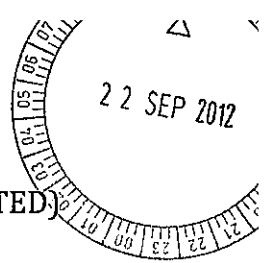


THE COUNTRY WOMEN'S ASSOCIATION OF WESTERN AUSTRALIA (INCORPORATED)  
A CONSTITUENT SOCIETY OF THE ASSOCIATED COUNTRY WOMEN OF THE WORLD  
NON PARTY POLITICAL NON-SECTARIAN



Moora Branch  
Hon Secretary; Audrey Brown  
Address; PO Box 196  
Moora WA 6510

23<sup>rd</sup> September 2012

Hon Brian Ellis MLC  
Chairman, Environment & Public Affairs Committee  
Parliament House  
Harvest Terrace  
PERTH WA 6000

Dear Chairman

**Tier 3 Rail Situation in Western Australia**

There is currently a real concern in regional Western Australia with respect to the Tier 3 Rail network that serves to transport grain from regional wheatbelt farming areas to central depots on Tier 1 for re-transport to ports for export. The grain industry in Western Australia continues to be a vital source of international revenue for the whole state and provides many jobs and is the livelihood for thousands of rural businesses that either relies on grain production itself or the servicing of the grain industry.

Our branch of the Country Women's Association is very concerned that the closure of the Tier 3 rail network will require many tens of thousands of additional truck movements per year to replace the grain moved by rail, (estimated at 60,000+ given seasonal conditions). Western Australia does not have an enviable road traffic record and wheatbelt fatalities are the highest in Western Australia already and are numerically higher than many third world countries. Placing an additional 60,000+ heavy truck movements on roads that were not constructed to handle these vehicles will inevitably lead to higher fatalities. This will result in significantly more distress in areas already suffering from a plethora of social and economic threats.

Minister Buswell has stated that he will not close Tier 3 rail lines but at the same time he will not commit to any additional funds to maintain and improve the network which effectively achieves the same outcome. As we understand the current situation, maintenance of the network is a contractual obligation by Brookfield and is at variance to the 'Fit for Purpose' standard stated in the agreement to lease and is maintained at a lower grade 'Performance Standard' in agreement with the State Government. If the 'Performance Standard' does not maintain the network in an efficient working standard then the agreement has failed and other arrangements will be required.

We understand that the Cooperative Bulk Handling has recently announced a significant investment in rail rolling stock and to protect that investment could be offered the use of the Tier 3 network connecting to their existing grain handling infrastructure at a nominal lease with maintenance a key part of the lease arrangement.

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Minister Buswell in the press makes many references in his talks to a Strategic Grain Network Report (SGNR) that we understand is fundamentally flawed and as such is a poor reference point. This issue is that important that it should be based on good up to date information that reflects reality. Minister Buswell cites cost efficiencies comparing road and rail but without a true accounting of the subsidy provided to road in the Tier 3 zone. The residents of the wheatbelt and regional Western Australia require an efficient and viable rail-road network.

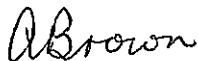
It is imperative that the Tier 3 lines be brought up to the standard required to efficiently and safely transport grain to port and that equally the road network be maintained. An underlying concern for us is the safety of our children and grandchildren who will have to share the roads with the additional 60,000+ heavy vehicle movements and the threat that this alone poses to school bus movements on the same roads.

The developing mining interest in the wheatbelt could provide a second string to justify any investment in the maintenance of the rail network.

We have attached a short précis of the Tier 3 network and a solution by the Hon Philip Gardiner MLC, Member for the Agricultural Region, for your consideration.

We are supporting our regional grain producers and small business proprietors in seeking true consideration with the costs of rail versus road transport, and very importantly for safety to the public using rail trains and not road trains.

Yours sincerely



Mrs Audrey Brown  
Hon Secretary

cc Hon Troy Buswell MLA, Minister for Transport.  
cc Hon Brendon Grylls MLA, Minister for Regional Development.  
cc Hon Brian Ellis MLC, Chairman, Environment & Public Affairs Committee  
cc Hon Philip Gardiner MLC, Member for the Agricultural Region

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## Cornerstone Agreement for Tier3 Resolution

### Principles:

1. Structure a Public/Private Partnership (PPP) which builds on the incentives for each party to realise the outcome of increased economic and social productivity.
2. Eliminate economic distortion of investment by ensuring that government investment by way of subsidy, or cost reflectivity relative to the damage which heavy vehicles cause in the Tier 3 zone, is of equal proportions. (On a macro basis, where revenue from light vehicles is included, our preliminary analysis, shows that the State Government collected \$938m in fees from road users across the State in 2010/11, being license fees, registration fees, recovery fees and heavy vehicle permits. It spent in excess of \$1bn on roads. The Federal Government collected \$2.06bn in vehicle related taxes and returned 33% to roads (figures available for the last 10 years). These numbers need to be broken down by heavy vehicles (which cause most road damage) and light vehicles for both the macro position, and for the Tier 3 zone.)
3. Facilitate negotiation of the lease of the below rail infrastructure so that it is structured to build in the best vested incentives resulting in an efficient rail service which promotes productivity by its users.
4. Repayment of government borrowings needs to be recouped from the revenues gained from users of the infrastructure in a manner which is equal in incidence between road and rail modes, respecting that timing of implementation is a relevant issue.
5. Improve powers of the Economic Review Authority (ERA) to ensure fair and equitable operation of the below rail lease to above rail users and their customers.
6. Negotiate a Private/Public Partnership (PPP) which honours these principles.

