

REPORT OF PROCEEDINGS BEFORE

COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

INQUIRY INTO THE UTILISATION OF RAIL CORRIDORS

At Sydney on Monday, 26 March 2012

The Committee met at 10.42 am

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PRESENT

Mr Charles Casuscelli (Chair)

Ms Tania Mihailuk

Mr Tim Owen

Mr Greg Piper

Mr Paul Toole

CHAIR: Good morning ladies and gentlemen, I am delighted to declare the first hearing of the Inquiry into the Utilisation of Air Space Over Rail Corridors and Adjacent Land open. This public hearing is being conducted as part of the Committee on Transport and Infrastructure Inquiry, as I have just stated.

Mr Wielinga, Ms McNally and Mr Reardon, can I confirm that you have been issued with a copy of the inquiry's terms of reference and the relevant Legislative Assembly Standing Orders in relation to the examination of witnesses?

Ms McNALLY: Yes.

Mr WIELINGA: Yes.

Mr REARDON: Yes.

LESLIE ROBERT WIELINGA, Director General, Transport for NSW, 18 Lee Street, Chippendale;

CAROLYN ANN McNALLY, Deputy Director General Planning and Programs, Transport for NSW, 18 Lee Street, Chippendale; and

TIMOTHY PETER REARDON, Deputy Director General Policy and Regulation, Transport for NSW, 18 Lee Street, Chippendale, sworn and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal or administrative action that might otherwise result in relation to the information that you provide this morning. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament, an offence under the Parliamentary Evidence Act 1901. I now invite any of you to make a brief opening statement.

Mr WIELINGA: I was going to briefly make some comments, Chair, but I think we might get straight into the questions with your permission, so that we make the most of the time we have.

CHAIR: Thank you. I would like to open the examination and any other Committee members will ask a few questions as we go through. We have a number of questions. I would like to ask if we do not get through all the questions at this meeting, would you be prepared to take the questions on notice?

Mr WIELINGA: Absolutely. We are happy to do so. Given the importance of this issue, I appreciate other opportunities to make an input as well.

CHAIR: The opening question is a very general one and please do not feel obliged to have a half hour dialogue on this. Can you explain exactly what responsibilities Transport for NSW and RailCorp each have relating to planning and approving of rail corridor developments?

Mr WIELINGA: It is an interesting question and quite a complex one. In the simplest term, if a development occurs within or over the top of a railway line inside the corridor that is owned by RailCorp, clearly they are the proponent and the planning approvals would be a state planning approval through the Department of Planning. If the developments that occur in the vicinity of stations or corridors start to affect beyond those corridors, local planning approvals come into play. If a change is warranted to those local planning approvals under SEPP 1, an applications needs to be put in, the benefits need to be argued and it needs to go through those planning approval processes.

Even in planning approvals that are within a railway station itself there is an obligation to consult

with other agencies as well within the State Government. Very often things like heritage issues arise and those sorts of things. The short answer is that the planning approvals are quite complex around these areas and it does depend on the nature of the development and the land it impacts and the planning and approval authority that is impacted.

CHAIR: Is there any division or unit component within either Transport for NSW or RailCorp that actually actively promotes or encourages utilisation of air space over rail corridors?

Mr WIELINGA: I am probably telling you something that you already know. You would be aware that this Government has moved to create an integrated transport agency. It has been given responsibility to do an integrated transport plan for future corridor development and for future development of the transport system. The responsibility for looking at that now is with Transport for NSW but clearly we need to work with those effective agencies to make this happen.

Development over brownfield transport corridors is quite complex and I can go into that and probably the best way to do it is to talk about a practical example. There is a number of ingredients that need to be brought together to deal with it effectively. The first is that you need a good understanding of what is happening with your transport corridor over a long period of time, to give you confidence that what is being done is compatible with the developments going forward in the longer terms. There needs to be a strong connection with land use.

Many of the serious developments in a brownfield site rely on what is happening in a broader precinct to get them a guernsey, to make them work, to get the financial case. Doing developments on existing transport systems is quite complex. If you were looking at the area from Central through to Macdonaldtown, for example, there is 110 hectares there that is available in land and in an ideal world if that 110 hectares was available and that severance was not occurring, the development opportunity would be outstanding.

The question then becomes how do you fit the structures over the top of that, or what do you do to the railway system there with the clearways program that is under way. Clearly we are separating out and untangling some of those lines to get a simpler operation. That needs to be facilitated. There are issues with the safety of structures so that if they are hit by trains they do not come down and that sort of thing. An example of that is the Goulburn Parking Station, where we have a speed limit at the moment because of the potential of those piers being hit, so you need to make the two compatible.

In addition to the planning approval that we are talking about, there is a construction coordination process that needs to be put into place to make that happen. The truth is that you need to bring together a development opportunity, management of the transport system, the planning approvals and the construction management and looking after the development of the precinct over a longer time. You have to deal with property issues, the stratum that need to be created. To make this happen effectively you have to bring together a group of people who have the capabilities, the skills and the knowledge to make these developments happen.

Certainly when we have looked around in recent times for brownfield developments on railway networks around the world, it is very difficult to find one. There is a lot of greenfield sites and a lot of developments have occurred in areas with railway networks have been put together in the last 30 years. I do have a model for making this work, the type of organisation that is needed and we can talk about that in some detail now or at another time.

CHAIR: There are a couple of examples which I would like to use, just as examples and I do not expect you to know the detail, but it prompts me to ask some more questions later on. If we take Ashfield as an area of opportunity for these sorts of developments, at the moment Ashfield is a reasonably major railway station with a significant amount of bus services that come past the railway station.

It has very limited commuter car parking next door to the railway station. I know that the RTA is about to dispose of some land within walking distance of not only Ashfield but also the adjoining railway station, Summer Hill. I know that local government has land between the RTA owned land and I know that it is a significant opportunity in terms of some of the community facilities that are required around the area.

In the discussions I have had up until now in looking at what Roads & Maritime Services are now doing to dispose of that land and talking to council and talking to local community organisations about what is needed, what I see as a huge disconnect between what RMS is planning to do in terms of disposing of a reasonably valuable asset, but in disposing in such a way that it may not need collaboration of local government in terms of parcelling the land together to putting it together to optimise greater value. I certainly do not hear anyone talking about air space utilisation as part of the disposal process to add greater value to whatever it is that we want to sell. Certainly no one is sitting over the top of it saying that these are the sort of facilities we would like as a community that could be incorporated into future use of that land and air space.

So what you are proposing to do and have actually already done, could you go through a mechanism that would actually optimise the value of that opportunity today?

Mr WIELINGA: Yes. When you are looking at planning generally in Sydney the first thing that strikes you, from the top level there is no authority that looks after the whole of Sydney. The state looks after all of New South Wales and there are sixty or seventy odd local councils. I mentioned earlier about the planning approvals and how it affects different authorities. What you need is, as I said earlier, an entity that could bring all of those four or five things together that I mentioned to you to look at those opportunities.

