



Ms Leonie Browner  
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Dear Ms Browner

**INVITATION FOR PUBLIC SUBMISSIONS  
BROOKFIELD RAIL'S PROPOSED TRAIN MANAGEMENT GUIDELINES  
AND TRAIN PATH POLICY**

The Department of Agriculture and Food Western Australia is pleased to present the attached submission to the Economic Regulatory Authority in relation to the proposed changes to the Train Management Guidelines and Train Path Policy.

Western Australian grain growers have a very heavy reliance on overseas markets, with around 90% of production destined for export. With transport to port representing an average of \$20/tonne out of a FOB return of around \$300/tonne, transport makes up a significant portion of off-farm costs. The Department is mindful of the need to ensure that the grain freight network is operating efficiently and least-cost pathways are being developed and utilised, hence our interest in making this submission.

Thank you for the opportunity to present our comments on the proposed changes.

Yours sincerely

  
[Redacted signature]  
Greg Paust  
ACTING DIRECTOR GENERAL

5 June 2012



## Public Submission

# Comment on Brookfield Rail's proposed Train Management Guidelines and Train Path Policy

Department of Agriculture and Food WA

June 2012



## Background

Western Australia (WA) typically produces around 10 million tonnes of grain per annum, with the majority (around 90%) of this being destined for export through four port terminals; Geraldton, Kwinana, Albany and Esperance. Historically around 60% of grain was transported to port by rail, but this has declined in recent years and is now probably below 50%. Production is heavily affected by seasonal conditions, and in 2010 production dropped to around 7 million tonnes before recovering strongly in 2011 to over 16 million tonnes. Grain can be freighted to port by road or rail with greater reliance on rail in higher production years when the capacity of road to transport the entire crop is limited. The grain industry's use of rail is variable, but important to efficiently move grain to port.

Export grain is sold on a highly competitive world market. WA is essentially a 'price taker' being a small player for most export grains; hence the price attained by exporters is not influenced by domestic conditions or cost structures. As a result, grower returns are directly impacted by the cost of getting grain to port for export – essentially each dollar increase in transport costs is a dollar reduction in the on-farm price of grain. With transport to port representing on average \$20/tonne out of a FOB return of around \$300/tonne, transport makes up a significant portion of off-farm costs. The Department of Agriculture and Food WA (DAFWA) is, therefore, mindful of the need to ensure that the grain freight network is operating efficiently and least-cost pathways are being developed and utilised.

Much of the grain freight network is currently used exclusively for grain freight. The rail task for agriculture in the south west is limited to the movement of bulk grain to (principally) export terminals. Container trade in grain is catered primarily by road transport, but there are container movements from Kewdale (Metro Grain Centre) to Fremantle.

The Strategic Grain Network Review Committee was established in mid-2009 by the Western Australian Minister for Transport to provide advice, to the Minister, on emerging transport infrastructure issues in the export grain supply chain. The consultancy firm Sd+D finalised the report on the Strategic Grain Network Review (SGNR) for the Committee in December 2009. The State Government subsequently adopted the findings and announced a funding package for road and rail.

A key recommendation of SGNR was to "close" tier 3 lines as they are unlikely to ever be economic to run. The state government is allowing tier 3 lines to go into "care and maintenance"<sup>1</sup> as a result of the recommendation, with all lines to be converted by July 2013. This action was linked to increased government funding to improve the road network in these areas to cater for increased truck traffic.

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<sup>1</sup> Care and maintenance refers to minimal upkeep of the rail corridor with no maintenance of the track or re-sleepering for further use.

## Comments on Brookfield Rail's proposed Train Management Guidelines and Train Path Policy

DAFWA welcomes the opportunity to comment on the proposed changes to the Train Management Guidelines (TMG) and Train Path Policy (TPP) for the Brookfield rail network. Many of the changes to the TMG and TPP refine the documents to avoid duplication of information written in the *Railways Access Code 2000* (the Code). In general, comments will be limited to changes that may impact on the grain rail freight component of the network.

### Provisions should continue to apply outside the Code

The first observation relates to the provision in the existing TMG and TPP that states that both documents apply to ALL Operators, regardless of whether access applications are made inside or outside the Code. DAFWA understands there are no agreements that are currently made under the Code; hence it may be prudent to retain these statements. This would allow a transparent process for train management and allocating train paths, whether they are operating under the Code or not.

