Submission

No 58

INQUIRY INTO THE UTILISATION OF RAIL CORRIDORS

Organisation: Transport for NSW

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Position: Director General

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NSW GOVERNMENT | Transport for NSW

Mr Charles Casuscelli MP
Committee Chair
Legislative Assembly
Committee on Transport and Infrastructure
Parliament House
SYDNEY NSW 2000

Dear Mr Casuscelli,

I refer to your letter of 30 November 2011 to Mr Peter Duncan, Chief Executive, Roads and Maritime Services, in which you invited him to make a submission to the Inquiry into the utilisation of rail corridors.

Mr Duncan forwarded that letter for my attention and I am pleased to provide a submission for the Inquiry.

If you wish to discuss the submission please contact Mr Tim Reardon, Deputy Director General, Policy and Regulation on 8202 2073.

Yours faithfully,

Les Wielinga
Director General

- 6 MAR 2012

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Transport for NSW

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March 2012

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1. Introduction

Transport for New South Wales (TfNSW) welcomes this inquiry. Its timing is fortunate, occurring as TfNSW has embarked on state-wide consultation to help inform its Long-Term Transport Master Plan for NSW. This Plan, together with complementary NSW Freight and Ports Strategies, will focus on meeting the future needs of transport customers and ensure a competitive and sustainable plan is in place to support the State's development over the next 20 years.

Over the period of the Plan, the metropolitan rail network's reach will be extended, with existing parts upgraded. As well as improving rail services and public transport outcomes, when combined with nearby and adjoining residential, commercial and retail development and services, enhancements to the rail network can also shape sustainable urban communities where the need for travel to meet daily needs is lessened and access to employment and services is improved. This approach is informing the planning underpinning development of stations on the North West and South West Rail Links. Even where no upgrades to rail stations are planned, adjacent development can support these outcomes. Where development occurs on rail or Government-owned property they can unlock underutilised real estate value, potentially making revenue available for transport services and infrastructure.

Development in rail corridors is not without its challenges. From the transport perspective, the principal concern must be to ensure such development is compatible with the primary function of the corridor – to provide safe and efficient passenger and freight rail services and importantly, that development allows for the expansion of the corridor in the longer-term to cater for increased demand, in changes to rail operating systems and rail infrastructure. Assuming these protections can be secured, significant land use, transport and commercial benefits can potentially be realised from utilising rail corridors for development.

The Inquiry Terms of Reference reflect a focus on property development adjoining and over rail corridors, and the scope for benefit from such developments. This submission also focuses on those matters. However, it is worth noting that in addition to fare revenue RailCorp earns income from other sources, including from rail corridor uses such as commercial leases, advertising and network access charges. In 2010-11 when RailCorp's total expenses were $3.5 billion, RailCorp earned $310 million in non-passenger revenue and $703.5 million in fares with the Government contributing $2.5 billion in subsidies and concessions, including for capital expenditure.

In addressing the Inquiry's terms of reference this submission covers:

- the rationale for developing in rail corridors;
- the NSW Long Term Transport Master Plan;
- NSW experience of developments adjoining or over rail corridors;
- approaches to rail-related property development elsewhere; and
- what's needed to get the balance right.

2. Setting the context

2.1 Why develop in rail corridors?

2.1.1 Integrating transport planning and transit-oriented development

Transport infrastructure helps to shape land use by improving accessibility and mobility. Integrating land use and transport means creating places that are more liveable and that work simply and efficiently. This means reducing dependency on cars and reducing the need to travel, allowing people to travel shorter distances and make fewer trips. The population density and type of land use determine the transport quality and choices that an area can support. Areas with high population density or high economic activity are able to generate travel demand that can support more transport choices.

One of the Government's goals is a greater proportion of travel by public transport, walking and cycling. This means population growth in Sydney needs to be planned for places that encourage these modes of transport, especially for commuter trips. New housing, shops and services should be located to link with the transport system and, consistent with the Government's objectives, with jobs located closer to where people live. This approach benefits people and the economy by creating a liveable city with more accessible jobs and a transport system that moves people and goods efficiently.

Development adjoining or over rail corridors, particularly at stations and interchanges will promote these outcomes if well-designed. This view is supported by analysis of recent patronage growth on the CityRail network. While local issues and some changes to CityRail operating patterns may influence patronage, most stations on the network displaying above average growth between 2006 and 2011 have been adjoining or nearby to urban development initiatives which have supported increased public transport use. For example following redevelopment at Rhodes, patronage grew by 265% from 2006 to 2011, at Wolli Creek by 45%, and Parramatta by19%.

Conversely, where development doesn't focus on connectivity to stations or contain uses that are not transport-oriented it can inadvertently reduce a location's potential.