At a strategic level starting it looks at how do you know that you have selected the right precincts for this development? What is needed? Now there are a few tests that can be put into play to do that. You need a long term transport plan; you need a long term land use plan for your city; you need to bring those together; you need to look at from a corridor point of view, where are the jobs and where are the people living, where are the opportunities for development? So strategically it has a tick to get it started.

You then come down to the level which is critical and that is the development itself. You have a look at a typical precinct around a transport or a railway station, for example. We know for a fact that people that live within 800 metres of those railway stations are high public transport users. They walk to the station, those sorts of things, so you need to develop the precinct. There are costs associated with the complexities of getting over the top so to get a viable development over the transport thing invariably involves getting a broader picture and bringing together development next to within the vicinity of in a precinct around these transport orientated developments.

What are the sort of things that are important and where are TODs most suitable? Greenfield sites have got a history of getting up, so brownfield is more complex, high population density is the critical factor and it helps.

Can the area be developed in a short period of time? Are there complexities in getting planning approvals and all that sort of thing? The private sector wants to be able to get on with the job and get it done fairly quickly. What are the planning risks for the private sector? How can they be coordinated and brought together? How complex is it? Can government give them a hand to get through it? What is the potential growth from property values in the area? It is very important for investment to take place.

At the particular time can the private sector obtain cost effective finance? It is a critical factor. Is

the government prepared to offer land or development rights to the private sector to facilitate those? Is there an appetite for a joint venture in those circumstances? That is critical. Is there an opportunity for consecutive construction programs? While we are fixing up the transport network, can we do the design and the structures that are needed to facilitate development in those particular areas?

Is there a demonstrated level of cooperation between all of the parties that are involved in this? Does government have a single one stop shop where people that are doing these developments can come and get their planning issues and their construction issues and finance, a joint venture type arrangement? I think that is the critical question to make this sort of development occur.

CHAIR: So who do you think should be championing the precinct vision per se because everything you have described is very, very practical, things that have to be done, but I do not hear that any one entity is going to be driving this vision across multiple government agencies and in the private sector for that matter.

Mr WIELINGA: I think it is some form of development authority and you are going to be sorry you asked that question.

CHAIR: Probably. I am sorry I have asked lots of questions before.

Mr WIELINGA: When you look at these sorts of things you have got to look in terms of what the activity, who is accountable for making it happen, who needs to be consulted, those sorts of things. Clearly when you are looking at identifying precincts for development, it is a matter for government and the Department of Planning will play a critical role in identifying those precincts. They will work with transport agencies and others to facilitate identifying those areas that have the potential for development.

Someone has then got to sit down and have a look at where that potential is and identify a precinct for development, both over the corridor and the facility area. I think the Department of Planning should have that responsibility to identify where they are. Once you have these precincts development you need a development authority type structure as a state owned corporation or someone with the authority to make it happen, to make that precinct happen. It is not just about developing a land use plan, putting that on public display for the community to comment, but it is about bringing together the infrastructure needs, to have a look at water and sewerage and transport and communications and public safety, all of those sorts of things that are needed.

It is about looking at that relationship between population growth and transport systems and liveable communities and understanding why people migrate into and out of particular areas as they are being developed. But just as critically, once you have a plan, someone has to stay there for the long run to make the development happen in the way that it is planned, to manage the development applications, to make sure that you get the outcomes that government is looking for in these particular areas and to generally monitor what is going on with the precinct's development.

That is going to mean sitting down with probably more than one council in these precinct areas and working together with them to get the outcomes that are needed and putting in a cooperative approach to manage those developments that are occurring. There are models around for this in other states. We have had single area type development authorities like the Sydney Harbour Foreshore Authority. This sort of model is the right sort of model, providing you give it the appropriate powers to get the outcomes that our community needs.

Mr PIPER: Mr Wielinga, thank you for that. You have actually covered quite a range of issues there in your answers. I guess that due to the broadness of the question I would like to ask, in relation to other examples of development of rail corridors worldwide, for example in Hong

Kong, I know we have a completely different demographic but they are generating about 52 percent of their annual revenue from property development. In what we are looking at here, clearly there could be complementary outcomes, outcomes beneficial to the local community, but given unlimited finances input would be useful.

We are looking at whether or not this would also be beneficial to the state through the sale or lease or development of those corridors. Can you answer as to whether or not you think it is a realistic proposition?

Mr WIELINGA: I personally do think it is a realistic proposition. The model that they have is the one that I have just been speaking about. It was a greenfields rather than development site, high population density, it met a lot of the criteria that I was talking to you about. It is a demonstration that initially a government model can be put into place to facilitate these sorts of outcomes. They designed their railway system and the development around it all at the same time and enormous returns out of it.

Developing transport systems is expensive so it was very high rise type development, there was a good financial return. Any of these developments have to have good business cases like that particular one but the model is a sound one, develop it at the same time as you develop your transport system.

Mr PIPER: Just on the percentage there, that is a very high percentage of income in that particular place.

Mr WIELINGA: They are the best in the world by a considerable margin.

Mr PIPER: Realistically we would be talking some 10 percent of income. Would you have any indication?

Mr WIELINGA: There is a lot of factors you should take into account. They are very tightly constrained physically. They have not got the enormous links. They have not got 3,500 kilometres of railway and 307 railway stations. They are much more tightly constrained. There are higher population densities than are common in our city. All of those are material factors to achieving this outcome. The critical point is that they did the development planning at the time they planned their transport system. It all occurred together.

At the end of the day it is a great opportunity for a transport company because those people are going to be using the system. We spend billions of dollars on these systems and getting high usage and high contra-flows is quite important, and that is the reason I mentioned earlier about the importance of looking at a corridor view, looking for your opportunity. At every level you have to reinforce the opportunities that are there and then you have to put in place the mechanisms for making it happen, strategy, structure and process at the end of the day.

You can systemically list against each of those three areas the things that you need to do and you can very quickly put a model together for brownfields.

Ms MIHAILUK: You mentioned earlier having that model and it appears to me that your model may be centred around having one entity, as you said the example of Sydney Harbour Foreshore. From what I can gather from the submissions and your thoughts on this issue, I would have thought that probably there would need to be virtually two different strategies for greenfield and brownfield sites. There is no doubt that the complexities that are involved in the brownfield sites far outweigh, I would have thought, the complexities of the greenfield sites.

Mr WIELINGA: I agree with you that there is a difference in complexity but I think a single authority could do both. The greenfield developments create the opportunity to do design for both

at the same time but, at the end of the day, you still have to coordinate all of those activities, the planning approvals, the construction activities and fitting it in with the building of it, the actual monitoring and managing of the development as it occurs, and a lot of it will occur after the transport system actually opens, so I would not be recommending you create two different authorities to do this.

