

Inquiry into the Management of
Western Australia's Freight Rail Network

Further Submission by Brookfield Rail Pty Ltd

1. Executive Summary

On 12 March 2014 the Economics and Industry Standing Committee ("the Committee") resolved to inquire into and report on whether the lease arrangements and management of the WA freight rail network facilitate or hamper state development.

Brookfield Rail Pty Ltd ("Brookfield Rail") has provided a written submission outlining its management of the State's freight rail network, and its role in enabling development and growth in the Western Australian economy. Brookfield Rail also appeared before the Committee on 11 June 2014.

Brookfield Rail respects the rights of individuals and organisations to participate in the parliamentary inquiry and make public comments during this process.

We also appreciate the opportunity to provide this supplementary submission to the Committee and seek to reinforce facts, clarify some statements and provide further insight into specific issues raised in the evidence given to the Committee by other parties.

This submission addresses statements made by:

1. Karara Mining Limited ("KML")
2. Co-operative Bulk Handling Group ("CBH")

In addition both CBH and the Wheatbelt Rail Retention Alliance ("WRRRA") raised a number of specific matters that are operational and as an accredited below-rail infrastructure manager we are able to provide comments on these matters. This is contained as Appendix A.

This submission is not intended to comprehensively respond to all matters raised by these parties, but to instead assist the Committee by clarifying a number of significant issues.

2. Public comments from KML

On 13 June 2014 Mr Dale Harris Chief Executive Officer of KML provided evidence to the Committee regarding its commercial agreement with Brookfield Rail and recent investment in rail infrastructure in the MidWest.

MidWest Rail Upgrade Project

Commencing in 2010 and finished in 2012, Brookfield Rail's MidWest Rail Upgrade Project was completed on budget and ahead of schedule, enabling mining and agricultural customers to fulfil their immediate and very substantial export goals.

This \$550 million upgrade project in the MidWest was financed by Brookfield Rail and completely transformed the rail network, increasing capacity from 3 million tonnes per annum (mtpa) to 25mtpa and has the capacity to support tonnages of upwards of 75mtpa.

The upgraded rail infrastructure has acted as a platform for growth, providing the MidWest with a robust, safe and sustainable rail freight network with the capability to significantly increase tonnes transported by rail, across all industries. This Project will help underpin the future of the MidWest's economy, enabling growth opportunities to be realised.

Rail Access Agreement with Karara Mining Limited and project financing

The Committee will be aware that as part of the Project, Brookfield Rail and KML agreed to and implemented a commercial rail access agreement contract in 2011.

The terms of this contract are confidential to both parties and were mutually agreed to facilitate the financing and direct investment of \$550 million by Brookfield Rail.

In order for Brookfield Rail to secure the finance required by the company to upgrade the rail infrastructure to meet the requirements of the KML task, Brookfield Rail required stability and certainty of revenue.

To satisfy Brookfield Rail's financiers, the operational risk was addressed by including an element of fixed costs and included a requirement for KML to provide a bank guarantee in support of their undertakings, the amount of which reduces over time.

To further ensure the risks were adequately addressed, provisions were included in the agreement to ensure no external factor to the agreement would impact the stability and certainty of the revenue received during the term of the agreement. To mitigate financial risk and secure adequate financing Brookfield Rail and KML agreed to negotiate outside the WA Rail Access Regime over the 15 year contract fixed term.

Since the commencement of KML rail operations in October 2012 Brookfield Rail has been able to provide 99.9% track availability.

These sorts of investments are not without risk, both cost risk and delay risk during the construction and operation phase, and as such Brookfield Rail is pleased to confirm that we delivered the transformational upgrade on time for KML and that the railway is performing exceptionally well as a result.

Rail Access Regime as it applies to KML

Comparisons were made between the WA Rail Access Regime and the Queensland Access Regime and the varying levels of transparency. We acknowledge there are differences, however Brookfield Rail's understanding is that commercial agreements under the Queensland Access Regime requiring investment of over \$300 million are not subject to the regulated returns or access conditions under the code. Thus the commercial agreement Brookfield Rail has with KML is in line with how it would be approached if it were under the Queensland Access Regime¹.

Whilst this investment was made primarily to support the commencement of KML's mining operations in the MidWest, all users are benefitting from this upgrade including CBH.

We value KML as a customer and have welcomed their support for the development of the MidWest in partnership with Brookfield Rail.

Brookfield Rail continues to play a role in the economic development of the State and is fulfilling its core purpose of providing customers with a safe, efficient and reliable freight rail network that supports economic growth in the southern half of WA.