The push for more sustainable urban forms and transport means transport planning is increasingly focusing on transport–oriented development. In 2010 the Queensland Government released *Transit Oriented Development: Guide for Practitioners in Queensland.* That document describes transit oriented development as *a planning concept that promotes the creation of a network of well-designed, human-scale urban communities focused around transit stations*. The document recognises there are various definitions, *but that there is common agreement that transit oriented development (TOD) is characterised by:*

- *a rapid and frequent transit service*
- *high accessibility to the transit station*
- *a mix of residential, retail, commercial and community uses*
- *high quality public spaces and streets, which are pedestrian and cyclist friendly*
- *medium- to high-density development within 800 metres of the transit station (i.e. the TOD precinct)*
- *reduced rates of private car parking.*

The document notes that '*transit oriented development' is often used incorrectly to describe a single development adjacent to or above a transit station. TOD refers to the set of principles applying to the broader precinct surrounding the station, rather than any individual development within it.*

TOD precincts generally include the neighbourhood within a comfortable 10-minute walk of the transit station (a radius of about 800 metres). TOD provides a mix of different land uses and community services and facilities so people can live, work, shop and socialise within a short walk, cycle or transit trip of their homes.

Major centres often enjoy "express" and/or more frequent transit services and so are more attractive for TOD. However, redevelopment opportunities need not be limited to major centres. For example Rhodes Station on the Main North line was previously surrounded by industrial development and was not regarded as a major centre. Even so following its Government sponsored re-development, Rhodes Station has experienced significant patronage growth.

Master-planning also can support similar TOD outcomes in green field locations, for example as is occurring in relation to the South West Rail Link at Edmondson Park Town Centre. Master-planning in this location is being driven by Government and will allow for residential subdivisions to develop over time to create the population density to support the town centre and utilise rail and other transport services.

2.1.2 Transit-oriented development in NSW

TfNSW is progressing initiatives underpinned by transit – oriented development principles in a number of locations across the CityRail network associated with major rail infrastructure projects, such as the North West Rail Link (NWRL) Project.

North West Rail Link

As well as addressing the demand for better transport access, the NWRL will drive the further development of North West Sydney. It provides the opportunity to develop a fully integrated approach to transport and land use planning that connects people and the communities in which they live, work, learn and play.

The planning approach being adopted for the NWRL recognises that development will occur over time, but that measures must be taken now to provide a robust framework within which this development can occur. A North West Rail Link Precinct Planning Working Group comprised of the Project Office, the Department of Planning and Infrastructure and Councils along the corridor has been established to progress urban development and connectivity around stations and within the NWRL corridor. It will also investigate funding mechanisms for development.

The Working Group will oversight development of precinct plans for stations on the corridor and work will be undertaken with local Councils and other stakeholders to address long-term opportunities to improve connectivity. The aim is to ensure that the precinct planning will enable future transit-oriented developments associated with the North West to achieve:

- a mix of uses-employment, retail and community services located within a five minute (400 metres) walkable catchment – to reduce the need for trips to meet daily needs;
- precincts that promote connectivity and access to the stations, interchange facilities, key activities and uses;
- a population density within walking distance of each station (generally 800 metres) to provide the threshold to deliver a range of activities and uses;

- promote use of public transport including through parking policies and cycling strategies that aim to reduce car use; and
- facilitate well-designed development.

2.1.3 Value Capture

A challenge in developing and implementing the NSW Long Term Master Transport Plan will be identifying additional sources of funding for transport infrastructure. As well as underpinning and supporting growth in rail network patronage, developments/TODs located adjacent to and/or over the rail corridor also have the ability to unlock under-utilised real estate value.

In order for Government to capture a share of the financial benefits from TOD/increased development adjoining or over rail lines and the resulting higher property values, complementary value capture mechanisms are needed. These mechanisms can be tied to development planning instruments as occurred with the redevelopment of North Sydney Station, or form part of the development agreement structure, as was the case at Chatswood. The increased financial benefit (revenues) captured from these arrangements can be utilised to assist fund further infrastructure investment and services. That said, such revenues will only represent a relatively small contribution to the high cost of major rail infrastructure projects.

2.2 NSW Long Term Transport Master Plan

The NSW Government's priorities are set out in ***NSW 2021***, its 10-year plan to guide policy and budget decision-making to deliver on community priorities for public services and the provision of infrastructure. ***NSW 2021*** emphasises that an integrated transport system is required to ensure different transport modes work together and that the interests of customers are put first.

Careful long-term planning is needed to determine how the transport system should evolve to be integrated and customer-focused. The Government has therefore commenced development of the NSW Long Term Transport Master Plan which will map out a sustainable transport strategy to support the state's development over the next twenty years. A twelve month consultation process has commenced to ensure a wide range of views are incorporated into the Plan.

The Plan will address transport needs in metropolitan, regional and rural areas. It will address congestion in cities, create strong connections with regional centres and have a strong focus on improving the State's overall productivity and provide a sound basis upon which future investment decisions can be made.

Complementing the Long Term Transport Master Plan will be Freight and Ports Strategies which will outline the challenges and opportunities for the freight and logistics sector over the next twenty years.

The CityRail Network is the backbone of Sydney's public transport system, forms a critical part of the east coast rail freight network and provides freight and passenger rail service connections to Wollongong, the Central Coast, Newcastle and the Blue Mountains and along which there tends to be higher density of homes and businesses. A key element of the Long Term Transport Master Plan will be determining how that network will develop over the next twenty years to meet the forecast growth in passenger and freight demand. It will also form the basis for further consideration of locations on the network that provide the greatest potential

for development consistent with the Government's objectives for transport and to cater for population growth.

