from specific locations on the urban passenger network. Special Events include the Skyshow, the Perth Royal

Show, the Perth Christmas Pageant, New Year's Eve and certain major sporting events.

**"Standards"** means the Australian Standard AS4292- Rail Safety Management (Part 1: General and Interstate Requirements), and any other principles and standards prepared, approved and published by the Standards Association of Australia in relation to rail safety.

**"Train Path"** is an entitlement to operate a service on the network and consists of departure, transit, and arrival times between the entry and exits points on the network. A train path is described in the relevant access agreement and may be published in the Working Timetables, in graphical form on a master control diagram; or electronically or other printed form.

**"Train"** means one or more units of rollingstock coupled together, at least one of which is a locomotive or other self-propelled unit.

**"WAGR"** means the Western Australian Government Railways Commission.

**"WAGR's Network Rules"** includes WAGR's Safety Management Plan approved under section 10 of the Rail Safety Act 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.

## **5. MANAGEMENT OF TRAIN PATHS**

### **5.1 Master control diagrams**

WAGR will maintain master control diagrams for all routes subject to the Railways (Access) Code 2000.

### **5.2 Allocation of train paths**

WAGR currently has allocated certain train paths to its operational arm (“Urban Passenger Division”) and these paths form an integrated system of public transport services within the Perth metropolitan area. They are set out in published timetables, are integrated with other public transport services such as bus services, and these paths are considered priority train paths. At certain peak periods, the allocated priority train paths used by Urban Passenger fill the available capacity of some routes having regard to section lengths, signalling capability and safety.

Where capacity is available to insert an additional train path between existing Urban Passenger train paths, WAGR will use its best endeavours to allocate a train path preferred by an Operator, including rescheduling of public transport services where such rescheduling would not be contrary to the public interest. However, WAGR will not guarantee that additional train paths will be able to be allocated to third party operators during peak periods.

Subject to the above, WAGR will allocate available train paths on a “first come” basis, provided the access seeker can demonstrate that its rollingstock and operating procedure are consistent with adherence to the train path. For certain train paths where short headways prevail, particularly in peak periods, this may include a requirement for Automatic Train Protection devices to be installed on the rollingstock.

At the commencement of an access agreement the initial scheduled train path will have been agreed between the parties in accordance with the Railways (Access) Code. This will be recorded in a schedule to the access agreement (as amended from time to time) in accordance with this policy and the access agreement.

### **5.3 Request for train paths that would result in capacity constraints**

Section 10 of the Railways (Access) Code 2000 requires that, if a proposal for access is made that the railway owner considers would involve the provision of access to railway infrastructure to an extent that may preclude the provision of access to other entities, the railway owner may not enter negotiations with respect to that proposal for access without the approval of the Regulator. The Regulator is required to conduct a public consultation process before giving such approval.

If a proposal for access is made that WAGR believes triggers the provisions of section 10 of the Code, WAGR will inform the access seeker of that belief prior to seeking the Regulator’s approval.



## 5.4 Competition for train paths

Where an operator desires a train path that is already being utilised by, or that is subject to an application from, another operator, including WAGR's own operating arms, the following principles will apply:

- No operator with a current access agreement, who is not in breach of any of the terms and conditions of that agreement, will be obliged to relinquish an established, scheduled train path other than voluntarily.
- WAGR will use its best endeavours to enable the applicant to purchase its desired train path. These endeavours may include, but are not limited to, approaching the holder of the desired train path to seek a permanent variation of that operator's train path, or offering compensation (to be funded by the applicant) for the relinquishment of a train path.
- The safe, reliable and integrated operation of the urban public transport system is to be given priority.
- Where there is competition between Operators for a particular train path, WAGR will allocate the train path in order to achieve the best commercial outcome for WAGR.

## 5.5 Temporary variations of train paths.

Train paths may be temporarily varied by WAGR on the issuing of instructions to the Operator as follows:

1. For the purpose of preventing any actual or potential:
  - (a) breach of WAGR's Network Rules by the operator or of similar safety requirements by other operators on the network;
  - (b) material damage to the network or any associated facility;
  - (c) injury to any person or damage to any property; or
  - (d) delay to the progress of trains on the network (but only insofar as any trains operated by a third party have priority over the operator's trains, having regard to the train management guidelines); or
  - (e) for the purpose of preventing, or in response to, any actual or threatened breach by the operator of any its material obligations under the access agreement.
2. When WAGR's Urban Passenger Division is required to operate additional services in order to provide public transport services for Special Events, and such additional services conflict with the Operator's train paths.
3. The instructions may comprise, but need not be confined to, one or more of the following terms:
  - (a) to cease use of a train path by the service and for the service to proceed over such a path on the network as WAGR nominates;
  - (b) to continue use by the service of the network subject to such variation of the applicable train path or the service or the composition or quality of trains as WAGR nominates;

- (c) to cause the service to proceed to a point on the network and stand there until WAGR issues a further instruction in relation to the service; or
- (d) if the service operates outside of its train path, to delay or redirect the service to allow access to the network by another operator of a train whose service would, but for the delay or redirection of the operator's service, be delayed or further delayed.

Train paths may be temporarily varied by WAGR at the request of the Operator as follows:

- (a) if the Operator's train will be unavoidably delayed or otherwise unavailable for presentation at the agreed entry time;
- (b) if the time of an event for which the Operator is providing a service is changed due to circumstances beyond the control of the Operator.

The Operator is to submit a request for such temporary variation to WAGR at least 24 hours prior to the time at which the original train path was to commence. WAGR will not withhold its consent to such requests, unless the requested variation is likely to:

- (a) breach WAGR's Network Rules or otherwise pose a risk to safety;
- (b) delay or otherwise conflict with the progress of other trains on the network, having regard to the Train Management Guidelines.

