

Submission

No 3

INQUIRY INTO THE UTILISATION OF RAIL CORRIDORS

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Online Submission to the NSW Government's Inquiry into the Utilisation of Rail Corridors

This is a relatively short Submission, I have in fact drafted a slightly longer one which was presented to the Website yesterday but it froze as I was submitting the Final. There was, as it was submitted in real time, no trace of the document I created. Hence this shorter one, anyway, I shall be succinct with the issues.

Issues- Rail Infrastructure Projects NSW

- Noise from Hunter Valley coal rail activity and more particularly that which will be generated by the new 'Third Track-Maitland to Minimbah' travelling right by our house at 300-400 metres from the Track.
- Lack of effective/real opportunity for community involvement as distinct from 'paper warfare' for its own sake in the Planning process and Department of Planning acceptance of the Proponent's final response to submissions. The Proponent is the ARTC and final approval was supplied by Tony Kelly two days before our former Premier requested Parliament be prorogued for the last election. There was no effective correspondence able to be entered into with any Parliamentarian once approval occurred.
- That Part 1VA of the Environment Planning and Assessment Act as altered by the current Government whilst in power actually continues the failing of Part 1VA as it stood in that it gave too little weight to community concerns over projects and more particularly allows the Proponent the 'final' submission in response to the Department of Planning in which they can 'debunk' community submissions/concerns via misleading statements, via direct lies and yet those responses sat unchallenged in the final assessment process.
- That IGANRIP (Interim Guideline Australian Noise Rail Infrastructure Projects) which acts as the effective 'bible' for the ARTC and its appointed virtual consultancy for delivery of the Third Track (Hunter 8 Alliance-an amalgam of John Holland, GUD and ARTC) in respect of noise has a major 'flaw' which has never been addressed by the Department (now Office) of the Environment and Heritage. The issue was pointed out to the Department in the submission stage for the Project and I received a dismissive letter from it.

The issue is that the current noise standards do not accept virtually any installed new rail activity as 'new' if a rail line of some form already exists in the path it will take, or it will be alongside existing rail. Only 'new rail' gets tested for residents against less restrictive standards in IGANRIP than a redevelopment of existing rail.

Effectively this means that an 8 lane highway of rail can be installed in what may have been a virtually disused railhead and it qualifies only as a 'redevelopment' not 'new' rail.

Largely this is what is happening in the Hunter with coal train tonnage going past our house to double by 2022 from 2012 but with significant uplift by 2018 and on current admissions by ARTC, it seems that even the 2018 numbers may be reached as early as 2015. If a 4th coal loader as proposed by Nathan Tinkler is built in Newcastle it is likely another track may well be required. No prizes for guessing where that will be placed.

I have also raised this issue with the local Federal Member Mr Joel Fitzgibbon without any effective result (despite his obvious best intentions and meetings attended and letters written to ARTC) and local State Member Robyn Parker as State Minister last year on a number of occasions. Whilst in opposition, Ms Parker as the then Liberal candidate now Minister for the Environment and Heritage attended a local street meeting on the issue and said 'on-camera' to Channel 9 (local NBN) television that she supported a 'new rail' designation for the Project. Despite a 'heads-up' on a possible meeting with an Officer from the O of E & H last year, I am yet to receive any go-forward with that meeting, although I was indeed advised of this Inquiry by her local Office at that time and for that I am indeed grateful.

IGANRIP also fails all country residents as a standard at all as it was constructed using data from only city based situations, it was developed other than in Australia and lacks all real relationship to a quiet country Australian setting with still considerable housing development along its path.

A further issue with IGANRIP (and the attendant Planning controls in NSW) is that it basically requires private dwelling developers along the railhead to 'noise mitigate' new residences established by them down to 35db at their bedroom and 45 dB in their main living area yet the same standard is not imposed upon developers (usually the Government in one guise or another when it comes to infrastructure) for existing dwellings. The applicable IGANRIP standard for existing dwellings is in a 'redevelopment', 65 dB day and 60 night and for 'new' rail, 60 dB day and 55 dB night. There is a double-standard being practised here which lacks all credibility for any inquiry's glare.