2.3 The Metropolitan Rail Network – Its Role and Requirements

2.3.1 Passenger Rail

Sydney residents make nearly one million train trips on an average week day on the CityRail network, with nearly 50 per cent of the journeys to work in the CBD by rail.

Over the next 20 years train patronage is expected to grow by around two percent each year, meaning overall patronage could grow by 40 percent by 2031. Over the next ten years the focus will be on extending the reach of the CityRail network, with construction of the South West Rail Link and the North West Rail Link. Alongside these it will be necessary to make the existing network function more effectively and to address capacity constraints as they occur, through initiatives such as the Rail Clearways Program, which is delivering improved capacity and reliability on the network. Patronage on many existing parts of the rail network is increasing as a result of urban development for example, on parts of the North Shore and Illawarra lines. Capacity enhancements will be required and options for network amplification will need to be preserved to cater for this growth.

As well as the rail corridor and rail specific facilities such as stations, stabling yards and maintenance facilities, provision will also need to be made for additional car parking at stations and interchange facilities that provide for ease of transfer between modes.

2.3.2 Freight Rail

While there is a dedicated freight rail network which serves Port Botany and the Enfield-Chullora area, an important feature of the CityRail network is that freight rail services also operate across parts of it - on the Western line, the Main North Line and on the Illawarra line. Once construction of the Southern Sydney Freight Line is completed, freight services currently operating on the Main South Line will operate on this new single-track between Sefton and Macarthur, providing for a dedicated freight line from the Sydney-Melbourne mainline through to Port Botany.

Freight movements on the CityRail network include the haulage of bulk export goods to port, inter-capital freight and container movements to and from the ports. Port Botany accounts for almost all import-export containerised freight in NSW, with 85% of containers destined for delivery within 40 kilometres of Port Botany. The proportion of containers carried to and from Port Botany by rail is currently around 14%.

Freight demand overall could double by 2031and ***NSW 2021*** includes a goal of doubling the proportion of container freight movement by rail through NSW ports by 2020.

To deliver an efficient and competitive rail freight transport system, improvements are necessary to increase capacity and efficiency across the rail-based supply chain. Recently, the Commonwealth and NSW Governments signed an agreement to commence work on the Northern Sydney Freight Corridor Program, a series of infrastructure upgrades to improve the capacity and reliability for freight trains on the Main North Line between North Strathfield and Broadmeadow, Newcastle.

2.4 Implications for adjacent development

As previously mentioned transit-oriented development at key locations on the CityRail network is already being progressed, including with the North West Rail Link and at North Ryde. Such development must be compatible with the primacy of the transport function of the corridor and its related infrastructure and services. Most importantly, adjacent development must support the integrity and safety of the transport infrastructure and services and, over time, allow for their amplification, expansion and development (for example for additional tracks, interchanges, car parking and stabling facilities for passenger rail and intermodal terminals for freight services).

A key challenge in catering for increased passenger demand will be maximising the efficiency of the existing network. This can be assisted by strategically located development with a good mix of uses, including employment and retail. For example, development away from the Sydney CBD, as has occurred at Hurstville and Parramatta, allows for rail patronage growth to these locations. This can reduce the demand for travel to the CBD and also utilises peak services from the CBD in peak periods which have ample capacity.

Freight services operate over significant parts of the network, are powered by diesel locomotives and generally have greater noise and noxious emissions impacts than passenger services. As such their operation will impose limits on the nature and type of nearby developments more so than those imposed by the impacts of passenger rail services.

Identification of these considerations however is not intended to prevent residential, commercial or retail development or inhibit revenue generation. Rather it is to emphasise greater effort must be placed throughout the program development process to ensure the correct balance is achieved between the requirements of the transport function of the corridor and those of the development.

3. History of developments adjacent to or over rail corridors in NSW

3.1 An Overview

During the 1960s and 1970s, the former State Rail (and its successors) had considered a large number of potential locations for the disposal of air space and land adjacent to the rail corridor. However only a more limited number of locations were developed including at:

- Hurstville
- Kogarah
- Wynyard
- Goulburn Street Car Park
- Campsie
- Bankstown
- North Sydney

More recent examples include:

- Bondi Junction
- St Leonards
- Blacktown
- Chatswood
- Wolli Creek

Traditionally, the grant of rights to commercial operators for development above, on land under, and adjacent to the rail corridor was based on rail stacking heights and other key payload factors, especially the capacity requirements of freight operations; it also recognised the need to control activities at or adjacent to station entrances and the maintenance of structures over air space.

In July 1984 State Rail adopted a recommendation of the State Rail Property Advisory Board [i] "that when stratum of land forms part of the station access a sale would not be recommended."

