

**Submission
No 215**

INQUIRY INTO THE CLOSURE OF CASINO TO MURWILLUMBAH RAIL SERVICES

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Date Received: 03/06/2004

Subject:

Summary

NORTHERN RIVERS RAILROAD PTY LTD

Thursday, June 3 2004

Legislative Council Inquiry into the closure of the Casino to Murwillumbah Service

Dear Madam/Sir's,

On behalf of Northern Rivers Railroad Pty Ltd (NRR) I Warren Judd would like to formally lodge my disgust and concerns as to the closure of the subject matter.

NRR is an accredited rail operator based at Murwillumbah. NRR operated both freight and tourist train services on the Casino Murwillumbah branch line for six (6) years from 1996 through to 2002.

Replace XPT service's for coaches - \$5 million yearly saving?

Without the obvious CSO payments to a coach operator, the government inquiry into cost savings on the branch line are nothing short of "a figure that sounds good".

In reality the Carr Government has been quietly chipping away allowing primarily bridges to deteriorate to a point that their condition to day places them in an all but condemned stage.

To that, that is lost due to total mismanagement. RailCorp places before the Government a works program that is signed off by the Minister. With relation to branch line works, in 90% of cases, costing for branch line works are based on weekend penalty rates.

Committee members would be aware the ARTC (Australian Rail Track Corporation) has pledged \$450 million to the up keep on the north coast main line and some \$1.487 billion to Auslink for five (5) years, ARTC have stated due to more efficient private sector contractors performing rail track maintenance the cost savings will enable that organisation to keep open north western grain lines that were to be closed by the NSW State Government Transport Minister.

The Government bases its \$5 million dollars per year savings on the Parry Report, did the Parry inquiry take into account;

1. Is the figure of \$5 million based on the overall neglect of the branch line due to budgetary measures that did not allow for bridge works to be kept at a safe standard over the past few years?
2. Did the Parry Report charter include what the impact of the closure would be on the local community or what measures could be taken to turn around years of neglect?
3. Is the \$5 million dollars per year saving based on figures of the inefficient works program that was in place, ie, weekend work and bridges that were not maintained, or does \$5 million sound like a good figure?

A further example of waste;

- (a) Stations on the Casino Murwillumbah branch were re painted February 2004?
- (b) Two weeks before the announcement that the branch line was to close 8,000 sleepers were dropped off the entire length of the branch line, 150 kilometres Casino to Murwillumbah.
- (c) One week before XPT services were halted, the AK rail set checked the 150 kilometres of railway line from Casino to Murwillumbah and return. What was the result of this test and what was the cost?

The AK rail set is a four (4) car train, loco hauled and manned by qualified personnel, it is used to test all fascist of a railway line and will detect any imperfection that may exist in a train track.

- (c) State rail has a department whose roll it is to ensure all heritage items of a **significant nature** is preserved.

Casino rates extremely high on this register, the last coal stage of its kind in the southern hemisphere, the Casino Round house precinct and one of the last living railway station tea rooms. This facility WAS in a condition that could only described as priceless? To walk through the doors was to walk back in time to the steam period of rail; the tearoom was 100% in tact, tables, chairs, teapots and cutely, rights down to the original cash register. All of this is now gone thanks to Mr Costa requiring a new waiting room for coach passengers travelling to/from Casino from towns along the branch line from Murwillumbah to connect/depart the XPT service; somebody has got to be held accountable.

- (d) A two (2) kilometre crossing loop was installed at Grafton, this was all but ready for commissioning when a near by neighbour felt it was to close to his boundary, he complained to the EPA, on investigation it was found **NO** environmental Impact Study had been carried out. The entire crossing loop was ordered to be removed at a total cost to the Taxpayer of **\$7 Million dollars?**

Economic and social impact;

Jobs did not have to go, during the period the Ritz Rail tourist train operated, NRR had, had approaches from local councils and the local community for a commuter service on the branch line.

NRR felt such a service would work based on dialogue with community leaders and rail staff at various stations, there was a need for such a service, over and above this NRR believed the synergies of the two operations, ie, tourist and commuter would supplement each other.

An approached was made to CountryLink general Management on two occasions back in 1999/2000 with a proposal to operate on their behalf two (2) services (four return services) a day. The first approach was not acknowledged the second was in the form of an official meeting with the then new GM of the day, Ms Gail Gregory who advised NRR that at that point of time senior personnel had advised her to hold off.

Through Mr Harry Woods labour Minister who saw merit in the NRR proposal, convened a meeting for the Directors of NRR to meet with the then Minister of Transport Carl Scully, I along with my two (2) fellow Directors flew to Sydney to the Government Offices for our scheduled meeting with Carl Scully

The meeting was convened for 3:00PM our party arrived at 2:45PM, at 3:45PM a staffer advised us Carl Scully would not be meeting with us?