Ms MIHAILUK: No. You mentioned earlier that when consideration is put together into which potential suburbs or CBDs would have opportunities for air space development, and you were looking at long term transport plans, land use planning, where potentially the jobs are opportunities and so forth, I think also looking at the fact that 1,000 new people each week come into Sydney and the vast majority are clearly going into the west and south-west and western Sydney areas where there are more opportunities for affordable housing, and I also think that consideration has to be given to the way we plan our city in terms of some areas being classified as a centre, as a regional centre, others are CBDs, and whether there would be a preference or preferential treatment given to existing areas that are already classed as CBDs which would, I would have thought, be more pivotal in seeing air space development in those particular sites.

Mr WIELINGA: The Department of Planning has what they call their cities within cities strategy, where they are looking at development of certain centres. It revolves around a couple of things. It revolves around reducing the time people travel to work. You create a centre and you radiate a transport system out of that major centre. You try to help the land use unfold so that you are creating employment in that centre and people travel into and out of that employment. That is certainly a legitimate strategy.

There is a human factor called the Marchetti constant, which says that from the time we lived in caves and went out hunting animals we only liked to travel an hour or two back each way. There is evidence that that is around even today. There is a limit to how far people are prepared to travel. As Sydney gets bigger the creation of those centres becomes quite critical in getting those sorts of outcomes. I think you have to overlay that. It is not only the overall strategy, it is when you decide where the precincts are and develop them, how you pick those precincts.

The factors I have written down are clearly they have to be compatible with the objectives of the metropolitan plan, which we have just been speaking about. They ought to be areas that enable economic and/or tourist activities if they can, areas that contain viable portions of government owned land that we can leverage off, and transport corridors come into play in those particular circumstances, areas of high growth or housing stress, so there is the issue of affordable housing as well as actually meeting the response areas closest to public transport, proximity to service networks such as energy, water, sewerage, communications and people services. All of those ought to be factors that we take into account to get efficient use of infrastructure that already exist.

Ms MIHAILUK: Raising that issue of how you proceed, other than going down the path of having an authority established, but potentially how you would canvas the views of local government and the private sector and there is no doubt that local government would be clearly very involved, given it may partially involve their land in these types of air space developments.

Mr WIELINGA: There does need to be a cooperative approach with local government. There is no doubt about that. They have the local planning approvals but once these precincts are identified I think it is legitimate for the State Government to play a coordination role, so work with councils to make things happen so that if a precinct affects more than one council area, there should be an ability for the State Government to assist with the coordination of those processes to get a consistent development. As I said earlier, it is those connections that make the development near the station more viable, to bring those together.

There are very few locations where just developing over the immediate environments of a railway station will get the sorts of outcomes that you are looking for. Employment and residence and all of

that have to be connected and it has to be part of the broader picture and that has been part of the complication of getting it done in the past.

Ms MIHAILUK: I think that there are councils who would be willing, together with the private sector, to develop some type of precinct plan themselves to put forward and you would want to encourage that.

Mr WIELINGA: Absolutely. We would want to encourage it. In the same way the council has a proposal, or the private sector has a proposal, they ought to have a one stop shop where you can resolve the construction issues and the planning issues, as I said earlier, all of those sorts of things, to go to one place. To my mind you should not have to go around to six or seven different departments to get these issues resolved. That is why the coordination model that I am talking about, I believe is very critical.

CHAIR: I must admit that in the last four or five months people have been beating a path to my door once they heard about the inquiry being local government, which is very pleasing. There or four councils have come to me with very progressive ideas about development of land adjacent to the rail corridor and a number with proposed utilisation of the air space, which is really interesting. I sat in a residents' action group meeting on the weekend where they said to me, "Charles, why are you messing up our neighbourhood with this development of 100 apartments? Go and put it somewhere else." When I spoke to the council and I asked if they had thought about putting it adjacent to or near the rail corridor, where it makes sense to do so, rather than in the middle of nowhere, where the area is only serviced by bus routes. There appeared to be again another disconnection, that to people putting it forward the draft LEPs were probably common and so forth, other than just showing the rail corridor on some adjacent land had special use, whatever it is, no one had given a thought if we put some apartments over here we can lessen the requirement in residential areas.

I see these disconnects occurring all over the place. That worried me a little bit but I think having one entity, as you said, Les, looking after the process, it would only perhaps need to be done at concept level.

Mr WIELINGA: I strongly disagree. You need an entity that not only prepares the concept for the land use plan but is responsible for implementing it and making it happen and you have to get give it the right powers.

CHAIR: Did you say that because in the submission from RailCorp the implied message was we do not actually like developments over air space?

Mr WIELINGA: The reason they do not like it is they cannot solve all of the problems. They can just deal with the transport issues at a particular time. They cannot solve all the planning issues. They cannot solve all of the construction coordination. They are set up to run a railway network, not build developments. They have not been resourced adequately to do it. Neither is the Department of Planning and neither is the Department of Transport. That is why the coordination authority, with some powers to interact with those agencies is so important and this particular authority needs a power to plan. It needs a power to coordinate and facilitate infrastructure and services in these precincts that have been declared. It will need some power to acquire land when it is needed, power to levy charges for development applications like local councils do and the state government does, open closed roads, to enter property for investigation type work. It needs a degree of independence to get the outcomes that are detailed. A state owned corporation to make it happen, that is their task.

CHAIR: And as far as you are concerned, you do not see that capability emerging in any known plans that we have today?

Mr WIELINGA: Government is currently working on Sydney Metropolitan Development Authority. I am very hopeful that that is what its role is going to be in the future, I am very hopeful that it will be.

CHAIR: What you've just explained, does that explain the apparent disconnect between Cabinet, Treasury, general ideal that it should be maximising revenue from the utilisation of the rail corridor, as opposed to some of the difficulties people are experiencing in trying to do stuff over the air space?

I can talk to you about a practical way to overcome the coordination problem that you are talking about and I think this holds the promise of the answer to it. I have to tell you that I am excessively interested in these opportunities.

CHAIR: Any other questions?

Mr PIPER: Any questions I would have would be specific to previous examples of problems that might have been encountered in proposals or experience that probably RailCorp might be able to answer. For example, at Chatswood and North Sydney, things like that. With respect to the Chairman, I think my interest is more in the strategic type of questions that have been asked and answered.

Mr WIELINGA: Absolutely. As far as we are concerned, the answer is this coordination activity. You can beat me up, you can beat RailCorp up, you can beat the Department of Planning up. At the end of the day we need the right set of skills at a single location to bring all this together. That is the answer. To my mind it is obvious and I hope you can help that process.

CHAIR: My question was just about that. Could you update the committee on where the development of the long term master plan is right now and opportunities you see and what timeframe for this Committee's outcomes to integrating that process?