In 1988 the New South Wales Commission of Audit reviewed the State's policy for dealing with State-owned land and reported that:

> *freehold title should be contemplated when the site is generally surplus and there is no reason for the government to wish to retain some form of control.*
>
> *Long leasehold should be contemplated where the interest in property being realised is associated with government operations (for example air rights over stations) or where it involves a major Government sponsored scheme (for example Darling Harbour).*

In 2005 RailCorp adopted a similar approach; the granting of leasehold and freehold title to air space over the rail corridor was to be avoided unless it could be robustly demonstrated that it would not unduly restrict the future use of the corridor and in such cases, RailCorp should maintain control over the development.

Although this history reflects caution with granting freehold title, especially to air space rights over rail stations, a sample of existing developments on the rail network indicates both freehold and leasehold arrangements are in place. For example air space rights over the rail corridor at Hurstville (1961), St Leonards (1980s) and Wynyard (circa1960) are subject to longer-term leases while those at Blacktown (1991), Wolli Creek (2003) and Chatswood are freehold title. Air space rights at Bondi Junction were converted from leasehold to freehold in 1998. Where adjacent Government land formed part of the development at these locations, RailCorp and its predecessors entered into a mix of leasehold and freehold arrangements.

[i] The Independent State Rail Property Advisory Board was established in 1981 to advise on the establishment of policy guidelines in respect of property matters and also considered property matters falling outside the guidelines. It was disbanded in 1991.

3.2 The Outcomes

3.2.1 The Transport and Land use Benefits

From the transport and land use benefits perspective, the outcomes from developments adjacent to and/or over rail in NSW have been mixed.

The Forum at St Leonards is an example of development which adds to and benefits from the station's and rail corridor's transport function. It combines residential, commercial and retail development and provides a vibrant place to live and work. It adjoins a key transport corridor which forms part of the economic corridor linking Hornsby/ Macquarie Park through the CBD and to locations further east, south and west. It is a place of importance in the local urban landscape for both public transport users and the community at large.

Likewise, the Parramatta station and interchange re-development is a good example of integrated non-residential development providing connections to and from the rail station and bus interchange to the adjacent Westfield shopping complex and to local employment destinations. The connection allows ready sub-surface access to bus and rail travel, providing an attractive alternative to car use while retailers benefit from the ready access public transport users have to their businesses. These benefits have been achieved without needing to develop over the rail corridor. Furthermore the development has been designed to provide adequate capacity for the rail system and for future subsurface development without disruption to rail services.

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. The residential component of the development is under construction and as retail develops, Chatswood should continue to grow as a vibrant centre.

By comparison, the space for the recent redevelopment of North Sydney Station 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.

3.2.2 Realising Value

Thus far, the approach of Government has mostly been to tender to the market to divest surplus railway land (and in some cases air space development rights) in exchange for the developer carrying out station upgrade and or other works (eg interchanges and car parks). The cost of the station upgrade and/or commuter facility is deducted from the purchase price which is sold at market value. The Government/community receives an asset, without Government being required to provide upfront funding for the asset or make any financial contribution to the development. Long-term leaseholds attract either an annual rental income or an initial one-off capital payment for the duration of the lease term.

The potential returns to Government from such arrangements are not inconsiderable. Nevertheless, such returns will only ever represent a relatively small contribution to the high cost of major rail infrastructure projects.

3.3 Considerations for the Future

3.3.1 Protecting the Integrity and Safety of the Rail Corridor

Developments adjacent to or over the rail corridor must be planned to connect to rail infrastructure in such a way to ensure they deliver outcomes which support the primary transport function of the corridor, sound urban design and transport planning principles. This also enables the risks to rail operations to be reduced during the construction phase and ensures that the completed built form of the development does not create future operational risks or limit future corridor and network development.

This position has been borne out by past experience.

The 1977 Granville train accident forced a major re-evaluation of engineering standards around building and bridge supports within or near the rail corridor, to ensure that safety must always be the overriding priority.

A number of earlier developments over rail corridors have proven problematic. A car park at Marrickville Station included the placement of support columns in the rail corridor area. Over time the structure deteriorated and as rail operations increased, the risk of collision with the support columns resulted in the car park being removed at a high cost to Government/RailCorp.

The Goulburn Street Car Park between Central and Town Hall Stations in the southern CBD was constructed over the rail corridor in the 1960s. The permanent train speed through this area is to 30km/hr, less than the track speed of 40km/hr which would apply if there was no car park. This is not an outcome supportive of the efficient operation of a critical part of the CityRail network.

Recently however more consideration is being given to the requirements of the operating railway when designing structures over rail corridors. For example, just north of Chatswood Station, the private sector has constructed a rail enclosure structure (RES), according to rail requirements, providing space for rail tracks passing underneath, with trains operating at up to 80km/hr. High rise residential apartments have been built on both sides of the RES, the top of which is being used for outdoor recreational activity for the residents of the apartment block.

The concept plan at Wolli Creek has been amended to move away from including air space development over the station. RailCorp understands this reflects the changing sentiments to building over the air space and the construction/cost difficulties of doing so.