¹ QR Network's 2010 Access Undertaking available here <http://www.qca.org.au/Rail/Aurizon/Intro-to-Aurizon/2010-Access-Undertaking/Final-Report/2010-Draft-Access-Undertaking#finalpos>

3. Public comment from CBH

On 11 June 2014 Mr Andy Crane, Chief Executive Officer of CBH appeared before the Committee, providing supporting evidence to their formal submission. A number of subsequent statements have appeared in the media and elsewhere that relate to the Grain Rail Network and in particular the closure of the Tier 3 grain lines.

CBH have been long-term users of the state's rail network, and Brookfield Rail has continually worked closely with them over the years to ensure the effective, safe and reliable operation on the grain freight rail network. .

Grain rail task

Based on an average from the last eight harvests, approximately 45% of the state's grain production is transported to port by rail annually, which differs from some commentators such as the WRRRA who claim it is 70%.

Claims that Western Australian growers are paying four times that of eastern Australian growers are incorrect.

Recently the Australian Export Grains Innovation Centre ("AEGIC")², examined the supply chain costs of each of the grain producing states around Australia and determined WA has the lowest post farm gate wheat supply chain costs in the country – in fact WA is around 20% cheaper than all other states.

Unlike grain rail networks in other states, Brookfield Rail doesn't receive an annual payment from government to subsidise grain growers for the cost of moving their product by rail. WA's very competitive rail access rates are achieved with no annual government subsidy.

Track Access Agreement with CBH

On 26 June Brookfield Rail reached a short-term commercial agreement with CBH that enables their rail operations on the grain freight rail network to continue while their access request progresses through the Economic Regulation Authority ("ERA") process. This application to the ERA followed a protracted but unsuccessful negotiation between Brookfield Rail and CBH to agree a track access agreement.

The next step in the ERA process is for an arbitration to take place to determine whether capacity exists on some of the Tier 3 lines for 10 years or not. This process has commenced, with the first procedural hearing taking place on Monday 7 July.

Once the arbitration process has been concluded, which we don't expect to be too long, commercial negotiations with CBH on all lines under ERA process (including Tier 3 lines) can then commence. These negotiations will be guided by the ERA's recent confidential determination on floor and ceiling access prices and the ERA's timelines for negotiation, mediation and ultimately arbitration with a binding determination if required.

² Stretch, T, Carter, C, & Kingwell, R, The Cost of Australia's bulk grain export supply Chains, AEGIC January 2014

Tier 3 lines

In their evidence and in the media CBH made a number of assertions about specific parts of the Tier 3 rail lines and the grain freight task. Rather than address each point we make the following observations.

On 30 June 2014, Brookfield Rail placed the four remaining Tier 3 rail lines into care and maintenance, and train operations have now ceased on these lines.

This was done in accordance with the state government policy directive in 2010 to Brookfield Rail, following agreement by all parties involved in the Strategic Grain Network Review.

The Strategic Grain Network Review (SGNR) process concluded with a decision agreed to by government, industry and grower representatives which would see the government and Brookfield Rail invest \$165 million for the re-sleepering of certain dedicated grain rail lines referred to as Tier 1 and Tier 2 lines in the SGNR.

In accordance with the government's decision to invest in the road network rather than the Tier 3 rail lines, Brookfield Rail has undertaken a staged closure of these lines and placed the final Tier 3 lines into care and maintenance on 30 June 2014.

Despite challenges with Tier 3 lines over the last six months, our rail network has supported a record harvest of 15.85 million tonnes, transporting grain on rail at an annualised rate of over 10 million tonnes to WA ports; of which 5% has been transported on Tier 3 lines.

Brookfield Rail continued to maintain and operate the Tier 3 lines a number of years beyond the original closure date, investing its own capital in order to enable CBH's rail operations to continue and road upgrades to be completed.

In the absence of a co-operative deal with CBH that underwrites the required level of investment in the Tier 3 lines, train operations could not continue safely and sustainably past 30 June this year.

Brookfield Rail continues to remain open and willing to work collaboratively with CBH to invest capital into Tier 3 rail lines to return them to an operational status through a co-operative deal, and this should be achievable through the ERA process.

Brookfield Rail has prepared a short video (see Appendix B) that shows the current conditions of the Tier 3 lines and explains the process of maintaining all lines, including Tier 3, in order to ensure trains can run safely and efficiently. The video also explains how investment in cyclical re-sleepering is required for the security of the network.

Cyclical re-sleepering is the only effective maintenance solution and Brookfield Rail can demonstrate that replacing only failed sleepers in a reactive manner is not effective, sustainable or cost efficient.

It requires a long-term investment and as noted above Brookfield Rail remains open and willing to invest capital into the Tier 3 network in partnership with CBH's capital investment.

Lease ownership

Brookfield Rail's lease over the rail network ensures that there is an independent organisation managing open access to all the rail lines, including the Tier 3 lines. We regularly consider and implement different business models to facilitate investment in rail infrastructure that ensures we can

retain this independence and enable to development and growth of customer operations. As part of the ERA process with CBH we will bring these models to the negotiations and are confident there is a model that will meet the requirements of all parties.

