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27 July 2009

Mr Jeremy Threlfall
Assistant Director Rail
Economic Regulation Authority
PO Box 8469
Perth BC WA 6849

Dear Jeremy

RE: TPI SEGREGATION ARRANGEMENTS

This letter records selected views previously expressed by TPI to ERA in regards to aspects of the Draft Determination on the Proposed Segregation Arrangements, released by ERA on 3 December 2008.

Required Amendment 10.

TPI does not agree with the requirement that management meetings must not include TPI train service representatives (7th bullet point, 2nd indentation). In our view, this is an unnecessary restriction given that the majority of business dealt with at such management meetings would be for the purpose of improving the productivity and safety performance of the rail network. To do so would require considerable involvement of haulage operators. Measures can be put into place to ensure the protection of confidential information, manage any conflict of interest and otherwise address the components of the segregation arrangements. Such measures will be outlined in the Segregation Manual.

Required Amendment 13.

TPI does not agree with the restriction on staff transfers (1st bullet point). The majority of TPI rail network and/or haulage staff will not be a position to disclose confidential information or be conflicted in any meaningful way given that they would only be aware of limited day to day operational information. Such information would be readily available in the public arena. A restriction on staff transfers would deny potential promotional opportunities for such individuals and be unproductive in regards to developing TPI's staff resources. TPI would be prepared to accept that transfer restrictions, as proposed in the amendment, would apply only to Managerial level staff and the Commercial/Compliance Officer. The details of such staff will be clarified in the segregation manual.

Required Amendment 16.

TPI does not agree with the requirement that common membership of the boards of TPI and FMG must be minimised (4th bullet point). Restrictions on board memberships may reduce the effectiveness of business decision making across FMG and its subsidiaries, including TPI, without having any positive impact on the effectiveness of the segregation arrangements. All TPI board members will sign

Segregation Awareness Statements and their input into FMG board meetings will be consistent with and managed under the provisions of the Act and Code. The measures required to ensure the protection of confidential information, manage any conflict of interest and otherwise address the components of the segregation arrangements will be outlined in the Segregation Manual.

TPI trusts that this reiteration of its views is helpful to ERA. Please contact the undersigned if you have any further queries on this matter.

Yours sincerely

FORTESCUE METALS GROUP LTD

GREG DELLAR

Government Relations

for The Pilbara Infrastructure Pty Ltd