3.3.2 Planning Issues

The *NSW Environmental Planning and Assessment Act 1979* is currently the subject of a comprehensive review. This provides TfNSW with the opportunity to contribute to shaping future planning arrangements, including as they apply to developments adjacent to and in rail corridors. As such developments become more commonplace; the planning framework will need to provide a predictable and transparent pathway for their assessment.

A number of planning instruments and provisions already exist to facilitate such development. These are addressed below, with comment on aspects where amendment may enhance their effectiveness.

NSW State Environmental Planning Policy (Infrastructure) (ISEPP)
The *State Environmental Planning Policy (Infrastructure) 2007 (ISEPP)* provides for a range of permissible development in rail corridors. Specifically:

- Residential, retail or business premises in a rail corridor (if the development is wholly or partly above a railway station) as development permissible with consent and may be carried out by any person; and
- Retail or business premises in a railway station complex, including areas in the complex that commuters use to gain access to station platforms as development permissible with consent and may be carried out by any person, in a prescribed zone (which covers IN1 General Industrial, IN2 Light Industrial, IN3 Heavy Industrial, SP1 Special Activities, and SP2 Infrastructure).

Local environment plans made by councils and other environmental planning instruments may make provisions for the zoning of land. Currently, the vast majority of RailCorp's landholdings are zoned either Special Uses Railway (under the old LEP zone classification system) or SP2 Infrastructure (under the current standard LEP template zone classification system). There are currently only a small number of stations with a zoning that would permit air space development. The ISEPP however prevails to the extent of any inconsistency over any other environmental planning instrument and so provides an alternative pathway to developing at rail stations.

Highlighted above are the complexities of ensuring developments over rail corridors protect the integrity and safety of the corridor and rail operations. Addressing these incurs considerable costs in terms of the more complex design and additional architectural, structural, insurance, rail safety and engineering associated with developments in air space above an operating railway. Added to this is the extended period of construction resulting from the need to construct the development during limited periods of track possessions. In order to cover these costs and realise a desired return on investment, higher building heights and floor space ratios are normally required. These controls are contained in local environmental plans and may not provide for the extent of development that would make proposals feasible. Councils may be reluctant to amend these controls because of community sentiment.

Because of interface issues with rail operations, development directly above the rail corridor may often not be possible from an engineering perspective or represent suitable land use. While the ISEPP provides for retail or business premises in a railway station complex to be permissible, residential development must be wholly or partly above a railway station.

The ISEPP does allow for State land (that is not zoned for conservation purposes and not subject to a standard local environmental plan) to adopt the zoning and development controls of neighbouring land, subject to a site compatibility certificate being issued by the Director-General of the Department of Planning. Where neighbouring land is zoned residential this may overcome the limits on residential development adjacent to but not over the rail corridor. However it doesn't address those circumstances where the neighbouring land is not zoned residential. Furthermore, the ISEPP doesn't apply to land adjacent to the corridor which is not state-owned land. This complicates planning processes where development of such land is part of a proposal including rail land covered by the ISEPP.

The State Environmental Planning Policy (State and Regional Development) 2011 (The S&RD SEPP)

This SEPP was one of a number of interim provisions introduced, pending the outcome of the planning review, which is of relevance to developments adjacent to and in rail corridors.

The State Environmental Planning Policy (State and Regional Development) 2011 (The S&RD SEPP) declares *as* State Significant development that is permissible with consent within a rail corridor or associated with railway infrastructure that has a capital investment value of more than $30 million for any of the following purposes*:*

(a) commercial premises or residential accommodation,
(b) container packing, storage or examination facilities,
(c) public transport interchanges.

A declaration that development is State Significant Development (SSD) means the Minister for Planning becomes the consent authority for an application, an authority the Minister has delegated to the Planning and Assessment Commission. State significant development is subject to the assessment regime set out in Division 4.1 of Part 4 of the *NSW Environmental Planning and Assessment Act 1979.*

Included in this SEPP are provisions which apply to State Significant Infrastructure (SSI), (which applies to a number of current major rail infrastructure projects) which is subject to different assessment provisions to those of SSD.

The State Environmental Planning Policy (Urban Renewal) 2010.

The State Environmental Planning Policy (Urban Renewal) 2010, aims:

(a) to establish the process for assessing and identifying sites as urban renewal precincts,
(b) to facilitate the orderly and economic development and redevelopment of sites in and around urban renewal precincts,
(c) to facilitate delivery of the objectives of any applicable government State, regional or metropolitan strategies connected with the renewal of urban areas that are accessible by public transport.

While it's acknowledged this SEPP provides a mechanism specifically for transit-oriented development at designated locations, there would be improved outcomes from developments adjacent to rail corridors more generally if the principles on which the SEPP is based – for land use and transport planning integration - were given greater prominence at all levels of the planning system.

Development Assessment

In the past rail agencies had difficulty influencing developments built by others on land adjoining and over the rail corridor. As adjoining landholders, they were able to advise Council of issues and request certain conditions be imposed on developments in order to protect the rail infrastructure, rail corridor and train services. However, Councils were only required to consider submissions made by rail agencies and could ignore their concerns, which occurred in some instances.

