

Submission - Review of the Western Australian Rail Access Regime

November 2017

Jane Fuchsbichler

1. Introduction:

For 21 years (1994-2015) I held the position of Zone Coordinator for the Merredin Zone of the WA Farmers Federation. During this period the rail freight issue, without doubt, was and continues to be, the issue absorbing the most amount of time and energy, uniting members of the public from all walks of life and bringing about amazing unity from previously unlikely quarters. After one meeting at Parliament House I received a call from a city supporter of the Save Grain on Rail campaign, who said he was amazed he had met and was untied with people who probably had opposing political views and supported live export!! **This issue has crossed all political boundaries and changed political loyalties.**

I organised a meeting on the rail issue in July 2007, a decade ago, yet still there appears to have been little progress towards finding a solution. In fact, the situation has deteriorated: -

- freight costs have increased;
- road conditions deteriorated;
- 736 kilometres of Tier 3 Rail close;
- Miling Line Tier 2 ear marked for closure;
- speed restrictions on standard gauge rail Merredin to Kalgoorlie.

2. Background:

- I have been involved in petitions, submissions and inquiries for over a decade.
- I have given presentations in Fremantle, Forresterfield, Bassendean, Mundairing, Kwinana/Rockingham and Perth City, as well as many Wheatbelt areas.
- I have met with Ministers of Transport and Ministers of Agriculture over a 10-year period.
- There have been in the region of 20 reports, inquiries etc.
- The total hours spent and miles covered, both by volunteers and those involved through their employment is impossible to determine, but it should be possible to dig deep enough to find the real cost of this failed Rail Freight Lease Agreement and the **Rail Access Code** to the economy of WA.
- I do not wish to regurgitate the problems that have already been repeatedly stated over the last decade. There is an overwhelming amount of evidence that the Rail Freight Lease Agreement and **Access Code** are not working to the benefit of the State of Western Australia or the rail users. (See Ian Blayney EISC Report 2014)

3. Looking Forward

- a) It is imperative that in the future there be absolute transparency. The rail network is a State owned, vital artery for the States Export industry. Transparency in access, performance standards and maintenance are all imperatives.
- b) Under no circumstances should the lease holder be able to insist upon confidentiality clauses between the rail lessee (Arc) and rail users. Arc has a monopoly over a State-owned asset, transparency is essential.
- c) All use and agreements concerning a state-owned monopoly asset must be publicly available, confidentiality clauses must not be permitted.
- d) It is essential to have a strong regulator, with power to ensure the Rail Freight Network is properly managed and gives access users stability and confidence to plan into the future.
- e) The **Rail Access Code** process is lengthy and costly. It is detrimental to the State's economy and ability for export industries to be internationally competitive. Forward planning and development in WA is being hampered by the **Rail Access Code**.
- f) There must be performance standards, which have to be adhered to, with an independent overseer to ensure performance and maintenance standards are maintained.
- g) Failure by any lessee of the rail network, must result in consequences if access and/or performance standards are not as per those set by the regulator.
- h) Never again must we witness an entire fleet of trains being removed from the State-owned rail network with no consequences or penalties to the lease holder. (April 2015 CBH were forced to remove all trains and wagons from the rail freight network. Trains were only allowed to return after a further \$6 million fee was agreed to be paid to the lease holder – a penalty to the customer not the lessee). This type of monopoly bully tactic must not be allowed or tolerated.
- i) Open tenders for maintenance and upgrades must be required.
- j) Any tax payer funds provided for rail maintenance and upgrades should be closely monitored and spent in a transparent manner and in accordance with specific guidelines set by the code. If the lease holder does not adhere to standards set by the code, serious penalties must be imposed.
- k) An economic impact study on the real cost to the State of WA of the impact of the Rail Freight Lease Agreement and **Rail Access Code** should be carried out.
- l) The real cost of road maintenance, road upgrades, both city and rural along with the road safety cost must be taken into account.
- m) The Rail Freight Lease Agreement and **Rail Access Code** need to be revisited in their entirety totality. The present **Rail Access Code** has no teeth and is seriously inadequate with no ability to hold the lease holder accountable for abusing its monopoly power.

4. These questions must be asked:

- a) Who is really in control of the rail freight network, a vital artery for the State's health and economy? Is the control in the hands of WA's elected State Government, working in the interests of WA's citizens, businesses, economy and communities, or is the control in the hands of a foreign corporate, working in the interests of overseas shareholders?
- b) If urgent changes are not made to the current Rail Freight Lease Agreement and **Rail Access Code**, what will be the condition of the State-owned rail infrastructure in 10 years not to mention by 2049?
- c) Why is the rest of the world and the Eastern States of Australia making huge investments into rail infrastructure, while in WA we sit back and watch our rail network deteriorate and close down?
- d) Can these problems be rectified by strengthening the powers of the **Rail Access Code** and the regulator?

5. Final Summary

The Liberal/National - Court/Cowan Government were responsible for the initial lease in 2000 for 49 years to 2049. The original Lease Agreement and **Access Code** was written with the above and below rail being owned by one entity. When Wesfarmers Genesee Wyoming sold the above and below to separate entities the rail access code became ineffective. The Liberal/National - Barnett/Grylls Government was responsible for the changes made to the lease in July 2010. The 2010 changes have made the situation unworkable.

The present situation is NOT sustainable, it is detrimental to the State's economy and future development. Urgent Action is necessary and vital. WA cannot afford the present arrangement.

The WA State Government MUST take back control of this vital rail infrastructure without delay.

Jane Fuchsbichler NCFS

Farmer

Jane Fuchsbichler,
Melrose,
457 Belka South Road,
Bruce Rock,
WA 6418.
Email: kjfuchi@wn.com.au
Mobile 0427 469050