### In Principle Terms:

#### A. Brookfield (current Lessee):

1. The current lessee operates the Tier 3 lines at a "Performance Standard" which is at variance to the expected "Fit for Purpose" of potential above rail operators, in particular CBH (but also any future operator), who has invested \$175m in rolling stock, part of which is for use on the Tier 3 lines, which are about to be closed by agreement between Brookfield and government. Clauses 15 and 16 of the Lease Agreement between the Government of Western Australia and Westnet (now Brookfield) are relevant in this regard. By agreement with government, Brookfield has been able to move from an "Initial Performance Standard" in relation to the maintenance of the Tier 3 lines, to an agreed "Performance Standard". Documentation must exist for this change as the performance standard has deteriorated over the term of the agreement. By Clause 15.3 of the Lease Agreement the definition of "Fit for Purpose" is always met, though the standard can change, such that it is at variance with the above rail operator requirements. However Brookfield, assuming that the change in "Performance Standard" has been agreed with Government, is meeting its obligations as per the agreed terms of the lease agreement.

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2. If Brookfield does not agree to upgrade lines to the "Initial Performance Standard", Brookfield accepts to surrender the lease of the Tier 3 lines, and return them to government. Retention of the right to Access Fees from shipment of mine production that is already foreshadowed can be an item for negotiation between any new lessee. Brookfield may surrender the lease as per Clause 16, "Surrender Right." It firstly can invoke Clause 16.2 "Significant Reduction in Use" Clause and then the "Uneconomic Clause".
3. Alternatively,
  - a. There may be a transaction fee that is negotiated between a new lessee and Brookfield on condition that the "Initial Performance Standard" is regained.
  - b. \$20m (the same sum as is being proposed for CBH in this proposal) may be invested upfront by Brookfield in which case Brookfield might retain the lease, except that there is a disconnect in the incentive for Brookfield to manage the line in the best interests of improving productivity.
4. Brookfield retains leasehold of Tier 1 and Tier 2 lines, closely monitored by the ERA.
5. If Brookfield, Government and CBH are unable to reach agreement on this, it should be required that either:
  - a) Brookfield commit funding at least equivalent to that offered by CBH for investment into the lines as a pre-commitment to any funding that is provided by government
  - b) CBH commit funding in return for Brookfield having at a minimum no access fee charge to CBH for a period which also takes into account the conditional investment by government.
  - c) That the "Dispute Resolution Clause" (Clause 43) be invoked. Brookfield funding would not accord to Point 3 above. Brookfield's risk is that CBH does not meet efficiency claims, at which time government would not be obliged to provide any further funds, as outlined below.

**B. CBH:**

1. Re-establish with government the purpose of the Tier 3 rail in terms of the "Fit for Purpose" definition of the Lease Agreement between Government and the Lessee per Clause 15 of the Agreement.
2. If Brookfield agrees to surrender the lease, the below rail lease to be provided to CBH.
3. CBH commits to make the first financial investment into the Tier 3 lines by investing the portion of the estimated total requirement to lift the condition of the rail line to that equivalent to meet the newly defined "Performance Standard" and "Purpose", to fit the principle of equal subsidisation of road and rail in the Tier 3 zone. This would be expected to approximate \$20m over two to three years.
4. Government's scrutiny of not making any investment into the Tier 3 lines until CBH demonstrates that new efficiencies are met. This funding structure further matches commitment with intrinsic incentive of the PPP parties of demonstratively proving the efficiencies of rail – before which time there is no funding to be provided by government. An agreement would be made between CBH and Government as to the percentage of required investment to be met by each party in the event that CBH prove its efficiencies.

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5. Efficiency measures which CBH would need to achieve prior to triggering government's commitment to provide the funding balance for bringing the lines to the agreed "Performance Standard", and a state of "Fit for Purpose" to meet the agreed "Purpose" might include zero drawing on the Temporary Assistance Package ("TAP") and carriage by rail of a proportion of grain consistent with average seasons and circumstances over the past five years, over a specified period – say two years, as per Point 4 above.
6. CBH would negotiate any residual conditions where appropriate which might be justifiably due to Brookfield.
7. CBH and government commission a new report into Road Network Needed for Grain Logistics Movement so that government investment into roads is focussed, relevant and efficient from both an industry and social impact perspective.

**C. Government:**

1. Government has invested around \$322m (\$187m State and \$135m Federal) on Tier 1 and Tier 2 lines which are operated by Brookfield. There is a question of this amount being consistent with the principle of equal subsidisation above.
2. Government agrees to the lease of lines to CBH for a peppercorn rent, as the Minister for Transport has already indicated his in principle support with this aspect in a private conversation on terms agreeable to both parties.
3. Government commits to spending balance of the estimated total requirement to lift the condition of the rail line to that equivalent to meet the new defined "Performance Standard", to fit the principle of equal subsidisation of road and rail in the Tier 3 zone, conditional upon completion of CBH's spend and demonstration of CBH efficiencies as defined after two – three years from date of agreement of "purpose" between government and CBH.
4. If efficiencies fail to be met by CBH under these terms, except for exceptional circumstances, government resumes the Tier 3 lines and determines their relevance. The CBH/ Watco partnership, with early use of their rolling stock, is already confident about demonstrating efficiencies.
5. Government commits to road upgrades and maintenance based on the recommendations made in the new Road Network Needed for Grain Logistics Movement Report.

**D. Economic Review Authority ("ERA"):**

1. ERA to respond to government request of benchmarking Access Fees charged, and equity of movement applied on lines across national and international rail networks such that the potential of any of the below rail managers do not prejudice the productivity outcomes required to be achieved to maintain industry competitiveness within an appropriate return.
2. ERA to monitor that the principle of equal subsidy by government or cost reflectivity are applied so that there is best efforts to ensure that there is no economic distortion as a result of government action which misdirects investment into either mode of transport – road or rail.

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