There were also instances where development occurred on property adjoining the rail corridor where RailCorp was not advised and so did not have the opportunity to advise Council of any issues. As a result, some of these developments were not constructed with the controls necessary to manage the excavation and construction impacts on the rail corridor, nor were they required to meet appropriate derailment protection, noise, and vibration and electrolysis standards.

The ISEPP 2007 addressed this situation and RailCorp is now a concurrence authority for major developments involving excavation in, above or adjacent to rail corridors. This enables RailCorp to advise Council of the requirements needed to protect rail infrastructure and train services and ensures that a local Council imposes the requested conditions of consent. RailCorp advises it has not withheld concurrence for any development referred to it under these provisions.

Councils are also required to advise RailCorp of other developments adjacent to the rail corridor and take RailCorp's comments into consideration when determining the development application.

With the introduction of the ISEPP, the Director-General of Planning also released the document *"Development Near Rail Corridors and Busy Roads - Interim Guideline"* to assist in the planning, design and assessment of development in, or adjacent to rail corridors. Any development above or adjoining the rail corridor will need to comply with this Guideline, RailCorp Engineering Standards and Australian Standards in order for RailCorp to grant concurrence.

3.3.3 Compatibility of Uses

Generally, the zoning that applies to a site permits a number of different land uses However, not all the permitted land uses may be suitable or appropriate when located above a rail corridor. For example, an air space site may be zoned mixed use and may allow the conversion of an office building above the rail corridor to be converted to residential accommodation. While the original office building may have been constructed to meet noise and vibration requirements applying to a commercial building, these requirements may be lower than those applying had the building been originally constructed for residential purposes. Future occupants may be subjected to unreasonable noise and vibration impacts that in turn increase the number of complaints about rail operations.

Furthermore certain activities may not be suitable above or near a rail corridor due to the way a rail corridor operates. For example, health services may not be suitable as the electro-magnetic frequencies emanating from a rail corridor may affect digital imaging equipment or research facilities due to the strict tolerances they need to adhere to.

3.3.4 Heritage

RailCorp has more statutory listed heritage assets than any other NSW Government agency and manages these assets in accordance with the NSW Heritage Act 1977 and State Agency Heritage Guide. The listing of an item does not preclude alterations or additions for utilisation of air space and land adjacent to the rail corridor. However, it is necessary to ensure that any proposed works consider impacts on heritage significance.

Many stations are located in historic town centres and new works need to consider impacts on the heritage items in the vicinity and the social significance of a place to its community. Opportunities for conservation works and/or interpretation works for further revealing the significance of a place should be accounted for when proposing and budgeting for works adjacent to heritage assets. Any new works to a heritage location should ensure new design is of high quality and sympathetic to its historical context.

The 2006 upgrade of Parramatta Station provides an example of a major station upgrade with high quality design and conservation/interpretation of existing historic station buildings.

4. Developments elsewhere

The international examples provided below highlight the variety of approaches available to maximise the benefits of developments adjacent to or over rail corridors. In particular, MTR in Hong Kong is heavily involved in property development, complementary to its operation of the Hong Kong railway.

4.1 Hong Kong

The MTR Corporation was established as a government owned company to operate the Mass Transit Railway in Hong Kong. After an initial share offering, the company was listed on the stock exchange in 2000 and in 2007 merged with the Kowloon-Canton Railway Corporation allowing for new growth outside of Hong Kong.

Today, MTR Corporation is involved in a wide range of business activities in addition to its railway operations. These include the development of residential and commercial projects, property leasing and management, advertising, telecommunication services and international consultancy services.

MTR owns and manages 43 properties associated with 152 stations on their network. The organisation bases this business on integrated property development that allows MTR to lead and coordinate the development process to complement their transportation task. MTR is responsible for the development process from inception to management after completion, including:

- Preparing the development master plan and phasing;
- Resolving all interfaces with the railway;
- Tendering of the land parcels;
- Liaise between different developers;
- Monitoring the quality of the developments; and
- Property management after completion.

The MTR approach is underpinned by the principle that proper integration with the railway maximises the development potential and land value of their rail corridor. Any profits generated from the developments help to fund railway construction costs. Station, commercial and rail related business accounted for 12% of MTR's revenue in 2010; property rental (on and off the rail corridor), management and other business accounted for a little over 10%, revenue from passenger services (including fare revenue) was 42%, and from railway subsidiaries outside of Hong Kong, 34.4%.

MTR developments include shopping centres, offices, hotels, residential towers, stations, car parks and public transport interchanges in one urban centre. This contributes sustainable financing for capital intensive railway improvements. MTR's approach is to tailor each development to urban density and land resources and some developments involve partnerships with government agencies.

However, it's important to note that high-rise developments over and/or adjacent to MTR rail corridors and stations are usually designed, developed and constructed at the same time as is the rail infrastructure/station. This approach ensures the development integrates with the rail infrastructure, and is compatible with the requirements of the operating railway. It also avoids the complexities, costs and challenges of building over an existing operating railway.

4.2 Tokyo

Tokyo Metro is owned by the National and Tokyo Metropolitan Governments.