As late as **Wednesday 3rd February 2002** (two (2) years ago) I was still having meetings with the Richmond Shire Council who had now formed a Transport Committee to oversee the concerns of the Casino – Murwillumbah branch line, who were working tirelessly and still are, on a commuter train concept.

The loss of the XPT and the lack of dialog by the Government with NRR and local Councils represents the scant disregard for the local community the Government has, the loss to the community is incalculable.

A private commuter service come tourism operation could have potential. To date tourism has not rated in the big picture nor the potential impact this could have in the economical benefits to employment and cottage industries on the 150-kilometre length of the branch line.

Any such service to operate today would require feasibility in the first instance. (Funding has been offered by the Federal Government) CSO payments and financial assistance to rectify the state and repair of bridges on the branch line Scully has allowed to deteriorate to the point lives have been put at risk.

Future of the Casino Murwillumbah Branch Line

During our six years of operating on the Casino Murwillumbah branch line, Public servants in RailInfrastructure (now RailCorp) assisted however and where ever possible however, their hands were tired by the Governments reluctance to give money to the branch line.

Over the past six (6) years the Carr Government and the responsible Ministers of the day have been blessed that no major incident has occurred. As a rail operator it is our duty, as is the duty of every accredited rail operator to lodge “Incident Reports” all report are sent to RailCorp head office for action, in most cases reports were not activated due to the lack of funding for branch line maintenance.

It is the responsibility for the Minister of the day to approve funding for RailCorp, infrastructure and maintenance.

An example of the neglect. Traversing the Lismore viaduct at the regulated speed of less than ten (10) kilometres an hour the bridge would actually move and timbers would groan under the weight of the train. This is only one (1) of a number of bridges that carry a ten (10) kilometre speed limit, for the record a railway line or bridge that carries a ten (10) kilometre speed limit is obviously open to question as to being a safe operating line. It is generally regarded any bridge that carries a ten (10) kilometre speed limit is condemned? The Casino Murwillumbah branch line has a number of bridges that fall into this category.

Rail operators and RailCorp are compromised on a daily basis by the Government's scant disregard to the safety of the public. RailCorp can only maintain and keep in as safe a condition as funds allow.

Unfortunately RailCorp administrators are in an untenable position and are unable to defend themselves when an unsafe situation occurs, per the Rail Safety Act 2002 the Government have indemnified themselves from any blame when it is the relevant Minister who in fact has committed the offence. The fall guy will always be within RailCorp or the private sector?

The Casino Murwillumbah branch line is the perfect example, as a means to rectifying the unsafe bridge problem that exist RailCorp had to drop load limit from 21 tonne to 14 tonne axle weights.

The 14 tonne load limit was to accommodate the XPT (XPT axle weights are 13 tonne) the speed limit still stands at ten (10) kilometres an hour.

The hypocritical situation that exist on the branch line, from Casino to Murwillumbah (150 kilometres) there are new bridge piers, bridge bearers laying in grass the length of the line, why? Bridge engineers saw the need to rebuild/repair these bridges but the Government cut the funds, does this not constitute a breach of safety?

No engineer would order such items if a bridge did not require attention?

This inquiry would be incomplete if the committee did not inspect the Lismore viaduct, to appreciate the true extent of the neglect. One does not have to be a qualified engineer to see main bearers and timbers that are either hollow or rotted away.

A precedent exists as to who takes the fall when safety concerns are exposed, Menangle bridge in south western Sydney is an example. RailCorp personnel took the fall for a Transport Minister who was more than aware that the Menangle bridge required urgent works but, would not allow the closure of that line/bridge due to the backlash the Minister would have got should the bridge be closed to both passenger and more importantly in the eyes of the Government, freight trains being unable to traverse this major artery, plus the fact an election had been announced at that time.

When the situation became public the Minister (Scully) jumped for cover and senior RailCorp personnel were sacked?

NRR do not lay blame on RailCorp or its servants for the condition of the Casino Murwillumbah branch line, the buck lays clearly at the hands of Scully and to a lesser degree Michael Costa, for knowingly allowing the public to be at risk due to the holding back of funding for the Casino Murwillumbah branch line.

The government has in place regularity organisations namely Transport NSW who police rail operators to ensure operators are operating in a safe and responsible manner and are audited on an annual basis or at any time it sees fit however, who polices the relevant Ministers? Who would take the fall should a bridge that has been neglected collapse under the weight of a passenger train? Not the Minister.