Since their inception in 2000 these Part 5 instruments have stated that they apply to all agreements. No explanation or justification has been put forward to account for this potentially significant change. DAFWA is of the view that the TPP and the TMG may not have the desired impact unless they apply to all access agreements regardless of whether they are made inside or outside the Code.

### Protection of grain train paths

DAFWA would prefer lines that have been utilised for grain cartage continue to be able to be used for this purpose (though not exclusively). There are some lines that face increasing competition from other users, and due to the seasonal nature of grain production (both inter season and intra season) there is a need to ensure that grain paths continue to be available following a period of lower usage. DAFWA notes that the TPP clause 8 ensures that *an Access Agreement must not grant any entity exclusive rights to use or occupy any route*; however, this clause may not be sufficient to enable access by grain transport when it is needed. DAFWA suggests that Section 13 of the TPP be amended to:

*13. In addition, Brookfield Rail **MUST** also consider the following aspects of each proposal/entity...*

In particular DAFWA considers that the following provisions in section 13 of the proposed TPP:

- c) historical use of the Train Paths
- d) seasonal demand for a seasonal path based on the production or market characteristics of the freight and
- e) need for surge capacity based on demand or other constraints such as shipping



are of most importance when considering grain rail transportation needs. Of particular concern is any restriction that may be placed on train paths into Kwinana, being the port that services the largest grain growing district in WA. A significant amount of grain travelling by rail to this port is carried by the Eastern Goldfields Railway (EGR), which faces the most competition for train paths from other users.

The closure of the tier 3 lines will put more grain on the EGR. As a result of the announcement to close the tier 3 rail lines the WA Local Government Authority commissioned Cardno to produce a “Local Government grain freight network heavy vehicle strategic pathway mapping and access policy”. The policy was intended to limit truck access along Local Government roads and to promote routes from the point of origin to the nearest main (State) road or viable railhead for the purpose of bin to bin and bin to port freight transport. This policy will reroute some of the grain by road to the EGR, which historically would have travelled on the Quairading rail line onto the Great Southern Railway (GSR).

### **We now have two above rail operators for grain**

Since deregulation of wheat exports in 2008, Cooperative Bulk Handling Ltd (CBH) has bundled storage and transport of grain to port in a system called “Grain Express”, which then transported most grain to port, using a combination of rail and road. In June 2011 the Australian Competition and Consumer Commission (ACCC) made a decision to revoke the exclusive dealing notification (N93439) lodged by CBH in respect to Grain Express, meaning CBH could not compel growers (or exporters) to utilise a bundled service. This decision was scheduled to apply from 1 May 2012, however CBH is currently appealing this decision with the Australian Competition Tribunal with a ruling expected shortly. If CBH is unsuccessful in its appeal the grain industry in WA is likely to have two above rail operators (Watco/CBH and QR National) on an ongoing basis.

The provision of access to under-utilised train paths (points 15 -17 of the revised TPP) takes a long term view (3 months monitoring period for a ‘notice’ and a further 6 month utilisation period), when perhaps a short term reallocation of access may be required. DAFWA is concerned that an above rail operator could under-utilise a portion of the rail network, and continue to maintain access, at the expense of the efficient movement of grain to port via an alternative rail operator. Given the time-critical nature of getting grain from inland receival points to port, this would be highly undesirable if it were the case.

### **Track maintenance standards**

The removal of the train maintenance standards (TMG section 3.7.1) may have an impact on the efficiency of the grain freight task if it results in reduced speeds and loading capacities and restricted operating times due to high day time temperatures impacting on some lines. DAFWA’s concern is that reduced efficiency may impact on rail’s ability to compete with road transport for the grain freight task, reducing the overall efficiency (and hence increasing cost) of grain transport to port.

## **Review requirement**

DAFWA has observed that the new documents (Compliance and Review sections) have:

- Removed the requirement for a regular review of the TMG (section 4) and the TPP (section 9)
- Restricted monitoring of the TMG to Access Agreements within the Code and
- Removed the requirement for the ERA to publish audit reports on the ERA website (excluding confidential information).

DAFWA is concerned that these changes will limit the ERA's ability to perform its role as the rail access regulator effectively. In particular DAFWA sees merit in

- the ERA being able to monitor agreements whether they were operating under the Code or not and
- publication of audit reports to allow transparency for the industry.