In relation to the Tier 3 lines, ownership of the lease does not change the fundamental issue that capital investment is required to bring the lines up to a safe operating level.

As noted above Brookfield Rail is open and willing to invest its capital in the Tier 3 lines on a commercial basis and will work with in partnership with CBH on how this investment can be underpinned as we have done successfully with other customers, with Brookfield Rail retaining the lease to these lines.

Brookfield Rail has at all times endeavoured to reach a co-operative deal with CBH to support the rail transport needs of Western Australia's grain growers. We would hope that we can now achieve this, negotiating under the ERA process.

4. Glossary of Terms and Abbreviations

Brookfield Rail	Brookfield Rail Pty Ltd as agent for the network lessees (Brookfield NarrowGauge Pty Ltd and Brookfield StandardGauge Pty Ltd) and all related entities.
KML	Karara Mining Limited
QLD Access Regime	<p>The State Government Access Regime for Queensland that regulates third party access to essential infrastructure, including rail.</p> <p>Established by Part 5 of the Queensland Competition Authority Act 1997 (the QCA Act).</p> <p>Administered by the Queensland Competition Authority.</p>
CBH	Co-operative Bulk Handling Group
Tier 1, Tier 2 and Tier 3 lines	<p>Classification of sections of the rail network by the Strategic Grain Network Review Committee used to determine the allocation of funding.</p> <p>Tier 1 – the core line sections that form the basic structure of the network, mostly carrying heavy volumes and providing locations for the capture of grain to rail from the outer grain production areas.</p> <p>Tier 2 – branch lines where rail services are viable based on current access rates and above-rail costs, but where an investment choice is required – between periodic rail re-sleepering and the upgrade of road network.</p> <p>Tier 3 lines - branch lines where volumes are low and/or rail services are already non-competitive with road transport and are not candidates for reinvestment.</p>
SGNR	<p>The Strategic Grain Network Review was a process initiated in 2009 by the Minister for Transport at the time to ascertain what level of government investment in the dedicated grain rail lines should occur.</p> <p>The Review Committee consisted of representatives from all levels of government, the grain industry and transport industry.</p>
WTT	The Working Timetable is a document that contains all the operational information line by line for above-rail operators to operate on Brookfield Rail's network, including information such as maximum speeds, train lengths and weights for each line section.
Code of Practice	<p>The Brookfield Rail Code of Practice is a document that outlines the minimum safe operating parameters for the Brookfield Rail network.</p> <p>It is derived from the National Code of Practice, however, has been modified by independent consultants to be specifically applicable to the Brookfield Rail network.</p> <p>All accredited below-rail operators have a Code of Practice.</p>

Appendix A – Response to Operational Assertions in Evidence

Statement	Who	Brookfield Rail's response
750 separate speed and mass restrictions that have been placed on Tier 1 and Tier 2 lines and remain unresolved	CBH	<p>On the 1,855 kilometres of Tier 1 and Tier 2 dedicated narrow gauge grain lines only, Brookfield Rail has:</p> <ul style="list-style-type: none"> • 48 Temporary Speed Restrictions (TSR) • 132 Permanent Speed Restrictions (PSR) <p>Brookfield Rail has reduced the total distance under TSR on the dedicated narrow gauge grain rail lines, excluding the Miling line, from around 18% to less than 3% in 4 years.</p> <p>This is a significant achievement and is a direct result of Brookfield Rail's grain freight rail network re-sleepering project combined with ongoing preventative and reactive maintenance activities.</p> <p>Just like on a road, PSR are essential for the safe travel of trains on any rail network.</p> <p>Around 96%, or a total of 127 out of 132, of PSR are set in accordance with engineering designs and standards to control speeds of trains around curves, across level crossings or when the railway cuts through regional communities.</p> <p>These can be likened to speed restrictions placed on roads that ensure the safety of road users around unavoidable curves or when on roads through built-up areas.</p> <p>This is not exclusive to Brookfield Rail's network and can be found on rail networks around the world.</p>
(Miling line) Not a sleeper problem; it is an actual rail problem	CBH	<p>As identified in the Strategic Grain Network Review (SGNR), the Miling line requires re-sleepering in 2016.</p> <p>Re-sleepering of this line must occur to provide suitable support for the rail.</p> <p>Yes, the line does require re-railing across a total of 50% of the line. However, the re-sleepering of the entire line is required because without adequate support for the rail, track geometry falls outside of the Code of Practice.</p>
There is a lot of steel in the rest of the grain network that is of a similar age (to Miling) and similar condition, and are we just on a ticking time bomb	CBH	<p>This statement is not correct.</p> <p>From data collected over the past 10 years, on average, the Miling line has just over 6 rail breaks per 1 million gross tonnes (mGT), whereas all other Tier 1 and Tier 2 dedicated narrow gauge grain rail lines have below 2 rail breaks per 1mGT.</p> <p>This means that the likelihood of a rail breaking on the</p>

