



Submission

Government Business Governance Reform

November 2024

Per Jessica Munday, Secretary

Unions Tasmania

212 Liverpool Street, Hobart

About Unions Tasmania

1. Unions Tasmania has a long and proud history of advocating for working people in Tasmania. Initially established as the Trades and Labor Council of Hobart in 1883, and now operating as Unions Tasmania, there is no other Tasmanian peak body dedicated to giving a voice to working people. For 140 years, Unions Tasmania has been advocating for the improvement of wages, conditions, safety and living standards for working Tasmanians and their families.
2. Unions Tasmania represents our affiliate unions who comprise approximately 50,000 members across our state. We represent workers across industry, in the private and public sector, in workplaces large and small. Unions Tasmania is also the local branch of the Australian Council of Trade Unions (ACTU).

Introduction

3. Unions Tasmania welcomes the opportunity to make a submission to the Government Business Governance Review Draft Plan November 2024 ('the Draft Plan'). Our members have a significant interest in the performance of Government Business Enterprises (GBEs) and State-owned Corporations (SOCs) both as direct employees but also as members of the Tasmanian community who rely on the services they provide.
4. The Draft Plan largely focuses on the Government's rationale for these reforms and proposes a range of governance improvements for Tasmania's GBEs and SOC's which, in principle, are supported by Unions Tasmania subject to the production of detailed policy or legislation underpinning them.
5. However, it also critically proposes a significant body of work that cannot be understated in reviewing the entire Government business portfolio. This includes assessing whether public ownership remains appropriate and is seeking to identify any businesses which should be divested or restructured.
6. In only proposing divestiture or restructure as potential outcomes of this review, Unions Tasmania is concerned that the Government is embarking on a process with a pre-determined view that these are the preferred or only options of the Government. This points to a worrying privatisation agenda that Unions Tasmania will not support.
7. Unions Tasmania steadfastly opposes the privatisation of our GBEs and SOC's. We will outline our views in greater detail throughout this submission, however, we wish to leave the Government under no preconception that any attempt to sell, divest, or give away Tasmania's GBEs or SOC's will not be resisted by the trade union movement. We do not believe the solution to governance and oversight failures is to have even less accountability through passing responsibility to the private sector.
8. The forward to the Draft Plan also notes that the Government will be exploring the feasibility of merging TasRail, TasPorts, and TT-Line.

9. Unions Tasmania understands from our meeting with the Treasurer on the 9th of December that this will involve the engagement of an external consultant, and that further stakeholder consultation will occur as a separate, and longer, process than this one. For that reason, we will only comment briefly on this proposal during this submission and look forward to further opportunities to engage in that process in a meaningful way.

A potential merger of TasPorts, TT-Line, and TasRail

10. Unions Tasmania, and in particular our affiliated unions the Rail Tram and Bus Union (RTBU), the Communications Electrical and Plumbing Union (CEPU), and the Maritime Union of Australia (MUA) who represent workers in these organisations do not support this proposal.
11. We do not consider it is in the interests of either workers or the community to see this merger proceed.
12. The issues related to the inability of the Tasmanian Government, the Treasurer in particular, and TasPorts and TT-Line leadership to deliver the new Spirit of Tasmania vessels have been well covered in local, national, and international media. We share the concerns raised by Tasmanians across the community about the astounding lack of ministerial oversight and executive leadership that has led to cost blowouts and time delays in relation to the vessels. In addition, an embarrassing lack of appropriately sized berthing facilities in Tasmania for the new Spirits has led to them being berthed in Scotland at significant cost to the taxpayer¹ and has added another layer of scandal to a grim infrastructure and governance failure in Tasmania.
13. Unions Tasmania believes that this potential three-way merger is not a well thought through proposal but rather a distraction to a political problem for the Government, and that this is the not basis for sound decision making on the future of such critical SOCs. We also note that TasRail has not been subject to the same level of critique as either TasPorts or TT-Line over the course of 2024. Put simply, this merger does not make sense.
14. There is no natural synergy between the maritime and rail industries, with both being highly specialised in their separate fields. Unions are concerned the merger would create a more bureaucratic organisation jeopardising the specialised nature of the work performed by these industries. These organisations are also critical training and development pathways for workers and that specialisation risks being lost in a merged entity.

