

**Submission for Consideration by the Economics and Industry Standing Committee**

Submission by: Robert Jennings

Date: 15 April 2014

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Dear Mr Chairman

I respectfully ask the Economics and Industry Standing Committee to consider the following submissions pertaining to the management by the Public Transport Authority over the lease regarding the tier one freight railway line passing Jandakot.

**Submission: -**

- 1. The lease on the tier one freight rail line passing through Jandakot is inadequately managed by the Public Transport Authority as they do not recognise the safety, health and lifestyle impacts of the local community**
- 2 An unethical or inappropriate relationship appears to exist between the Public Transport Authority and Brookfield Rail.**

**Background**

My residence at Jandakot backs onto the freight rail line that runs to Fremantle. I have resided there for over ten years and when I purchased my property, the frequency of trains was considerably less and caused minimal annoyance.



*Google Maps showing*

*the freight rail line.*

During that time period, freight volume on the line has increased by more than 70% (from 2000 to 2009 as per the Auditor General's Report 2013). This figure also reflects an increase in the frequency, speed, weight and length of the trains.

This increase led the Jandakot Residents Association to formally complain to the Public Transport Authority (PTA) in 2013 about excessive vibration and noise caused by the trains.

### **Vibration and Noise Testing**

PTA contracted Lloyd George Acoustics Pty Ltd to conduct vibration and noise testing on four properties for 7 days during March 2013. 245 trains were detected passing during that the period.

A reduction in the speed of trains was apparent during the testing period. This was noted by many residents and was later the subject of allegations to PTA, which were denied.

Though the report claimed that vibrations were "unlikely to cause major structural damage to my property", the testing regarding vibration levels relating to "human annoyance" were reported for the sampling period as follows:

- The upper criteria of 0.4mm/sec was exceeded 9 times,
- The criteria at night of 0.14mm/sec was exceeded on 44 occasions,
- The criteria for the day of 0.2mm/sec was exceeded on 58 occasions.
- The levels were exceeded 102 times over the period (40% of the trains passing).
- The average night time vibration was 0.21mm/sec, 50% in excess of the 0.14mm/sec criteria.
- Based on this level of vibration "adverse reaction is possible from residents".

In summary, 40% of trains exceeded the recommended vibration levels by an average of 50%. The reply from PTA dated 31 July 2013, acknowledged that vibration levels were above the acceptable criteria relevant to human annoyance, but claimed "this should be expected by residents purchasing homes in close proximity to an existing freight line".

The 2009 *State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning* sets best practice noise criteria for new or redeveloped transport infrastructure however the policy is not retrospective to my situation, nor is it legislated.

Though noise levels measured on my property significantly exceeded the policy levels, the report was inconclusive due to other occasional background noise - aircraft, road noise, heavy rain and a dog.

The noise and vibration recording equipment was shielded from the rail line by a 250mm thick limestone wall at the rear of my property which reportedly reduced the actual noise by 10 decibels. However the wall is not sufficiently high enough to shield upper floor bedrooms from the train noise. The compounding effect of low frequency acoustic vibration on the upper floor was also not measured.

Repeated requests to PTA to conduct further testing in this area have been refused. They claimed a “thorough investigation” had been conducted and were taking no further action. The quality and thoroughness of their investigation is and has always been disputed.

On or about 29 August 2013, myself and other affected residents drafted independent letters to the PTA objecting to their lack of action and seeking further information on a number of issues. One of the submissions was for a reduction in the speed limit of the line. This proposal was viewed as relatively cost neutral to government and only a slight impost to industry – an estimate of 1 minute extra time per train journey.

### **Complaints to the State Ombudsman**

After three months without any replies either orally or in writing, myself and a number of other residents formally complained to the office of the State Ombudsman. Only after their intervention did PTA contact us all to arrange a community meeting.

### **Community Meetings**

An initial community “briefing” was held by PTA on 11 December 2013. The Executive Director of Infrastructure Planning and Land Services for PTA, Mr Peter Martinovich attended - though 20 minutes late.

Mr Martinovich provided an extensive and unnecessary history of both rail in WA and his own 54 years in the industry, before acknowledging the following:

- The rail line is used for the cartage of dangerous goods, flammable liquids, toxic chemicals and lead.
- The speed limit on the line is 80kmh.
- The speed of trains has never been measured or audited by PTA at any stage and no drivers have ever been prosecuted for exceeding the speed limit.
- Traffic volume on the line is expected to significantly increase further.
- PTA have no long or short term plans to improve the existing freight line to reduce the levels the vibrations and noise from such.
- It was the responsibility of Brookfield Rail to set the speed limit based on a number of factors such as weight, however the effects on the neighbouring community have no part whatsoever in determining the speed of the trains.

- Concerns from residents relating to speed reduction would be referred to Brookfield Rail however PTA would not support any reduction in speed for commercial reasons.

Majority votes were received from residents on the following:

- A reduction in the speed of trains was evident during the noise and vibration testing period, with strong suspicion that drivers had been made aware of the testing process by a member of PTA. This allegation was denied by PTA.
- Some train drivers appear to be exceeding the speed limit on occasions they should be checked and prosecuted if they are found to do so.
- The speed limit on the line reduced to 40 kmh to minimise the levels of noise and vibration. This proposal was supported in part by Lloyd George Acoustics who agreed levels of noise can be related to the speed of the trains.