Ms McNALLY: We are going through a process of consultation at the moment. We have called for submissions; the closing date for submissions for the Long Term Transport Master Plan is the 27th of April. We are then looking to prepare the draft master plan for the middle of the year with a final plan to come out in November.

At the moment we are undertaking detailed analyses in a number of areas on all modes in all the regions. As well as the consultation we are going out to a range of forums. This is a plan that is looking at a number of issues. It has a range of objectives ranging from focus on customer needs, focus on integrated transport system, clearly with interchanges as a part. A focus on how each of those modes will support those sorts of objectives, a focus on economic development, how transport can support that which is relevant. Also it has a focus on key issues such as safety, performance indicators, a whole range of things.

I guess it is a fairly broad Long Term Transport Master Plan for the next twenty years and out of that we are hoping to develop much more specific plans beyond that.

CHAIR: The first pass of the master plan will actually identify particular precincts, I am assuming that someone at some point in time will look at the rail network, have a look at the major bus rail interchanges for example and make a determination as to what opportunities exist at these nodes?

Mr WIELINGA: At the strategic level with the Transport Master Plan looking at networks and projects, the next step is to look at those corridors at a corridor level. Let us have a look at this example. Westmead into Central on the western line down to the south-east to the University of NSW. That transport corridor will join up four educational precincts, three major hospital

precincts, a whole lot of other employment. Along that corridor there will be a whole lot of opportunities for precinct development as a practical example. That is how transport and land use planning can work together to identify those opportunities.

Then you go down and have a look at the individual precincts and put a structure in place to make those unfold.

CHAIR: So in terms of disposal of assets now, especially property, is that on hold pending the Transport Master Plan?

Mr WIELINGA: No. The government has a committee in place looking at how to manage government assets. It is quite important that a strong focus be on the return that we are getting out of assets. The key to it is to put appropriate accountability on agencies that own assets to get a return on those assets. It is just good business practice and that is where we need to go and that is going to solve most of the problems about idle assets sitting around.

CHAIR: In terms of the limited number of developments over air space that we have in New South Wales, could you point to one or two of them which would be a model for the future? Would you point to one or two of them which is exactly what we should not be doing?

Mr WIELINGA: Well, there are a whole lot of factors to come together. Has government tried to make a serious attempt at getting these developments to take place? Yes, it did at Chatswood but there are other issues with the private sector consortium that have prevented that from happening at this stage. But the design of the transport system and the developments in that area were all done at the same time and some good lessons were learned out of that.

The willingness and the effort is there but I mentioned to you earlier its strategy, structure and processes that need to be put in place. It needs to be a package of things.

CHAIR: I have a couple of other questions but I might hold those off for RailCorp because they are detailed in nature. Thank you very much.

(The witnesses withdrew)

ROBERT FRANK JAMES MASON, Chief Executive, RailCorp, 477 Pitt Street, Sydney, affirmed;

KEVIN ALLAN SYKES, General Manager Property, RailCorp, Level 21, 477 Pitt Street Sydney; and

DAVID SPITERI, General Manager, Asset Planning and Performance, RailCorp, Level 8, 477 Pitt Street, Sydney, sworn and examined:

CHAIR: Could you please confirm that you have been issued with a copy of the inquiry's terms of reference and the relevant Legislative Assembly Standing Orders relating to the examination of witnesses?

Mr MASON: Yes.

Mr SPITERI: Yes.

Mr SYKES: Yes.

CHAIR: Gentlemen, I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal or administrative action that might otherwise result in relation to the information that you provide here today. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Would you like to make a brief opening statement?

Mr MASON: I would like to, if I may. I thank the Committee for the opportunity to come before you. If I could correct an impression, RailCorp did not put a separate submission into the Commission with regard to Transport for NSW. From a RailCorp perspective development in rail corridors is not without its challenges. RailCorp's principal concern is always to ensure that it is compatible with the primary function of the rail corridor, that is to provide safe and efficient passenger and freight services and, importantly, that development allows for the expansion of the rail corridor in the longer term to cater for increased demand, in changes in operating systems and the rail infrastructure.

Since the 1960s and 1970s the former State Rail and its successors have considered a large number of potential locations for air space development. However, only a limited number of sites were ever developed. There have been more recent examples but, again, only a limited number. The response from the market reflects the difficulty and costs of building over an operating railway.

The 1977 tragedy at Granville, the train accident, forced a major re-evaluation of engineering standards around building and bridge supports within or near the rail corridors, to ensure that safety must always be our over-riding priority. Additionally, a number of early developments have proved to be problematic, impacting on safe and on time train operations.

We also have engineering constraint which David Spiteri can talk about later, if the Committee should so wish. The rail corridor is a dangerous environment to work in. Legislation specific to railway controls work in and around the rail corridor and compliance with this legislation can impose different and in some cases higher standards to comply with than would otherwise apply.

The costs of building on land adjacent to rail corridor or in the air space above it can be significantly more expensive than elsewhere due to the need to mitigate risks that the development can impact on the structural integrity of the rail infrastructure and its engineered structures.

Additionally, developments can take significantly longer due in the need to keep the rail corridor operating to ensure RailCorp's core business continues. RailCorp also requires developers to manage

the risks of electrolysis, vibration and noise in planning their construction methodology. The engineering of structures across the rail corridor to support air space developments can also be very challenging and very costly.

RailCorp's objective in requiring developers to comply with its engineering standards is to minimise the impact of development activities on the integrity, the safety and the current and future operations of the railway to protect our service to our 1 million customers a day and to our freight customers as well.

The vast majority of RailCorp's land holdings are zoned either special use as railway, under the old local environment plan zone classification system or SEPP 2 infrastructure under the current LEP. Currently only a very small number of stations have appropriate zoning height or floor space ratio controls to allow for air space development. Rezoning of land corridor land would be required to facilitate development. However, this needs the support of councils to progress. Mr Sykes of RailCorp property can also talk about this should the Committee wish.

CHAIR: I would like to get from you an idea of what responsibilities RailCorp has in the final approval or otherwise of a development in air space and, in particular, what are the roles and the functions of the rail corridor management group and the property division within RailCorp?

Mr MASON: Traditionally in the old delegations prior to the setting up of Transport for NSW, we have had much greater responsibilities, as Les Wielinga earlier said. The new integrated transport authority has led to the stripping out of those requirements of RailCorp to take the lead on those developments and therefore our engineering standards must be complied with in terms of any development. Planning permission may well be done either by RailCorp or Transport for NSW and Mr Sykes can probably explain that more later on, and the rail corridor group, I believe, is in the asset group as well and Mr Spiteri can probably talk about that more.

