

Mr Charles Casuscelli RFD MP
Committee Chair
Committee on Transport and Infrastructure
Legislative Assembly
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Mr Casuscelli,

Inquiry into the utilisation of rail corridors

Thank you for your letter of 13 April, where you asked me to respond to additional questions raised by the Committee related to its inquiry into the utilisation of rail corridors.

The response is attached. If you have any queries in relation to this matter, please contact

Yours sincerely



Les Wielinga
Director General



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Transport for NSW responses to questions

Inquiry into the utilisation of rail corridors

- 1 The Transport for NSW (TfNSW) submission mentions (page 6) two key mechanisms for the government to capture a share of financial benefit from rail corridor developments. Can you provide more detail on each of these mechanisms? What are the advantages and disadvantages of each mechanism? Does TfNSW have a preferred approach?**

The TfNSW submission (page 6) discusses additional financial benefit which may be released as a consequence of transport infrastructure development. The fundamental premise is that the improved transport facilities themselves, and the prospect of increased pedestrian throughput, will contribute increased demand for property in the immediate vicinity. Value capture is achieved by facilitating the development of land by the private sector adjacent to transport infrastructure development, with a proportion of the increase in land value returned to the State, typically in the form of new infrastructure and/or cash.

The TfNSW submission notes 'complementary mechanisms' (page 6) for value capture. The first of these mechanisms relates to planning instruments. The primary planning instrument which assists in commercial value capture associated with rail corridor is the State Environmental Planning Policy-Infrastructure (SEPP-I). The application of SEPP-I can provide greater levels of certainty in terms of timing of approvals and, subsequently physical delivery, which is of direct financial benefit to private sector developers.

The second mechanism in capturing value is the development agreement between the state and a private sector developer, which details the ways in which value is to be delivered to the state – typically via a combination of new assets and cash. It is the combination of 1. the advantages to development embedded in planning instruments and 2. the particular provisions of development agreements struck between TfNSW entities and the private sector which consolidate the value capture opportunity.

These mechanisms are not alternatives. Rather they work together to create value for government in commercial development.

There is, therefore, not a "preferred approach."

2 The TfNSW submission states (page 10) that returns from rail corridor developments will only represent a small contribution of the cost of major infrastructure projects. How does TfNSW ensure that the government is getting the maximum value possible for the sale or lease of the organisations assets?

Rail infrastructure is highly capital intensive and therefore the contribution from property related components is typically relatively modest.

TfNSW relies on a combination of approaches to maximise value from commercial development opportunities. TfNSW considers the benefits and risks associated with the site area proposed for commercial value capture, the tenure (typically leasehold or freehold) and zoning (either current or prospective) and market acceptance of any proposed opportunity as the primary drivers of value capture. The expertise of TfNSW itself is utilised along with that of real estate advisors, valuers, town planners, lawyers and engineers as necessary.

TfNSW ensures maximum value is achieved through the formalised business case methodology and its reliance on both financial and economic benefit, along with open market procurement processes to ensure a competitive market.

At all times, value capture opportunities remain a secondary consideration relative to the transport objectives.

3 The TfNSW submission mentions (page 9) that both freehold title and long-term leases have been granted for air space rights. How is it decided which is granted in any given case? What is the preferred approach?

The TfNSW submission (page 9) outlined some of the history of ancillary land development associated with the rail corridor, the policy positions of RailCorp and its predecessors and specific examples of the forms of land tenure actually granted.

In all instances where transport orientated development is considered, TfNSW will initially seek to offer development land/air space rights under leasehold tenure. This position reflects a policy adopted by the RailCorp Board in October 2005, which states in part "Freehold title to, and long-term leasehold in, property should not be granted above a rail corridor unless it can be robustly demonstrated that to do so would not unreasonably restrict future use of the corridor".

If this form of tenure is unacceptable to the private sector from a development feasibility perspective, the grant of freehold title may be considered.

TfNSW's primary consideration remains the ongoing operational integration of the rail system. Freehold, and long term leasehold interests are not preferred.

- 4 The TfNSW submission mentions (page 10) that there were issues with the redevelopment of North Sydney station because of a previous sale of air space. Could you further explain these issues? What should be done to ensure these issues don't arise again?**

TfNSW described in its submission (Page 10) the issues associated with the redevelopment of the North Sydney station. This redevelopment was limited by the previous sale of freehold and leasehold air space over and adjoining the station.

Capacity for passenger movement between the platforms and concourse was consequently constrained, meaning the stairs could not be located in the optimum location to meet crowd flow requirements. The redeveloped concourse was also less extensive than desired. The current below-ground structure limits future options for rail network development.

TfNSW and its predecessors have generally maintained control of property rights sufficient to support increases in capacity and TfNSW expects to maintain this position. The primary sources of ongoing guidance will be the NSW Long Term Transport Master Plan and the reinforcement of existing protocols.

- 5 The Committee has heard that the Chatswood rail corridor development has had a number of problems, particularly regarding approval and assessment processes, subdivision arrangements and the future capacity of the rail corridor. How satisfied was TfNSW with the approvals process and outcomes for the development? Are there any lessons to be learnt from the Chatswood development?**

TfNSW is conscious of lessons to be learnt from the Chatswood Transport Interchange and notes, in particular, the issues raised by Willoughby Council in its submission to the Inquiry. The approval and assessment processes were certainly relatively complex and necessitated considerable commitment of resources by the NSW Government. Any project of scale, involving changes in use and significant, and continuously operating, transport infrastructure will almost invariably involve contentious issues.

The Chatswood Transport Interchange project achieved the desired outcomes. The infrastructure is operational, functional and achieved the necessary safety certification.

Prior to the recent redevelopment at the station and interchange, Chatswood was characterised by poor connectivity between the western commercial and eastern retail districts. The Interchange has been effective in linking the western and eastern sides of the business district and providing a modern, safe and accessible transport interchange facility.

Following the completion of the Chatswood Transport Interchange project, a comprehensive review was undertaken which resulted in a range of recommendations which are to be integrated into ongoing program management.

6 The Committee has repeatedly heard about the need for land use planning and transport planning to be integrated. What efforts are being made to ensure that the Long Term Transport Master Plan integrates with strategic land use planning?

Transport for NSW recognises, and is acting in concert with, the need for integration between land use and transport planning.

Both the Department of Planning and Infrastructure (DoPI) and Transport for NSW (TfNSW) are focussed on preparation of the Long Term Transport Master Plan and review of the Metropolitan Plan for Sydney.

Cross-department working arrangements have been established and senior staff secondments are in place between the departments. DoPI and TfNSW share data, hold joint workshops and undertake joint analysis on a regular basis to ensure that the Long Term Master Plan is closely integrated with strategic land use planning.

The Committee has heard concerns that in past rail corridor developments government agencies relied excessively on obtaining legal advice and had lawyers present at meetings when there was no apparent need. What are the procedures or principals for obtaining legal advice in the consideration of development applications and for any issues that may arise in the construction phase of a project?

TfNSW has reviewed the concerns, particularly as articulated by Willoughby Council, regarding the engagement of legal advisors.

The scale and complexity of transport development, and the interaction of multiple parties, necessitates the use of appropriate legal professionals to ensure the rights and responsibilities of the State are known, understood and acted upon.

TfNSW considers legal representation is necessary in the creation and amendment of legal documentation, particularly as negotiations progress for the finalisation of consents and during the execution of the construction phase.