While the main focus of Tokyo Metro's business is delivering a safe and efficient transportation service, to further increase customers' satisfaction, affiliated businesses focusing on effective use of unused land and spaces within station premises are actively pursued through three divisions:

- Retail related business, which develop commercial facilities in stations, including underground shopping malls, combining railway facilities with small shops and kiosks as well as connecting stations to existing or new shopping or cultural facilities. Additionally Tokyo Metro issues credit cards equipped with 'PASMO' functions, which are a combination of a metro card and small limit credit card that can be used at the station facilities.

- Real estate business develops office buildings, hotels, housing, rental storage space, etc primarily in areas near Tokyo Metro railway lines, though some property interests are not connected to the primary business. They actively develop real estate projects, singularly and in partnerships, and promote the revitalisation of areas along the railway lines.

- Advertising and Information Technology business make available traditional poster advertising and digital signage in the trains and on the platforms and provide wireless Local Area Network services in stations.

Tokyo Metro is structured around two separate business streams, one focusing on the transport functions and the other on the affiliated businesses on the rail corridor. From April 2009 – March 2010 revenue from affiliated businesses accounted for 2.9% of the combined operating revenue of the two business streams, passenger transport (including fares) accounted for 85%, with trackage and miscellaneous income accounting for the remaining 12%.

4.3 France

SNCF (Société Nationale des Chemins de fer français; "National Corporation of French Railways) operates most of France's trains. It consists of five divisions; Infrastructure (engineering and network upgrades), Local and Regional Transport Services (operations), High Speed Rail, Freight and Logistics and Station Management.

The role of Station Management (Gares et Connexions), which was established in 2009, is to promote the development of passenger stations to improve the way they work including through redesigning and reinventing the station areas.

There are three departments within Station Management: Operations, Development and Strategy and Finance. Services and Operations oversee the division and manage the rail, retail and public areas of the stations. This includes in-station rental contracts, building management and service delegations in conjunction with A2C (a SNCF subsidiary organisation which designs, builds, markets and manages property (chiefly retail units) in station areas but is not a part of the parent company).

Development division develops and manages major in-station development projects while Strategy and Finance manages financial and accounting activities, defines station access prices and plans and manage investment programs.

Station Management covers 3000 stations across France and in 2011 earned approximately 3% of SNCF's revenue. Revenue attributable to Local and Regional Transport Services (which includes fare revenue) was approximately 36% in that year.

5. What's needed to get the balance right

5.1 Strategic identification of sites for development

The Long Term Transport Master Plan will be aligned to other NSW Government and Australian Government policies and plans, including the Metropolitan Plan for Sydney and the Regional Strategies released by the Department of Infrastructure and Planning. It will need to take account of national strategies such as Infrastructure Australia's National Freight Strategy and National Ports Strategy. The Plan will link with ***NSW 2021*** and the State's 20 year Infrastructure Strategy being prepared by Infrastructure NSW. It will include a number of modal strategies, including one each for rail and for freight. Within this broader context, for the first time TfNSW will be well-positioned to robustly identify locations across the rail network from Newcastle to Wollongong and to the Blue Mountains, suitable for development. This will provide for a considered and staged approach to development over time.

A number of issues will need to be addressed in this process and they are set out below.

5.1.1 Understanding the Transport Requirements

The primacy of the transport function must remain the principal consideration when determining locations for potential development. As a starting point, the demands on the rail network over the longer-term must be understood and provided for in determining what land adjacent to the rail corridor can be made available for development.

For passenger services this will involve estimating:

- the extent and location of increase in demand across the metropolitan network;
- the needed increase in train services, infrastructure upgrades, track amplifications and network extensions;
- the additional rolling stock, maintenance and stabling facilities needed to support these service increases, and
- making provision for transport interchanges, cycling and walking to stations and commuter car parking.

The Long Term Transport Master Plan will identify the preferences of different types of train customers - more frequent and faster services for short distance commuters; and trip comfort and better seating for those travelling longer distance. Provision will also need to be made for any future developments in the rail network that respond to these needs.

In terms of freight, consideration will also need to be given to:

- the forecast growth in rail freight and the locations on the rail network most impacted by this. Importantly the forecast large import freight task must be accommodated;
- locations on the CityRail network where upgrades will be needed to cater for this growth and to manage freight service interaction with passenger services, including track amplification; and
- providing locations for intermodal terminals.

5.1.2 Understanding the potential value of development locations

Developments surrounding rail corridors across the CityRail network are yet to peak in utility, scarcity and desirability. Consequently, the value of rail corridor air space across the Greater Metropolitan Area of Sydney is relatively low across the entire network (with some exceptions, for example the Sydney CBD, Parramatta, Bondi Junction and Chatswood), and not yet at a level sufficient to negate the high costs of developing over an operating railway – i.e. the costs of ensuring the development's structural independence from the railway and that it does not constrain the railways future development.

Land adjacent to rail corridors, especially near stations, is increasing in value due to the lesser construction costs, the competing housing and commercial interests and market demand for development in these locations due to the public's increasing desire to be close to rail services.

