



Genesee & Wyoming Australia Pty Ltd

24 April 2014

Committee Secretary
Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

By Email: fadt.sen@aph.gov.au

Dear Mr Sullivan

**RE: INQUIRY INTO DEFENCE LEGISLATION AMENDMENT
(WOOMERA PROHIBITED AREA) BILL 2014**

On behalf of Genesee & Wyoming Australia Pty Ltd (GWA), please accept the following written submission in response to the Foreign Affairs, Defence and Trade Committee inquiry into the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014 which was introduced to Parliament on 27 March 2014.

GWA is the Concession Holder that manages and operates the railway line between Tarcoola and Darwin until 2054. Our interest in the Bill relates to the operation of this railway line through the Woomera Prohibited Area (WPA) and the potential closure of the rail corridor in accordance with the exclusion powers granted to the Department of Defence, under the proposed Woomera Prohibited Area Rules (the Rules).

We believe regulatory certainty is required for the rail industry and those customers who supply essential goods to the communities in the Northern Territory and South Australia, to ensure minimal disruption to freight.

Of note, GWA had provided a submission in relation to the previous inquiry into the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2013, introduced as a private senator's bill by Senator the Hon Don Farrell (refer to submission number 8).

We provide the following commentary to assist the Committee in its deliberations in relation to the current Bill.

1. Definition of rail

In past submissions to the Senate, GWA called for the legislation to explicitly recognise the Tarcoola and Darwin railway owner and operators as existing non-Defence users of the WPA.

We note that subsections 72TB(1) (m),(n) and (o) of the draft Bill, will codify existing rail users in legislation by amending the *Defence Act 1903*. As such, we understand the Bill therefore recognises GWA as the Concession Holder as being the railway owner and those rail operators subject to a current access regime governed by the *Defence Force Regulations 1952*. This also clarifies that GWA will not be subject to the new access regime established by the Bill, in the form of the proposed Rules.

2. Future operational restrictions

GWA believes the Rules may have the capacity to stop trains running on the railway line, through the rights of the Minister for Defence to stop trains in the interests of safety or security.

As previously raised with the Committee, a rail closure of two hours in certain circumstances could cause a train to be cancelled. A Zone closure which affects the loading of a minerals train would probably cause a train cancellation.

GWA notes the potential increase in rail activity with the introduction of mining within the WPA. However we believe that subsequent zone closures would inhibit the economic viability of mineral extraction, which we urge the Committee to take into consideration in considering the Bill and likely amendments to be developed.

We note that new rail operators as non-Defence users will be governed by the Rules, which among other practical matters, may prescribe fees in managing access under the proposed cost recovery model. The Committee should be aware that this has the potential to erode the competitiveness of rail in servicing the freight market relative to road.

3. Woomera Prohibited Area Rules (the Rules).

GWA remains committed to working with the appropriate authorities in developing the Rules following the passage of this legislation. We will continue to work the Woomera Protected Area Coordination Office (WPACO) in relation to the drafting of the proposed Rules, in order to manage the impact of defence materiel testing which may disrupt operations on the Tarcoola to Darwin Railway line.

While we note that there is standing permission to travel on the Darwin to Adelaide North-South Rail Link, there is no definition in the Rules of what constitutes the railway line. We believe a definition of the Darwin to Adelaide North-South Rail Link is also required in the Rules.

Apart from the overall economic impact, all parties have obligations in commercial contracts and in our undertakings we have lodged with economic regulators, to provide adequate notice of any disruption.

GWA is working with ARTC and the Department of Defence in drafting a Joint Interface Agreement, which will define the protocols to allow both the planning and execution of an activity period.

Summary

GWA would be pleased to appear before the Committee at a future public hearing and further explain our position.

Yours sincerely

Greg Pauline
Managing Director