¹ Dunlevie, J. (2024, Dec. 8) Tasmanian government runs ad campaign to address questions about Spirit ferry saga: <https://www.abc.net.au/news/2024-12-08/tas-govt-newspaper-ads-about-spirit-costs-criticised-by-labor/104698906>

Background to the Draft Plan

15. By way of background, the Draft Plan makes the case for reform on the basis of the leadership and governance shortcomings related to the failed delivery of the new Spirits. Indeed, the governance failures have been significant and have seen several leaders of these organisations depart in 2024 including TT-Line chair, Michael Grainger who resigned in August, TT-Line CEO Bernard Dwyer a month later in September, and TasPorts chair Stephen Bradford in October.
16. However, while the Draft Plan focuses on governance failures by TasPorts and TT-Line, there were also significant failings from the relevant Minister in oversighting these SOCs. The Spirits saga has arguably been the dominant political issue of debate in Tasmania this past year with weekly and sometimes daily local media coverage and led to the resignation of the Treasurer, Michael Ferguson, on the 14th of October ahead of a likely successful no-confidence motion on his handling of the rollout of the vessels and associated port issues.
17. At the same time, the Government has faced criticism of its handling of its management of the state's finances with Tasmanian economist, Saul Eslake's 'Independent Review of Tasmania's State Finances'² handed down in August this year concluding the state finds itself in an unsustainable fiscal position.
18. Unions Tasmania is concerned that the Draft Plan was released in a political environment where the Government is needing to deflect criticism of its significant role in the Spirits mishandling, while looking for justification to sell off some of Tasmania's publicly owned businesses to plug holes in a budget they have failed to manage. Tasmania's GBEs and SOCs are too important to be used as cover to fix a political problem.

The Governance Framework

19. Unions Tasmania gives in principle support for the governance reforms outlined in the Draft Plan and commends the Government on making this reform a priority. Many reforms, such as independent board performance reviews, term limits, and financial and non-financial reporting, are common practice in commercial organisations. We would, however, like to review the proposals in detail once policy or legislation is developed. We encourage the Government to invite additional feedback from stakeholders at that stage.
20. We also make the following suggestions and comments:
 - I. Unions Tasmania proposes that workers should have a voice, through their unions and their peak body, on the boards of GBEs and SOCs. Workers and unions bring a different set of skills and perspective to the table and are skilled at representing their members at board tables.

² Eslake, S. (2024, Aug. 19). Independent Review into Tasmania's State Finances: <https://www.saulslake.info/independent-review-of-tasmanias-state-finances/>

- II. Unions Tasmania supports the inclusion of term limits and limiting the number of boards directors can sit on, provided there is a robust process for board appointments that allow the board to retain a mix of experience, skills, and knowledge needed to perform its functions. According to the Australian Institute of Company Directors (AICD), research by Melior Investment Management into executive tenure in ASX300 companies in 2020 concluded that having long director tenure and serving on too many boards can decrease an organisation's performance and value.³
- III. Many boards use processes of self-assessment to rate performance and, noting the recent governance failures discussed above, self-assessment processes alone would be inadequate. While self-reflection and introspection on the part of board members is important, board performance reviews that incorporate external facilitation should be mandated.
- IV. Annual individual director performance should also be assessed and reported to the Shareholding Minister in addition to the results of collective board performance assessment.
- V. Unions Tasmania suggests it would be pertinent to review the performance metrics for CEOs and Executive including placing greater weighting on performance metrics for the CEOs and Executives that relate to workplace culture, work health and safety, and employee engagement and that these measures are also made publicly available.

Reviewing the Government Business Portfolio

21. This is the area of the Draft Plan where Unions Tasmania holds the greatest concern. There are fourteen Government businesses identified as in scope for this review, yet there is only one small section of the Draft Plan at page 20 of no more than five sentences dedicated to it. Unlike the section on governance reforms where a range of specific reforms are broadly outlined, there are no targeted questions, detailed areas, or guidance on how stakeholders can respond to this part of the review.
22. The GBEs and SOCs outlined in the Draft Plan are diverse organisations. They range from our energy and transport providers to the racing industry, motor accident insurance, public finances, estates, as well as the management of the historically significant Port Arthur site. They are organisations of differing size, staffing profile, culture, financial capacity, risk, and performance. They cannot, and should not, be reviewed together.