Suggested extension of the branch through to Queensland, Northern New South Wales is one of the fastest growing regions in NSW, the concept of this extension has been around for many years, traffic movements and tourists into NSW from Queensland are growing at an enormous rate, however, here we have Scully again back on the scene as Roads Minister who all but scuttled the Tugun bypass on environmental grounds. Fortunately the Queensland and Federal Governments have funded these urgently road works without the assistance of the NSW Government even though a major proportion of the proposed highway is in NSW and the economical benefits to NSW do not mean a thing to this Government, What chance is there for the rail line to be extended into Queensland while we have a Government that has no regard to northern NSW. In short, the extension of the line through to Queensland would have major economical benefits to both NSW and Queensland.

End of the line for Northern Rivers Railroad Pty Ltd:

RailCorp advised Northern Rivers Railroad Pty Lid it was to remove the Ritz Rail Tourist train off the branch line a week after the announcement was made by Minister Michael Costa. On Friday the 30th April, NRR was advised by phone the Ritz Rail would have to be out of Murwillumbah by the weekend of the 8th / 9th of May, giving our company five (5) working days to prepare the train, certify all equipment, organise locomotive power and crews and to find a safe location somewhere in NSW to park the train.

NRR was further advised that if the train was not out of Murwillumbah by that date the train would be land locked and that after this date the train could only be transported by road.

To this day RailCorp have not given NRR one word of instructions in writing, RailCorp in consultation with the NSW Rail Transport Museum (to whom I had already spoken to, on an inquiry basis only) organised the movement of the train for quoted weekend. RailCorp did not have the decency to advise NRR of the date or time **OUR** train was to depart Murwillumbah. I was advised it was not their responsibility to advise us but to advise the company who was moving our train off the branch line?.

The action by RailCorp promoted by the State Rail Chief Executive Vince Graham, acting on behalf of the Minister has left NRR with major costs totalling tens of thousands of dollars with more costs to come.

Conclusion

NRR do not hold any malice towards RailCorp or its servants, RailCorp personnel are only able to carry out works approved by Government budgets. A “wish” list of works is put together by regional foramen/inspectors and engineers, sent to the CEO of RailCorp for approval.

At the end of the day the Minister responsible should be made accountable for;

- (a) Not providing funds for the safe working of a public utility.
- (b) For putting at risk the lives of the travelling public.

I would further suggest Inquiry members avail themselves of the “Rail Safety Act 2002” and note the responsibilities that are placed on an accredited operator, noting that incidents are in most cases referred back to the Minister.

Extract from Rail Safety Act 2002

Rail Safety Act 2002 No 96

92 Failure to maintain safety systems, devices or appliances

(1) An accredited person who fails to install and maintain, or maintain, a system, device or appliance on a railway or rolling stock in accordance with the terms of the person’s accreditation is guilty of an offence.

(2) An accredited person who fails to carry out a railway operation in accordance with any terms of the person’s accreditation related to the person’s safety management systems is guilty of an offence.

(3) It is a defence to an offence under this section if the defendant proves that the failure concerned did not, and was not likely to, affect the safe carrying out of railway operations.

(4) (Repealed)

Maximum penalty:

(a) in the case of a corporation (being a previous offender)—7,500 penalty units, or

(b) in the case of a corporation (not being a previous offender)—5,000 penalty units, or

(c) in the case of an individual (being a previous offender)—750 penalty units or 2 years imprisonment, or both, or

(c) in the case of an individual (not being a previous offender)—500 penalty units.

113 Exclusion of personal liability

No matter or thing done, or omitted to be done, by the Minister, the ITSRR, Chairperson or other member of the Independent Transport Safety and Reliability Advisory Board, an officer of the ITSRR, an authorised officer or a person acting under the direction of the Minister, the ITSRR, the Chairperson, the member or any such officer subjects the Minister, the ITSRR, the Chairperson, the member or any such officer or person personally to any action, liability, claim or demand if the matter or thing was done, or omitted to (a) in the case of a corporation (being a previous offender)—7,500 penalty units, or

Rail Safety Act 2002 No 96

114 Exclusion of liability of the State

No act or omission of the Minister, the ITSRR, Chairperson or member of the Independent Transport Safety and Reliability Advisory Board or an officer of the ITSRR in the course of exercising functions under this Act gives rise to any civil liability (including, for example, liability in negligence or for breach of statutory duty) against the State or any authority of the State.

While this inquiry will not restore the Casino to Murwillumbah branch line, consideration must be given to the performance of responsible Ministers, why should private individuals face prosecution for lesser offence than that of a negligent Ministers.

This inquiry MUST be a call for a Royal Commission. The Rail Safety Act 2002 No 96 state any accredited rail operator who neglects their duty has committed an offence, Why are the people who make these decision exempt from their own law. The person who fires the gun is NORMALY the person charged?

Yours sincerely

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