<i>Statement</i>	<i>Who</i>	<i>Brookfield Rail's response</i>
		<p>Miling line is 3.5 times more than compared to all other Tier 1 and Tier 2 dedicated narrow gauge grain rail lines.</p> <p>One of the factors contributing to the instances of rail breaks is that the current sleepers are nearing the end of their lifecycle and provide less support to the rail.</p> <p>The frequency of rail breaks on Tier 1 and Tier 2 lines will continue to be low as a result of the combination of the higher quality of rail and recent re-sleeping works.</p> <p>Brookfield Rail continues to undertake preventative and reactive maintenance, including daily inspections of rail lines, to ensure that rail breaks are kept to a minimum.</p> <p>Brookfield Rail can provide data to support this statement.</p>
At the bridge in York, we have to split the train to get it over there	WRRA	<p>Up until 31 October 2013, which is when traffic ceased on the York to Quairading rail line and it was placed into care and maintenance, loaded trains were permitted to run in short configuration which was 1 locomotive and up to 35 wagons.</p> <p>This was in accordance with the Working Timetable (WTT) and is a function of the track structure, which is a combination of the size of rail, and sleeper and ballast type on the line.</p> <p>Based on the track structure on the line, this is the longest possible train configuration that is permitted, regardless of the York Rail Bridge structure.</p>
As soon as the newer more efficient trains came onto the track, new lower speed and heat restrictions were placed straightaway on the track, so they had to cope with a lower speed	WRRA	<p>The total distance subject to speed restrictions on Brookfield Rail's Tier 1 and Tier 2 dedicated narrow gauge grain rail lines has been on a continual downward trend from May 2011.</p> <p>Brookfield Rail has reduced the total distance under TSR on the dedicated narrow gauge grain rail lines, excluding the Miling line, from around 18% to less than 3% in 4 years.</p> <p>This is a significant achievement and is a direct result of Brookfield Rail's grain freight rail network re-sleeping project combined with ongoing preventative and reactive maintenance activities.</p> <p>More specifically, CBH trains commenced operation on June 2012. At this time around 20% of the Tier 1 and Tier 2 dedicated narrow gauge grain rail lines, excluding the Miling line, were subject to TSR, which has since reduced to just under 3% today.</p> <p>The track speed for the Eastern Goldfields Railway (EGR) is 80km/hour for 24 tonne axle loads (TAL), which is set in</p>

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		accordance with engineering designs and standards. All other 24TAL customers operate at this speed. Both CBH and WATCO were aware of track speeds and took this into account when designing their new wagons.
(refers to statement above) Used to be 40km/hr loaded and 50km/hr empty then changed to 30kms both ways	WRRA	<p>The changes to speed limits on trains that this statement refers to are the temporary restrictions placed on speeds during summer.</p> <p>Heat speed restrictions are not unique to Western Australia. For safety reasons all railways around the world need to work around extreme temperatures, putting restrictions in place during very hot weather because the steel rail expands with heat.</p> <p>Heat speed restrictions are reviewed for each summer.</p> <p>Heat speed restrictions applicable for the Tier 1 and Tier 2 lines were reviewed for the summer of 2013/14, and speeds were set to 50km/hour for both empty and loaded trains.</p> <p>It is correct that the speed in previous summers was 50km/hour for empty and 40km/hour for loaded.</p> <p>Despite this, the heat speed restrictions have not stopped the rail network from moving record tonnes this harvest.</p>
Level crossing interface agreements are a concerning issue. Is it a bargaining tool? Do negotiations lie solely with Brookfield etc.	Great Eastern Zone WALGA	<p>As of 1 February 2014, under sections 64 - 66 of the <i>Rail Safety Act 2010 (WA)</i> Brookfield Rail, as an accredited rail infrastructure manager, must identify risks to safety and where necessary, seek to enter into an interface agreement with the relevant road manager.</p> <p>The interface agreement is to be negotiated between Brookfield Rail and the relevant road manager.</p> <p>Brookfield Rail is meeting its obligations under the <i>Rail Safety Act 2010 (WA)</i>.</p>

Appendix B – Video illustrating required maintenance on Tier 3

Brookfield Rail has prepared a short video that shows the current conditions of the Tier 3 lines and explains the process of maintaining all lines, including Tier 3 in order to ensure trains can run safely and efficiently. The video also explains how investment in cyclical re-sleepering is required for the security of the network.

[This video can be viewed here.](#)

The video has also been provided as a separate attachment for the Committee.