## 5.6 Permanent variations to scheduled train paths by agreement between the parties

The procedure to be followed by the parties if it is intended that a scheduled train path is to be permanently varied is set out in this section.

A scheduled train path may be varied for the remaining term of an access agreement (or for such other duration as may be agreed) if:

- (a) One party to the agreement ("**Requesting Party**") sends a notice to the other party ("**Notified Party**") stating:
  - (i) that the requesting party wishes to vary the use by the operator of a scheduled train path;
  - (ii) the length of time such variation will be in force; and
  - (iii) the reason or reasons for the proposal by the requesting party.
- (b) The notified party consents to the requesting party's proposed variation, such consent to be withheld only upon reasonable grounds (save that the operator cannot withhold consent in the case of variations required by reason of WAGR's obligations relating to safety of the network).

The requesting party must give at least 30 days notice of a variation request.

The notified party's response as to whether it consents or not to the requesting party's notice must be given to the requesting party within 28 days of such notice being received by the notified party or within shorter time if reasonably practicable. If the notified party's response is to refuse consent, the notified party must, within such time, also provide full reasons in writing for the refusal to the requesting party.

## 5.7 Maintenance provisions

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.

In doing so, if there is likely to be an effect on scheduled train paths, WAGR will, prior to commencement of any 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 train path,

but need not obtain the operator's consent to such repairs, maintenance or upgrading, or possession of the network.

Possession of the network means closure of the relevant part of the network to all services for the purpose of effecting repairs, maintenance or upgrading. WAGR will consult with the operator a reasonable time before taking possession of the network (except in the case of an emergency) with a view to efficient possession planning and with a view to minimising disruption to services.

## 5.8 Removal of train path for under- utilisation

WAGR has the right, by notice in writing to the operator, to delete any scheduled train path from the schedule if the service using that scheduled train path is not operated for more than three consecutive weeks at any time and, after WAGR has given the operator notice of that fact, the operator fails to operate the service for more than six weeks in aggregate in the period of six months from the date of WAGR's notice.

Other than if the parties agree to substitute an alternative train path, a service has not been operated within the meaning of this clause if the operator has failed:

- (a) to present a service at the scheduled entry point onto the network; or
- (b) to operate the relevant service so that it completes its full journey,

in conformance with the locations, days and times set out in the scheduled train paths applicable to such a service, in any circumstances other than those in clause 5.10 or because of *force majeure*.

## 5.9 Review of scheduled train paths

- (1) Scheduled train paths will be subject to a review in accordance with this clause 5.9.
- (2) WAGR may at its discretion by written notice given to the operator cause a scheduled train path to be reviewed in a bona fide manner by the parties by comparing the stated departure and arrival times for the scheduled train path with the performance during the preceding

continuous three month period of the actual services using or purporting to use that reviewable entitlement (“**3-month history**”).

- (3) If on such a comparison of the scheduled train path with the 3-month history, the departure or arrival times for a train using or purporting to use the scheduled train path differ in material respects, the parties will negotiate in good faith to amend the scheduled train path so that the scheduled train path reflects, as closely as is reasonably practicable, the 3-month history
- (4) Nothing in this clause compels WAGR to offer a train path to the operator under clause 5.9 (3) if:
  - (a) such a train path is unavailable by reason of scheduled public transport services operated by WAGR’s Urban Passenger Division or contractual obligations by WAGR to any person (including the operator); or
  - (b) to do so would adversely impact on WAGR’s ability or opportunity to efficiently and safely manage its network.
- (5) Nothing in this clause 5.9 compels the operator to accept a train path offered by WAGR under clause 5.9 (3) if contractual obligations by the operator to any person (including WAGR) would prevent it from doing so.

## **5.10 Cancellation of services using scheduled train paths**

The operator may cancel any services for scheduled train paths if any of the following circumstances occur, but only if the occurrence of those circumstances is beyond the reasonable control of the operator:

- (a) where there are mechanical difficulties with the locomotives used or operated by the operator;
- (b) where there is a failure of any part of the operator’s equipment used or to be used in connection with a service;
- (c) Where repair, maintenance or upgrading of the network is being carried out or there is some other event which materially affects the operator’s use of all or any part of the network (including, without limitation, derailment, collision or late running trains).

The operator must give to WAGR as much notice of cancellation as possible in the relevant circumstances.

The operator may cancel services in accordance with the relevant Access Agreement to take account of Public Holidays which may impact on the ability to provide or operate the service.

The operator may in addition, cancel any service no more than five times in respect of each separate scheduled train path in each year from the commencement date without penalty.

WAGR and the operator may agree that there be an alternative method of cancellation such as a conditional pathway for seasonal services.

### **5.11 Provision of access to train paths that have ceased to be used**

Where, under any of the above provisions, a previously used train path ceases to be used, that path becomes available for allocation under the provisions of this policy. Notification of the cessation of a service will be published in the Weekly Notices, which are provided to all operators on the WAGR system.

## **6. DISPUTES**

If an Operator has reason to believe that WAGR has not complied with this Statement of Policy, the Operator will notify the General Manager, Network and Corridor, in writing, as soon as practicable after forming this belief, 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.

If a dispute related to train path allocation 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.

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.

If a dispute related to train path allocation arises during the negotiation of an Access Agreement the parties must use reasonable endeavours and act in good faith to settle the dispute as soon as practicable. Failure to resolve such a dispute constitutes grounds for notifying the Regulator of a dispute under the Railways (Access) Code 2000.

## **7. PERFORMANCE MONITORING**

Key performance indicators allowing monitoring of WAGR's application of this Statement of Policy will be developed by WAGR by June 2002 and published by WAGR thereafter in each Annual Report.