

# Rail access compliance - non-Hunter Valley Coal Network 2018-19 to 2020-21 (RailCorp/TAHE)

17 May 2022

TAHE's access revenue fell under the threshold for full assessment of the ceiling test

The [NSW Rail Access Undertaking](#) (the 'Undertaking') provides for third party access to certain parts of the NSW rail network. It limits the amount of revenue that rail owners can charge these third-party businesses to use the network. Rail owners cannot receive more revenue than the economic costs of providing the service. This requirement, known as 'the ceiling test', is intended to ensure that monopoly track owners provide prices and conditions of access to existing and future access seekers on reasonable terms.

This fact sheet provides IPART's decision on the Transport Asset Holding Entity's (TAHE) compliance with the ceiling test for 2018-19 to 2020-21 for its non-Hunter Valley Coal Network sectors:

- Northern Sydney Rail Corridor (NSRC)
- Metropolitan Rail Network (MRN)
- Country Rail Network (CRN).

These network sectors were owned by RailCorp in 2018-19 and 2019-20. On 1 July 2020, RailCorp became TAHE (a State-Owned Corporation).

We have found that TAHE has demonstrated to IPART's reasonable satisfaction that access revenue for each sector was no more than 80% of the full economic cost of providing access each year. Therefore, we have not undertaken a detailed review of TAHE's compliance with the ceiling test.<sup>a</sup>

## How we assessed compliance for TAHE's non-Hunter Valley Coal Networks

IPART is responsible for determining whether rail infrastructure owners have complied with the ceiling test.

In February 2022, TAHE submitted compliance information for IPART's review:

- for 2018-19 and 2019-20 on behalf of its predecessor Railcorp, and
- for 2020-21, since it has become the owner of the network.

We have assessed this information under section 5(f) of the Undertaking. This clause provides that IPART does not need to assess a Rail Infrastructure Owner's compliance each year if the Owner can demonstrate to IPART that access revenue is no more than 80% of the full economic cost for that sector.

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<sup>a</sup> IPART is not required to carry out a full compliance assessment under clause 5(f) of Schedule 3 to the Undertaking. We provide further detail in section 2.4 of our [Rail Access Annual Compliance Reviews Guideline](#).

Where access revenue is well below the 80% threshold, we conduct detailed reviews every 5 years to examine the full economic cost of providing access.<sup>1</sup> Our last 5-yearly review for the then RailCorp was in 2017-18.<sup>2</sup> We found that access revenues for the non-Hunter Valley Coal Networks were below the 80% threshold. Our next detailed compliance assessment is due to be completed in 2023.

Between detailed reviews, we confirm with rail infrastructure owners that there has been no material change to revenues and the cost base that would cause revenue to approach the 80% threshold. In this review we found that the recovery rates were slightly higher compared to 2017-18 in some years due to changes in revenues and costs. However, we are satisfied that access revenues have remained below 80% of full economic costs each year for each of the network sectors.<sup>b</sup>

We estimated cost recovery using both the cost estimates provide by TAHE, and also the costs we used in our last review (which included a downward efficiency adjustment) (Table 1). TAHE's cost estimates excluded capital costs. If these had been included, then the cost recovery using TAHE's estimates would be lower than is shown in Table 1 below.

**Table 1 Estimated cost recovery by network for 2018-19 to 2020-21**

	Using TAHE's cost estimates (excluding capital costs)	Using IPART's efficient cost estimates (including indicative capital costs)
Northern Sydney Rail Corridor (NSRC)	58 to 72%	59 to 73%
Metropolitan Rail Network (MRN)	61 to 67%	37%
Country Rail Network (CRN)	11 to 15%	<10%

Source: TAHE, Non-Hunter Valley Network Compliance Statements, February 2022 and IPART analysis.

## TAHE is unlikely to have complied with the floor test for Sydney Trains and NSW Trains

To ensure that efficient rail operators are able to recover the avoidable costs of providing access to a third-party access seeker, access charges must at least cover the direct costs of this service.<sup>c</sup> This requirement protects against the one access seeker's direct costs being funded by other access seekers and taxpayers. It forms part of the requirement known as the 'floor test'.

In 2020-21, TAHE did not charge Sydney Trains and NSW Trains for accessing the network.<sup>d</sup> This means that the direct costs of the services were not covered by the access fees, and so the floor test was likely not met for these operators.<sup>e</sup>

<sup>b</sup> In reaching our conclusion we also had regard to an indicative regulatory asset valuation, based on a Depreciated Optimised Replacement Costs (DORC) methodology, as required by the Undertaking. DORC is the replacement cost of an 'optimised' system, less accumulated depreciation. An optimised system is a reconfigured system using modern technology designed to serve the current load with current technology, with some allowances for growth. This method excludes any unused or under-utilised assets and allows for potential cost savings that may have resulted from technological improvement. IPART, *Aspects of the NSW Rail Access Regime – Final Report*, April 1999, p 34.

<sup>c</sup> In addition, the full incremental costs of any particular train line should be recovered by access charges and any targeted line sector government funding ('community service obligations' or 'CSOs'). The full incremental costs include variable maintenance costs, and network control cost that rail owners could avoid if access for these services were not provided. The floor test is set out in clause 1a of Schedule 3 of the Undertaking.

<sup>d</sup> This was consistent with previous practice. However, on 1 July 2020, TAHE became a stand-alone state-owned entity, and so Sydney Trains and NSW Trains are now third-party access seekers.

<sup>e</sup> There are no penalties associated with breaching the floor test.

From 1 July 2021, TAHE entered into new agreements with Sydney Trains and NSW Trains, which includes charges for accessing the rail infrastructure. We will consider whether these access charges comply with the Undertaking in our next compliance reviews after the end of the 2021 financial year.

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<sup>1</sup> IPART, [Rail Access Annual Compliance Reviews Guideline](#), March 2017, p 4.

<sup>2</sup> IPART, [Rail access: Compliance statement RailCorp non-HVCN 2017-18](#), July 2019.