Mr SYKES: The rail corridor management group is actually within the property group. What it does is receives applications from third parties who want to do some development on or adjacent to the rail corridor. In the vast majority of cases it is adjacent to the rail corridor. The rail corridor management group receives the application and coordinates the approval through other RailCorp areas of the plans and the construction methodology and is, I guess, the one source of information back to the proposed developer.

CHAIR: Essentially you respond to requests?

Mr SYKES: Yes.

CHAIR: As opposed to actually encouraging development in any way, shape or form, is that correct?

Mr MASON: That is correct. In our new mode RailCorp is not going to operate and maintain that. We do not have the responsibility for development or proposed development of sites, whereas historically we might have had interest in that.

CHAIR: Does RailCorp get involved in offering advice about new developments around a railway station, what it should comprise in terms of amenity and facility?

Mr MASON: It seems to me Transport for NSW would take a lead in that as well but we, as the operator, would have some very constructive view on how passenger flows, how retail could work within a development, so we would definitely have a very positive view about how it could work for both the developer and the rail operator as well.

CHAIR: There was a relatively recent sale of some RailCorp land at Burwood. I do not need

you to know the details. As a local member, when I am approached by the community about local issues such as community car parking and, in effect, a bus-rail interchange, we all look at that land and say why in heavens name did we get rid of an asset that could have been utilised to solve some of these local community problems. That process that that sale went through is still in place as I understand it. Do any of you have any information about what actually occurred there and do you have a process to mitigate against some of the adverse effects that that process produced?

Mr SYKES: I presume we are talking about 1 Railway Parade. It is not a recent sale. I am not sure when it was sold. It was sold some time ago. It is now being developed. That is one of the developments that has gone through the rail corridor management group because it is a development that is excavating significantly next to the rail corridor, which provides a potentially dangerous situation. They are also looking at draining water through RailCorp drains which are probably in the vicinity of 100 years old, so it is quite a difficult development. I would have preferred that the land had not been sold some years ago, it would have been much better used for alternate purposes.

CHAIR: Do you know who actually made the decision to dispose of it in that particular way, as opposed to looking at alternate proposals with greater community benefit?

Mr SYKES: Without looking at the history of it I cannot tell you offhand but we have had, over the years, a number of reviews by government to find surplus properties within RailCorp that could be sold quickly to generate funds. I am not saying this was one of those but it is possible.

CHAIR: I understand what you are saying.

Mr MASON: Certainly now if we have any offers for buying land we pass it through the Transport for NSW filter as well to make sure there are no thoughts of outstanding development there.

Mr SYKES: There is a clearance process we need to go through wherein we contact other stakeholders within RailCorp and within Transport for NSW to see what strategic use or alternate use might be being considered.

Mr PIPER: Thank you particularly for your introduction, I get a feel for where your primary responsibility is. Can I say with the submissions we have had, some of them could be characterised as indicating that they feel that RailCorp is more of a reluctant passenger in the process of development and I think you have made it clear that your primary role is obviously for the provision of transport. Do you think that you are being fairly characterised in that sense, and if I can also throw open to Mr Sykes the secondary question to that?

Stemming from your statement about identifying potential for disposal or I think realising the asset of land, Glendale, can I ask you, are you aware of the situation around Glendale and Lake Macquarie?

Mr SYKES: Yes I am.

Mr PIPER: It seems to me incongruous your answer there because as the mayor of Lake Macquarie as well, I have to say I have found RailCorp to have a very, I think, great reluctance in trying to resolve the issue up there and I would have thought there was substantial asset to be realised there.

Could I just ask a question first of all about the partnership and whether or not you have been fairly characterised?

Mr MASON: Certainly the SAP in 2007 made sure RailCorp has to grant concurrence from

any development, within 25 metres of the rail corridor. Since 2008 RailCorp has granted concurrence on 173 development applications and we have not refused one concurrence yet. So would I say we have been unfairly characterised?

Mr PIPER: You would say yes, you have?

Mr MASON: I would also say that in terms of we sometimes have been characterised as being quite slow. So the development opportunities put forward by developers are quite often inadequate for railway purposes in terms of us to actually give approval to. But I know that since 2007, RailCorp's average assessment time for financial year 2010/2011 was 22 days.

CHAIR: How many of those would be actually in air space or development within the rail corridor but away from the operating environment?

Mr SYKES: Almost all adjacent to the rail corridor. We get very few air space development applications.

Mr MASON: Because it is so difficult to build over the railway from both an engineering and technical and the time taken.

CHAIR: Does RailCorp maintain a currency as to more contemporary building construction techniques over the rail corridor as demonstrated in many other countries around the world, or do you think it is outside essentially your brief?

Mr MASON: No, I think, as Mr Sykes mentioned earlier, much of the development in Hong Kong, Canary Wharf in London, it was a greenfield site. It was actually part of the railway that the buildings were built on top. We work with a transport construction agency, the old TIDC and David Spiteri's area as well is working on how constructions could happen so we looked at things like Redfern in the past. But much of the railway design that we have from 155 years ago is actually very tight so the tracks are quite tight. There is not much space between them to put down pillars and, as Mr Sykes mentioned, the Goulburn Street carpark causes significant problems as well because the pillars are actually in the rail corridor. So we do look at modern engineering capability and Dave can talk about that if need be. We looked at how Melbourne were thinking about doing that as well.

Mr PIPER: I think Mr Sykes is champing at the bit there, a question in relation to that very important area around Glendale.

Mr SYKES: As you know, Glendale does have a fairly long history. State Property Authority had carriage of selling it back twenty years ago but were not able to. The last three years it has been with either the State Property Authority or the Hunter Development Corporation to market. We have not gone anywhere with that so we are looking to sit down with Hunter Development Corporation and see what strategies they can come up with to sell it.

There are a couple of issues. The Maneela oval site which is heavily contaminated thanks to, I will not say by whom, that requires significant remediation. For instance it has been valued at somewhere in the order of \$4 million; to remediate it for industrial purposes it is going to cost at least one and a half million. To remediate for residential it will cost \$4 million so you would not remediate for residential.

The remaining sites, we have done quite a lot of studies on those. They do require some site investigation, perhaps not much but there may be some contaminated areas. There are also some Aboriginal issues as well. There is also mine subsidence but we are looking to come up with a good strategy to divest those lands along main road. Not the workshop, that is subject to an internal lease and strategic site, et cetera.

In terms of the overbridge, we have been meeting with council in recent years and we are in fact waiting on council to come back to us with some detailed drawings. We are quite happy to sit down with council at any time to discuss that moving forward.

Mr PIPER: Thank you. I know I am being parochial but I think most of the other questions this morning have really had their genesis in thinking about the significance of the area and I think there are issues to there in the region. So whether it is to do with the Illawarra, Newcastle and Glendale, if I could just perhaps extrapolate on that or further that line of questioning in relation to other potential for say air space or high density development around rail corridors within that area, whether it be --- or Newcastle. That might have been easier in a planning context or in an engineering context, noting that there are probably a lot of constraints in high density areas.