No in-house noise mitigation is proposed at all for our residence yet even on the Hunter 8 Alliance's own testing at our bedroom, we are currently experiencing noise in excess of the night decibel level requirements (if this was classified as 'new' rail not a 'redevelopment') and the Third Track is not yet built. Coal Rail movements have increased massively since about 2005 on the existing two tracks (passenger trains also use them but they are relatively short and quiet). The diesel engines cause massive noise and vibration at times akin to a 767 taking off at Mascot.

Small noise mitigation walls are I believe to be built near us at the Track but Hunter 8 Alliance will not and in fact actively refuse to give me any details of what is proposed. They cite ongoing legal negotiations with my immediate neighbours whose land they need..but realistically that is unacceptable given our residence is just one house further

in from land they require to build on. It is in any case unlikely that the small walls which I understand will be built, will effectively reduce the noise emitted by on recent admissions to one of my neighbours (who they will provide information to because they need their land) likely as early as 2015 but in any case, by 2018-2022 when the Track is fully operational.

As a result of my (and others I am aware of in the local community all the way down this development) experience with the Hunter 8 Alliance, the EPA should be amended so as to mandatorily require all Proponents of major infrastructure developments to directly provide by surface mail (or electronic in the manner referred to immediately below) all residents within at least 500 metres and preferably 1000 metres of the development, extensive details of any proposed noise mitigation measures that they will install near and/or in their residences and this provision of information must be verified as having taken place by the Proponent before any approval is supplied by the State Government.

- The EPA Act must be altered so that all major infrastructure project Proponents must mandatorily inform by direct surface mail or other individually verifiable electronic means (only if demonstrably known to the Proponent) such as email for which a 'read receipt' is required on and retained by the Proponent, all residential property owners within at least 500 metres of any major infrastructure proposed development such as the Third Track and preferable would be 1000 metres as rail noise travels at least that far. We were not informed until 9 months had elapsed after Hunter 8 Alliance had been formed and were actively negotiating with our immediate neighbours to acquire some of their land for the Third Track and even then only after numerous emails, faxes and calls had been ignored by that entity.
- The EPA Act must be altered so as to incorporate mandatory assessment of financial impacts to residents properties bordering major infrastructure projects and to allow for all costs of this work including an ability for residents within at least 500 metres of say a Third Track situation to appoint their own valuers and if necessary, noise acoustic engineers to challenge Proponent data. The reasonable costs of that work, necessitated purely because of the imposition of the infrastructure near your residence, should be borne by the Proponent. Proponent noise and vibration data prepared by their own people (in our case the Hunter 8 Alliance) should be also be initially required to be submitted to a truly independent acoustic engineering laboratory for analysis and the results made public. At present the data created 'in-house' basically is the only data supplied to Department of Planning. Needless to say it looks good for the Proponent in most situations.
- The EPA Act must incorporate a method for financial compensation to be given to deleteriously affected residents in local regions such as the Hunter Valley of NSW which is experiencing major dislocation of amenity for the good of NSW and Australia. That compensation must be constructed under a clear financial model within the Act rather than by reference to any Commonwealth standard which pre-dates current heavy industrial expansion in places such as the Hunter which have been traditionally rural,

tourist and agricultural regions and be required to be assessed for any resident within at least 500 metres of the development. It should also be assessed by the Proponent (and be reasonably open to challenge at the Proponent's expense without litigation as there is a clear 'cash' and 'power' disparity between most Proponents and affected private residents) and levied upon the ultimate beneficiaries of major infrastructure projects such as in our case, X Strata, BHP and the ARTC and be payable automatically upon approval of such developments.

The compensation package should be arrived at before any State Government approval is given to major infrastructure projects like the Third Track. All costs of this changed environment should be easily met out of profits experienced in mining as each train going past our bedroom is worth 1-1.5 million dollars, is a kilometre + long, takes a kilometre to stop and with the Third Track in place it is projected that we will have one of these trains go past our bedroom every 8 minutes of the day, 24 hours a day.

With many thanks for this opportunity to acquaint the Committee with these issues and have them available for consideration. Naturally I would be happy to assist with any further information, should the Committee desire it.

Prepared : **2 February, 2012**