³ Australian Institute of Company Directors AICD (2021, Apr. 1), Zombie boards: spotlight on director tenure and overboarding:
(<https://www.aicd.com.au/board-of-directors/performance/effectiveness/zombie-boards-spotlight-on-director-tenure-and-overboarding.html>)

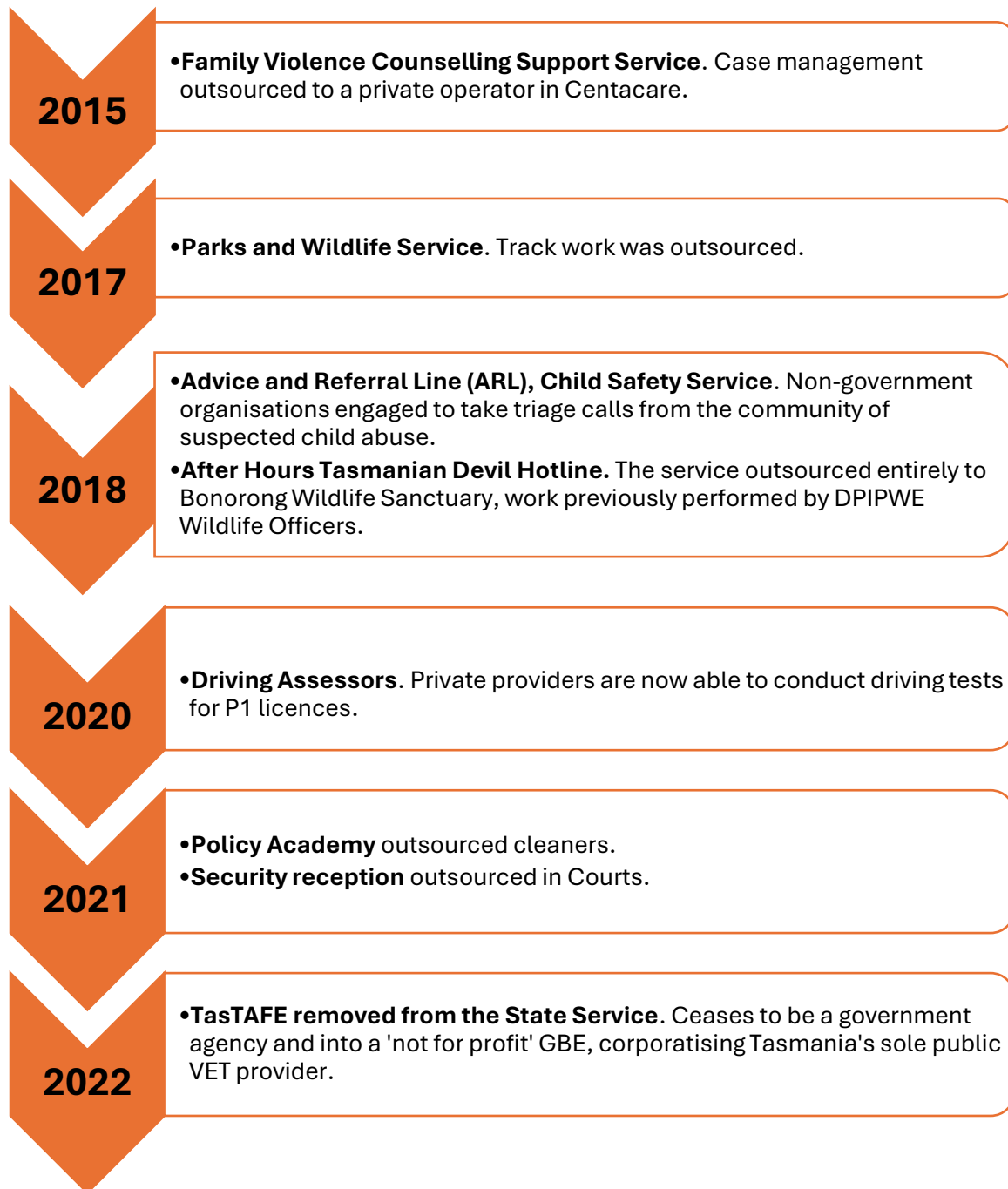
23. In a meeting with the Treasurer on the 9th of December, unions were advised that the Government wanted this part of the review complete in early 2025. We suggest that is an unrealistic timeframe for such a large body of work and both timing and approach to the review need to be reconsidered.
24. Regarding a principles-based approach for the Government's ownership of businesses, Unions Tasmania is eager to engage with the Government on how principles may be defined. We suggest that where any of the following circumstances arise, there should be public ownership and ministerial accountability:
- I. Where an essential service is necessary for sustaining human life
 - II. Where a natural monopoly or duopoly exists
 - III. Where universal access to a free or affordable service to the community may be put at risk by private ownership
 - IV. To protect Tasmania's natural and unique heritage for future generations
25. As previously stated, Unions Tasmania in principle supports uplifting the governance of our GBEs and SOCs and improving their ministerial oversight. This is an important task and should be progressed as a priority, unrelated to any review of the ownership structure of GBEs and SOCs. If the Government is intent on reviewing their business portfolio, it should do this separately to the governance reforms and allow for appropriate consultation and time that such a review would entail. There is significant risk that rushing a review will lead to exactly the governance failures and issues that the Government is seeking to avoid.
26. Unions Tasmania is alarmed that there are only two options, divesting or restructuring the businesses, as potential solutions put forward in the Draft Plan, leading us to question whether the Government has already pre-determined the outcome, and is closed-minded to other options. There is another clear option which is insourcing these jobs and services back into the public sector to allow for greater ministerial accountability and oversight that has clearly been lacking in some SOCs and GBEs.
27. Unions Tasmania is concerned that this review of the Government business portfolio is a continuation of a worrying pathway to further privatisation that has occurred under the Tasmanian Liberal Government over the last decade and has accelerated in 2024. This isn't good for workers who often end up with less secure, lower paid jobs, but, critically, it does not result in cheaper services or better access to services to the community. The notion that the private market can inherently deliver service better is a myth.