Mr SPITERI: What makes air space development really difficult is access to the line to do the work. Now we typically close our corridors down four times a year on weekends. To a developer that is not very attractive to build and it extends the life of the project significantly. There are some locations around the network that we can shut down for longer periods and for example that Newcastle area, we can get two week, three week type shutdowns because of the less, I guess, commuters on our trains. So it is easier for us to provide alternative transport.

When you are thinking about air space development over railways, it is really simple. What makes it unattractive at the moment is the cost and the cost is because of time and I think the biggest constraint to a developer is that constraint around shutting the railway down to do the work. So where there is opportunities where you can get longer shut downs to be able to do that, then that is the area. Unfortunately they are in locations that may be not so popular, in less populated areas.

We use a fairly simple formula. It sounds very complicated but we move a million people a day. To be able to provide alternative transport during the week most of our shutdowns are obviously on weekends. To provide alternative transport during the week you really need the number of passengers you are going to move, the amount of alternative transport you have available which is buses, road space and bus rail interchange space. So technically you have to move all those people some other way.

The engineering works that we do for our own maintenance and capital works program, and any other work we have to facilitate that comes in from developers, et cetera, has to fit into those constraints. I think what makes it so hard for a developer to actually build over is that, number one.

The other issue with engineering is obviously the normal risks like derailment risks from a train. It may seem that we are being difficult with external developers, but we require obviously more rigour in the piers that are there and the protection of those piers from risk of a derailment, because we obviously do not want a major building coming down. Noise and vibration is the other big issue.

I believe that the number one constraint is access. What do you do with your people? If a developer gets a greenfield site right now, he gets a block of land and, bang, he is into it and building all day every day. It is just going up. With us it is two days sorry, you have to walk away. You might get a couple of piers in. The next access in that area might be three months away. In answer to your question, in other outlying areas you can get longer shuts. I think that is where some of the development opportunities could be.

CHAIR: The Transport for NSW submission mentions, I think on page 11, that the concept plan for Wollli Creek was amended to move away from air space development. Was that decision at the request of RailCorp or the developer?

Mr SYKES: The decision was at the request of the developer.

CHAIR: Do you know the reason why? What lead to that?

Mr SYKES: The cost of building over the rail corridor. It was deemed to be much cheaper to do it adjacent to it.

Ms MIHAILUK: It was probably down to those issues. I certainly agree that you have hit the nail on the head, there is no doubt that it is access. Everyone else has been discussing local issues so I might as well add a couple of my own. I am the Member for Bankstown. We experienced very recently the upgrade of our railway underpass and I saw with that how significant it is to have everything in place, all the service and works, drainage, et cetera, so that we could meet that deadline of having that one and only shut down or possession that we had on the weekend. It is crucial that everything is in place. I can see why developers and councils and all parties involved certainly consider that there is additional cost to air space. There is no doubt.

It is clear why RailCorp has focussed on adjacent properties, as opposed to air space development. Touching on that experience, I noted earlier, Mr Mason, that you stated that you are now focussed on maintaining, as opposed to developing any concepts. Is that a change that has taken place structurally?

Mr MASON: Yes, structurally Transport for NSW takes a long term development of Sydney transport and New South Wales transport and RailCorp focus on today and the near future operations and maintenance of the railway, but the long term development under the Long Term Transport Plan, which Carolyn McNally spoke about earlier, is the Transport for NSW responsibility.

Ms MIHAILUK: That has changed obviously with the change of Government?

Mr MASON: That changed with the establishment of Transport for NSW in November 2011.

Ms MIHAILUK: That may pose some difficulties because no doubt in any type of development air space, probably the most pivotal organisation would be yours in how that could progress, and which sites are chosen and which sites are suited for that type of development for a range of engineering, structural and other issues. One issue that I wanted to raise or one difficulty that we had with the railway underpass was the issue of having to pay consultants with RailCorp. Is that something that continues as a practice? I found that this was a very difficult concept for council, where we had designated consultants that we had to deal with. You may not be aware of this particular issue in relation to that development. Is that a general practice that RailCorp has?

Mr SPITERI: What we try to do is encourage people who want to build over us and under us to use the consultants who know our standards, because it can actually cost you a lot more money to use a consultant or a contractor that doesn't know our standards. You could naively go across to someone else who might appear to be cheaper at the time, who puts a development together for you, comes across and because he had not understood or worked with our standards previously, he may actually have a project that is not viable. What we try to do is encourage people to use those people who work with our standards. That is really what it is about.

Ms MIHAILUK: The role of those consultants, I imagine, would increase if we are keen to redevelop air space across a range of stations. I think that in any kind of view that we have in terms of establishing a potential authority there would have to be some consideration of the processes around RailCorp and how these consultants play a significant role in the way developments take place. I do not know what your thoughts are on that. It seems to me to be a little bit bureaucratic. It appeared to be at our level bureaucratic, but it may be what RailCorp sees as the best way forward.

Mr MASON: If the consultants are experienced with railway operations and experienced

with railway engineering standards it is cheaper in the long run, because if we have plans brought to us, or proposals brought to us which we say are inadequate, they have to go back and rework. It is a learning curve for everybody. It is probably faster and cheaper to go with experienced people. That is not to say that new people could not come into play in that market, but it is really that competence that we look for, to get the proposal across the line as fast as possible.

Ms MIHAILUK: The other issue that you raised, Mr Mason, was your view that councils currently would probably not have the adequate zoning for air space development. I would suggest that there probably are some councils who are very keen to see this development, that may not have had that same type of support from RailCorp, or the same eagerness to redevelop those sites. Have you ever invited councils to make any kinds of proposals in relation to air space development?

Mr SYKES: We have in certain developments and in those developments where there were two councils involved, we had some difficulties in convincing one council to allow an air space development of a certain height and floor space ratio. That can be an issue.

Ms MIHAILUK: Where was that example?

Mr PIPER: Name them.

Ms MIHAILUK: It gives us an idea.

Mr SYKES: It was Hurstville.

Ms MIHAILUK: The two councils are Hurstville and Kogarah, is that correct?

Mr SYKES: Yes, it is Kogarah. I am not saying which one.

Ms MIHAILUK: You do not need to do that.

Mr SYKES: So there are issues there. We have not invited councils as a whole, but there have been occasions when we have tried to get air space increased. Councils have rejected that because their LEP allows for a certain height and floor space ratio and do not want any further development.

CHAIR: How often is RailCorp consulted when they are putting out draft LEPs, like the current round at the moment? I have seen my local one. Did RailCorp have an input to that?

Mr SYKES: Yes. We get them all and we are particularly interested in what councils have zoned rail land. We will go back with questions. Within the property unit we have a town planning area and one of the functions of that is to look closely at council LEPs.