Currently it is more common for developments to be adjacent to and interface with rail stations rather than be located in air space directly above the rail corridor. This is likely to be the case until economic factors increase market demand for air space development.

It's noted that air space rights-in terms of building heights and floor space ratio-can be bought and transferred to another location. At Edgecliff air space rights from the bus interchange have been sold to the owners of an adjoining residential block.

5.1.3 Market Conditions

Determining the feasibility and timing to develop in the rail corridor (as in any location) will depend on market conditions, both with respect to demand and the availability of finance.

A report recently prepared by KPMG[ii] on the state of infill property development in Queensland serves to illustrate this point. The property funding dynamics prevailing when KPMG prepared its report were characterised by:

- A commercial property market that had deteriorated;
- A residential property market that remained resilient;
- The Global Financial Crisis (GFC) which served to drastically reduce the availability of finance, increased the cost of debt and equity and tightened lending conditions; and
- New prudential requirements.

As a result and compared with pre-GFC levels, few infill development projects commenced due to financing difficulties.

[ii] Barriers to Financing in-fill Property Developments: Supplementary Report, March 2011, prepared for the Queensland Government by KPMG

In 2011 the NSW property finance market was also being affected by:

- a reduction in the availability of debt financing combined with limited access to equity;
- loan conditioning that was prohibiting a number of developments from achieving financial deal closure;
- substantially increased debt funding costs;
- lower and decreasing capital values; and
- decreased tenant or purchaser demand in some market asset types.

5.1.4 Rail Infrastructure Capital Program

As mentioned above the NSW Long Term Transport Master Plan will enable the strategic identification of potential locations across the CityRail network suitable for development. In addition planning for the rail network capital works forward program should assess, in collaboration with local Councils and the Department of Planning and Infrastructure, the opportunity for complementary development.

As indicated already, this occurs with major rail infrastructure projects. However benefits can still be obtained from smaller scale initiatives. For example an Easy Access Upgrade at a local station may be an opportune time to also develop a nearby parcel of rail or privately-owned land, which may return benefit in terms of improved access, amenity and connectivity for station users and the potential for developer contribution to the upgrade cost.

5.1.5 Controlled development

Where developments over and adjacent to rail corridors are contemplated, including those which encompass privately-owned property, it's preferable that precinct master planning be undertaken with key stakeholders, including Councils and Department of Planning and Infrastructure, to establish the framework for development over time.

This will serve to identify:

- land availability and the scope of potential development, including potential partners for development;
- the objectives of the development, how it will connect to and enhance the local community and align with transport and land use planning outcomes;
- rail network and operational demand and design requirements, including for future service and infrastructure capacity requirements; and
- requirements for access to all forms of transport to and through the station, including bus interchange, walking and cycling and commuter car parking location including.

To minimise the risk of development limiting future rail infrastructure upgrades or not allowing for improved or additional services, it's preferable that TfNSW either take the lead or remain a major stakeholder in preparing master plans or development applications, ensuring engineering and design requirements of operating adjacent to and/or over a rail corridor are incorporated in any approved development which may be subsequently tendered to the market.

5.2 The Planning Framework

As outlined under 3.3.2 a variety of planning instruments and provisions exist to facilitate development in and adjacent to rail corridors. The review of the planning system now under way provides the opportunity to build on these and develop predictable and transparent pathways for assessing rail corridor developments.

TfNSW is participating in this review and in relation to rail corridor developments to ensure that particular regard be given to:

- The need for integration of land use and transport planning to be given greater prominence at all levels of the planning system;
- Development of better mechanisms for transport infrastructure contributions;
- More streamlined assessment for major transport infrastructure, including TOD and SSD; and
- Better protection of transport corridors and transport infrastructure.

5.3 Development Framework

5.3.1 The Development Structure

The usual approach to date has been for Government to tender to the market to dispose of surplus railway land (and in some cases air space development rights) in exchange for the developer providing a rail asset and for longer-term lease arrangements. However, the structures of agreements applying to existing developments are unique and this will likely need to continue.

Nevertheless sound principles need to underpin these structures and should include:

- transparent and appropriate risk allocation between the parties;
- a suitable return to Government;
- clear accountabilities for maintenance and upgrade of both rail infrastructure and the development;
- provisions which allow for expansion and upgrades to rail infrastructure

5.3.2 Longer Term Management of Development/Rail Interface

Rail infrastructure assets, including track alignment, tunnels and stations usually have a 100 year whole of life, with major refurbishment at key intervals over that time. Residential apartments, commercial offices and retail premises have a whole of life expectation of generally less than 100 years, with expectation of regular refurbishment in intervening years.

Early in negotiations for developments adjacent to and/or over rail corridors consideration must be given to the engineering and ongoing operational and maintenance requirements associated with developments interfacing with an operating railway, that appropriate arrangements are negotiated with developers to address these and that they form part of the development agreement/structure.

These agreements should also address expectations and requirements for how the development will be adapted and updated over time and make provision for upgrades to rail infrastructure and facilities and for increased rail patronage.