Privatisation under the Tasmanian Liberal Government (2014 – 2023)

28. Unions, in particular the Community and Public Sector Union (CPSU-SPSF), have been sounding the alarm on privatisation by stealth within the Tasmanian State Service for several years. Prior to 2024, the Government has slowly outsourced a range of public sector work (see below table) in anywhere from family violence counselling, child safety, security, to parks and wildlife.

29. The largest recent change was moving TasTAFE from the state service to a not-for-profit GBE. Since that time, workers have experienced a decline in workplace culture, cuts to conditions of work, a net loss of teachers across the organisation, and worrying safety incidents in the Hobart campus.

30. The CEPU, who commissioned Per Capita's Centre for Future Industry to respond to this review, have also outlined in their submission how privatisation 'creep' in TasWater is leading to unsafe work practices, staffing levels and low morale. Unions Tasmania supports this submission.



Privatisation proposals increase in 2024

31. Despite a State Election in March of this year where the privatisation of Tasmanian jobs, services, or assets was not taken to the electorate, Tasmanians have seen three significant privatisations planned by the Rockliff Government (detailed below). These have been announced without consultation and are opposed by Unions Tasmania and our affiliates.

- Privatisation of The Public Trustee.** The Government announced this month that parts of the Public Trustee would be privatised. This is despite the Public Trustee having transformed its organisation and culture following previous service complaints. Its privatisation is opposed by the current Board, unions, and employees. **This privatisation process should be abandoned.**
- Sale of the historic Treasury Building.** In December 2020, then Premier Peter Gutwein ruled out selling the Treasury Building. Last month, the Government indicated they would do the opposite. Unions agree the community should have greater access to our historic buildings, but that government should retain them and make access free for all.
- Outsourced triage work in Child Safety's Advice and Referral Line (ARL).** Tradewind, an international private recruitment firm, is being contracted to respond to and access the wait list at the front door of the Child Safety system.

Privatisation doesn't work – we should be talking about insourcing

32. The community knows that privatisation is a failed ideology and a failed policy. Australia's history is littered with examples of failed privatisations at a federal and a state level.