Mr PIPER: Are you satisfied with the capacity under the standard LEP? Are the zonings adequate for what you would perceive the needs to be?

Mr SYKES: That is a difficult question to answer. I do not personally believe that there is scope for air space development or for extensive air space development. I think it has to be done on a selective site by site basis and then if a site is suitable and fits in with the local area, then yes, we should have greater powers to change the zoning, but I do not think RailCorp should have that power. It is all about site capability.

Mr PIPER: The question is more about the standard LEP that is being applied. Councils are generally going to be more limited in how they progress an LEP. You would be satisfied with the provisions?

Mr SYKES: Yes. The town planning section does have significant contact with all councils. It is not just a one way street, it is a two way.

CHAIR: The Transport for NSW submission states that RailCorp's non passenger revenue in 2010/2011 was \$310 million. Have you got a breakdown on that? Just give me an idea where that money is coming from.

Mr MASON: I have a rough breakdown here. Property rental 30 million; freight access 55 million and sale of goods 27 million; quarries 12 million; advertising 9 million; penalty fares 7 million, and then construction sales internally to ourselves and to transport construction agency 95 million. So really what we are looking at here, property is 31 and that is probably it really. Most of them are railway sales, quarries are selling the ballast to other railway processes.

CHAIR: There are some issues associated with the Chatswood development. Could you bring us up to speed on what those issues were, including in them a bit more detail from what we previously by Transport for NSW?

Mr MASON: I think that is being dealt with by Transport Construction Authority, not by us.

Mr SPITERI: Transport Construction Authority was the lead agency on that. We are simply the land owner and required to give land owner's consent so it really needs to go back to Transport for NSW.

Mr PIPER: If we could just follow on from that, I accept that answer. However, obviously you would have had some experience with the good examples and bad examples. Are there any particular examples of either that you would like to put before us which we should be mindful of in advancing this proposal?

Mr SYKES: I guess the bad examples have already been raised in terms of safety issues and they are generally the older models. In terms of good examples, Chatswood is a good example. Yes, there are some issues, some legal issues, it is an example of a good outcome in terms of connecting both sides of Chatswood and when the retail is up and running, that will certainly add to Chatswood. The legal issues, well such a large development, the developer went bust, the receiver was called in so that obviously caused all sorts of issues in negotiating revised arrangements.

CHAIR: Part of the process that RailCorp was involved in, you were satisfied that it was appropriate, it was timely and the outcomes that you wanted were actually delivered? The reason I am asking the question is I know the developer went bust but in terms of beginning the proposal to the time they got approval, was that a protracted period of time from an investor's point of view or from RailCorp's point of view?

Mr SYKES: I do not have the history of that on hand. It was certainly a protracted development construction process because of what David said earlier, the number of possessions that were required.

Mr MASON: I was not involved actually at the beginning either, but certainly the station, we are very happy with. The interchange, it has been jointly developed by Transport Construction Agency and ourselves. We are very happy with it, very efficient station and good throughput from east to west for the pedestrians as well, so very good. We did actually add possessions for that construction, I think we added an extra seven weekends.

Mr SPITERI: What we did with that, we actually were able to facilitate what we call five day shuts between Christmas and New Year and that was over seven years. It was a big job

because obviously it was combined with the construction of Epping/Chatswood so we were building the track infrastructure at the same time. We actually had these five days between Christmas and New Year which became gold for us, also for the developer to do his bits that they had to do. But from a developer's perspective that is still a long time.

CHAIR: Yes, indeed.

Ms MIHAILUK: Just on that, who absorbed the cost of those possessions in terms of RailCorp providing bus transport. They paid themselves?

Mr SPITERI: Yes. Every project pays for a possession cost.

Ms MIHAILUK: It must be seen as an addition for them, obviously these developers, that cost is involved?

Mr SPITERI: Yes. If you think about for example those five day shuts, they were there predominantly for those particular jobs and also for Epping/Chatswood so the split was between all those. There is still a cost of shutting the railway down.

Ms MIHAILUK: What would be a cost like that example, just roughly what is the cost of that?

Mr SPITERI: Shutting the north short line for a weekend is about 350,000. Five days of that was probably getting close to a million.

CHAIR: So that was the case for Chatswood, it produced a reasonable outcome other than what happened to the developer, does it represent best practice in any phase of the process and if so, how is that best practice accessible to other developers building similar sorts of things, or proposing to build similar sorts of things in other parts of the network? How do they get the benefit of having done it once reasonably well?

Mr SPITERI: I think one of the lessons learned out of Chatswood and out of future projects is where you actually have a greenfield job going on, do you set the station up or the environment up to build above it? So that even if you have not got a development requirement for it now, you have set that pad up so that someone can just go straight up without having to shut the railway down. To me that is the number one lesson in all this. The overseas stories with MTR in Hong Kong, they were greenfield sites, it made it quite easy to build.

Ms MIHAILUK: I don't think they are comparable.

Mr SPITERI: No. Wherever you are looking at some sort of development you really need to think about if we are going to do something here in the future. If so, we should set a pad up or some process via which doing one job, so we are building something from a clearway's point of view or expanding the railway at a particular station or making a station bigger like Glenfield, for example, should we set it up because we are going to be there anyway building a lot of other stuff, should we set it up so in future we can develop the air space. That is what we have to think about with any job that goes around anywhere in the system.

Ms MIHAILUK: Just to reduce some of those costs that a developer may not potentially realise at the time. I imagine that they did not realise they needed seven extra weekend possession dates. That is quite a large number from what they may have initially anticipated.

CHAIR: Are there activities on the rail network that happen annually regularly, with enough predictability that developers can slot into in terms of proposed future development?

Mr SPITERI: Yes. We have mentioned before that we shut the railway down, each corridor about four times a year for maintenance and capital works. So we will shut the north down between Strathfield and Newcastle, for example, four times a year.

CHAIR: For how long a period?

Mr SPITERI: Four weekends. A lot of the developers that do the work adjacent to the corridor utilise that. It is still unattractive I think from someone working over the top of us.

Ms MIHAILUK: It may not even work really, may not coincide.

Mr SPITERI: No. One of the problems with rail shuts is obviously if you are in a greenfield site where someone is building a building, if you do not pour concrete today you can pour it tomorrow. If you miss the weekend you are likely to miss three months until the next shut. So it is really hard, but that whole process I believe is the difficulty that makes the thing very hard.

Mr MASON: We do also, in the summer holidays, school holidays, actually shut down for three weeks in certain locations. Since I have been here the Cabramatta area was for three weeks.

Ms MIHAILUK: That was to do with the freight line?

Mr MASON: The freight line and also renewing the concrete sleepers. A lot of work goes on during those three weeks, clearly that is a bigger opportunity but only certain locations we do it and only once a year really. We avoid Easter, we avoid grand final weekend.