Comments made by Mr Martinovich to the media after the meeting appear to have been misleading and incorrectly reported.

Briefing notes from PTA to Mr Troy Buswell MLA also appear to have been misinforming.

A subsequent community meeting was held on 7 April 2014 by PTA and Brookfield Rail. Mr Ken Travers MLA was present. Mr Martinovich again provided an unnecessary history of rail in WA, before acknowledging the following:

- No further noise and vibration testing was to be conducted by PTA.
- The speed limit on the rail line had been reduced in Fremantle and remedial action had been taken on the track to reduce noise due to community complaints.
- PTA would not endorse a reduction in the speed limit for the Jandakot area as “it would create a precedent” and affect the profitability of rail transport.
- Re-sleepering of the east bound rail line was currently underway, yet no provision for ballast matting or similar vibration reducing substrate had been considered in that process.
- The speed on that line had been reduced to 40 kph whilst this work was being undertaken, but will resume to 80kph once completed.

With the temporary reduction in speed for re-sleepering works, I noticed a significant reduction in vibration and noise from east bound trains.

It has been subsequently acknowledged in a letter from PTA that “noise and vibration levels increase with train speed”.

## **Basis of Submissions**

### **1. The lease on the tier one freight rail line passing through Jandakot is inadequately managed by the Public transport Authority as they do not recognise the safety, health and lifestyle impacts of the local community**

The PTA ignored a number of individual letters from affected residents and it was not until the intervention of the Office of the State Ombudsman, that any response was received.

From the heated dialogue at two community meetings there appears significant distrust with the PTA and a lack of confidence in both their abilities and will to resolve the issues that are in contention. The PTA has not referred the issues to the Office of Rail Safety or any other government agency that I am aware of.

The PTA claimed to have conducted a “thorough investigation” yet have refused to conduct further testing regarding noise after the initial results were inconclusive. They have not audited the speeds and weights of trains and have taken no action to ensure train drivers have ever been operating within the existing speed limit. Further, low frequency acoustic vibration levels and noise levels in upper story bedrooms have never been measured.

The basic level of testing revealed that at least 40% of the trains are exceeding vibration levels pursuant to human annoyance by an average of 50%, yet the PTA continues to ignore the impact on the local community and has no intention to manage the problem, nor investigate the issues further.

The PTA has confirmed they have no long term plan to address noise and vibration concerns even though significant growth in rail freight is expected and the problems will magnify considerably. This lack of planning appears to indicate poor management of the lease.

PTA has acknowledged that the levels of noise and vibration are relative to train speed, but they continue to disapprove of any reduction in speed on the basis of not setting a precedent, yet have already created a precedent based on community complaints in the Fremantle area.

A reduction of speed on the line would lessen the affects of noise and vibration on the neighbourhood. Further it would lessen the risk of a derailment or crash and the severity of such should it occur.

The PTA has confirmed that the speed limits of trains are set by Brookfield Rail based on size, weight, etc. There is no regard or allowance made for the impacts of noise and vibration on neighbouring properties in this calculation. The lease allows speed limits to be set by industry, for industry. Brookfield Rail appears to police itself and other contractors using the line.

The current lease places the community in a position where critical decisions can be made by business which are made based on financial pressures, rather than that of the safety and welfare of the people and without any apparent oversight by government. The PTA appears reluctant to manage Brookfield Rail or its contractors to ensure the drivers of trains are operating in a safe manner.

I hold serious concerns regarding dangerous goods carried on a rail line where industry sets the speed limit. Should a catastrophic derailment or spillage occur, there is potential for significant harm to myself, my family and the local community both in health and livelihood.

The PTA is the designated Hazard Management Authority for derailments and rail crashes under the provisions of the Emergency Management Act, and therefore has a legal and community obligation in regards to the management and prevention of derailments and rail crashes.

I submit that due to the current inaction by the PTA, the State Government is also at risk of considerable litigation should structural damage to residences be identified or a significant derailment and spillage of dangerous chemicals occurs.

## **2 An unethical or inappropriate relationship appears to exist between the Public Transport Authority and Brookfield Rail.**

From my dealings with PTA, there appears to be a culture of ignorance towards the impacts of noise and vibration as well as community safety. It appears they are prioritising the financial interests of Brookfield Rail before the concerns of the community.

Mr Martinovich claimed to have 54 years experience in the rail industry and it appears he is too involved with Brookfield Rail to remain objective and impartial, as the community expects of a person holding such a position should be. This situation appears to have bred a similar culture throughout his area of responsibility.

Suspicion that drivers had been made aware of the testing process by a member of PTA by the apparent reduction in the speed of trains during the noise and vibration testing period, is concerning and is an indication of potential corruption within the organisation.

This allegation was denied by PTA, however at no time since the allegation was raised by residents have they to my knowledge, requested an independent audit of the train speeds for that period of time. I would expect that a Government agency, confident of its ethical standing, would ensure this was undertaken to restore public confidence.

I appreciate the need for rail infrastructure and the benefits it provides to the community, as a whole however I request the Economics and Industry Standing Committee include my submissions in their terms of reference, to ensure the safety and needs of myself and the community are adequately respected.

I am willing to appear before the Commission if required.

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Robert Alan Jennings  
Adv. Dip. Public Safety