33. Privatisation has seen some of Australia's most trusted and iconic organisations, for example, Telstra and Qantas, that once provided long and rewarding careers and put service to the community at the core of their purpose, privatised. This has resulted, over time, in thousands of jobs slashed, service standards decline, access in regional Australia limited, wages and conditions going backwards, and some workers who now take their uniforms off in public because the community response to their employer is so negative. This is not a pathway Tasmania should wish to emulate.

34. The Per Capita submission traces Australia's privatisation history and concludes that 'privatisation in Australia has largely failed to deliver on its promises. While there may be some short-term gains, these have often come at the cost of long-term stability, service quality and the wellbeing of workers.' We agree with this conclusion and urge the Government to learn from these experiences and not make the same mistakes here.

35. Tasmania had a disastrous experience with privatised rail in the late 1990s when it was sold and the private corporations charged with maintaining its infrastructure failed to do so. The Tasmanian Government had to buy back our rail service at a cost of \$32 million. The Federal Government have, so far, provided five tranches of funding to fix track infrastructure that was so poorly maintained that derailments were, at one point, occurring approximately every fortnight.
36. Tasmanians also know the risk of leaving service delivery to the private market. The 2023 closure of the St Helen's Private Hospital left a huge gap in inpatient mental health treatment services for Tasmanians and saw the closure of the state's only dedicated mother and baby unit. The Government committed to working with all stakeholders to find a comprehensive solution. Today, at the end of 2024, the community are still waiting, with only three mother and baby beds open at the Royal Hobart Hospital for psychiatric admissions. The result is that people are missing out on treatment and support, particularly mothers and babies, at their most vulnerable time.
37. In other jurisdictions, we are seeing a move to undo the damage caused by privatisation and realise the benefits of publicly owned assets and infrastructure. In September, the ACT Government announced they were insourcing hospital cleaners and caterers. In 2023, the Western Australian Government bought back the St John of God Midland Private Hospital. Also in 2023, the Malinauskas Government signed a deal to bring South Australia's trains and trams back to state ownership following service unreliability and increased consumer costs.
38. Unions Tasmania contends that any review of Government businesses should consider the benefits of full public ownership of Tasmanian assets and businesses.

Key Recommendations

39. Unions Tasmania thanks the Government for the opportunity to provide input into the Draft Plan and makes nine (9) key recommendations for consideration. We look forward to an ongoing dialogue with the Treasurer, and the Government broadly, on how we can work to ensure that Tasmanians get the benefits of strong, well governed and resourced, government businesses and services and that the workers who deliver these services have decent, well-paid jobs.

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1. Unions Tasmania **does not support** the proposed three-way merger of TasPorts, TT-Line, and TasRail.
 2. Unions Tasmania **supports** (in principle) improved governance of GBEs and SOCs, expanded performance monitoring, and strengthening the ability of Government to rectify poor performance (subject to further scrutiny of any detailed legislation or policy).
 3. In addition to the governance reforms proposed, Unions Tasmania **proposes** the inclusion of dedicated worker representative positions on the boards of GBEs and SOCs to ensure that workers' voices are considered in decision making.

4. Unions Tasmania **proposes** that both collectively and individually, performance metrics for the CEOs and Executives of GBEs and SOC are inclusive of indicators relating to workplace culture, work health and safety, and employee engagement and that these measures and performance against them are publicly available.
5. Unions Tasmania **proposes** that the governance reforms are progressed as a priority and separate from the issue of public ownership and potential divestiture of any GBE or SOC.
6. Unions Tasmania **proposes** that the assessment of the appropriateness (or otherwise) of public ownership of GBEs and SOCs cannot be made collectively but needs to involve an individual assessment of each GBE and SOC with adequate time for consultation with the community, workers, and other stakeholders.
7. Unions Tasmania **proposes** that the following principles should underpin Government ownership of businesses:
 - Where an essential service is necessary for sustaining human life
 - Where a natural monopoly or duopoly exists
 - Where universal access to a free or affordable service may be put at risk by private ownership
 - To protect Tasmania's natural and unique heritage for future generations.
8. Unions Tasmania **proposes** the insourcing of all cleaning and security work currently delivered by outsourced providers in the Tasmanian State Service and insourcing all jobs in the Advice and Referral Line (ARL) in Child Safety Services.
9. Unions Tasmania **proposes** that any review into the entire Government business portfolio must examine alternative options to divesting and restructuring and include the option of insourcing the service back to the public sector.