Mr SPITERI: Australia Day, New Year's Eve.

Ms MIHAILUK: Events that rely on public transport.

Mr SPITERI: Yes.

CHAIR: Are you aware of any place in the world where you think that demonstrates best practice in terms of going back and retrofitting these developments over existing rail corridors? Have you found a jurisdiction somewhere that seems to be doing it cheaper and quicker than anybody where else, or you do not really bother because it sits outside your core activities?

Mr MASON: I think we all look jealously on Hong Kong but that is not retrofitting we say and so therefore that is what everyone always quotes. We have not found anywhere yet but certainly in London when the PPP was set up we only looked at weekend shutdowns. There is now a move talking about longer blockades, so two or three week close downs for certain parts of the line to renew the lines. That is something that we always would crave for as a railway operator in terms of renewing our railway and therefore an opportunity for a developer as well, but it also means you have to bus for those three weeks as well. Those are things that you look at. Other people do that but it depends on the bus capacity, all those things David mentioned earlier about number of passengers, the interchange, road space and the buses.

I think when we tried to commission Epping Junction for Epping/Chatswood we needed 270 buses.

Mr SPITERI: We had an issue where the Epping to Chatswood rail line was being commissioned and Epping Junction was being commissioned on the June long weekend. That date was missed by a number of parties and we looked at a number of options. We needed three days so we looked at a couple of options.

Option number one was to create a long weekend, so actually take out a business day. Option 2 was the grand final weekend and option 3 was go back to Christmas. Now going back to Christmas

was a significant cost on the project, major delay. We looked at creating a three day weekend, that would have had two problems.

One was we would have shut freight down for a Monday business day and the second thing is the capacity of the M2. It could not handle something like an extra 270 buses in the morning peak on the M2 to move the passengers. It was not going to fit, so we went for the option of grand final weekend and obviously we copped some bad press over that. We were able to manage that by directly bussing people from the stations along that main north to Olympic Park. Whilst there was a lot of bad press prior to it, there were no complaints afterwards.

Ms MIHAILUK: There would not have been because you gave them direct access.

Mr SPITERI: That is right. We were able to mitigate that risk. We did that because buses were available. It was a long weekend and there were a lot of buses available. That is an example of where you have to be really careful about where that limit is of not just the rail network but the road network and all the infrastructure around it and the freight impact. It is quite a complex solution. We push the limit all the time and try new things, but it is quite complex.

Mr PIPER: Getting away from the practical issues around the logistical problems, we have a note about the sale of air space rights and I assume that RailCorp is the beneficiary of lease or sale of these air space rights. We have a note here that the issue has been raised that they can bought and then transferred to other locations and the example is Edgecliff.

Mr SYKES: Edgecliff was not our property. The railway went through under an existing building at Edgecliff. Somebody else owned the air rights and they were sold and traded. We did not get any benefit out of that.

Mr PIPER: It was not a transfer?

Mr SYKES: No, it was a private arrangement.

CHAIR: To ensure that I have this clear in my mind, within RailCorp there is not an entity, a group of people, or a person who is looking at the rail network, having a look at the major railway stations, seeing if there is under-utilised capacity of our rail services and saying given everything I see here, there is a major bus-rail interchange, there is capacity on the rail services serving this particular precinct, so this will be a great place because of the lay of the land, the commercial centre being close, all of those factors, saying this would be a great place for air space development and proposing that to someone, be it part of the master plan process or something else? Have I got that right?

Mr MASON: That is correct, that is Transport for NSW's responsibility. We would obviously have input into it and give ideas and be very supportive of anything like that but the responsibility is Transport for NSW.

CHAIR: The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to further questions?

Mr MASON: We would.

(The witnesses withdrew)

GIOVANNI CIRILLO, Executive Director, New South Wales Department of Planning and Infrastructure, 23-33 Bridge Street Sydney, affirmed and examined:

CHAIR: Can you please confirm that you have been issued with a copy of the inquiry's Terms of Reference and the relevant Legislative Assembly Standing Orders in relation to the examination of witnesses?

Mr CIRILLO: I can affirm that I have been provided with a copy.

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Would you like to make a brief opening statement?

Mr CIRILLO: I would, please. The Department of Planning and Infrastructure supports the concept of providing opportunities for additional housing and job related land uses within a walking catchment of railway stations. You have a written submission from the department which goes into this in some detail but the critical concerns for the Department of Planning are that we have a metropolitan strategy that identifies a significant demand for both housing and jobs in the Sydney metropolitan region in the order of about 770,000 dwellings over a 25 year period and about 760,000 places of employment over the same period of time.

Bearing that in mind, we need to ensure that the growth in the provision of jobs and housing occurs in strategic locations. It needs to be planned strategically and, with that in mind, we need to ensure that places of work as well as places of residence are located in proximity to infrastructure and in particular rail infrastructure. It is one of the guiding principles of our metropolitan strategy and one which is critical to ensure that the growth which occurs in Sydney is sustainable. From a high level policy perspective it is imperative that we maximise the use of land in keeping with a high level of capability to ensure that that can accept and accommodate growth.

The large question, if there is a question, is really how this is done and it needs to occur with two fundamental things in mind: One, that there needs to be a very high level strategic analysis of where, for instance, rail infrastructure and corridors are required to be protected for future expansion, or for other essential purposes and, secondly, that where such expansion occurs, it bears in mind the operational needs to run a viable and safe railway line at the same time.

CHAIR: My question comes out of the evidence which was given in a prior session and the comment I made, and I will use an example to illustrate the point, which is that around Ashfield railway station there is a known need in terms of affordable housing, commuter car parking, bus-rail interchange facilities. The need is known. We have available an opportunity. The opportunity consists of Roads and Maritime Services owned land, local government owned land, and we have the air space over the rail corridor, which is essentially owned by RailCorp or the State Government. What I am hearing from the different stakeholders in the process is that each is very much focussed on delivering value within their own brief. RMS is really about maximising the amount of money it is going to get for its land. Local government is about returning land to the community for some green space. No one is talking about air space and no one has actually mixed this, actually integrating the needs of the community with what is being proposed to be done with some of these property assets and the air space on the rail corridor.

I am seeing a disconnected, fragmented approach. Each are doing the right thing by their portfolios but the total opportunity is being missed. We heard previously that there was one way of

addressing this, which is having an authority with the power to coordinate not only at a strategic level but the actual execution of the outcome, which is the benefit to the community. Forgetting that for one moment, with planning in the space that I am talking about now, should that be a role of planning or do you see it in some different way?

Mr CIRILLO: There are three documents which would be critical in analysing this from a high level. One is the Metropolitan Strategy for Sydney, which is a 25 year strategic long term land use plan. Secondly and, if you like, underneath that is the sub-regional strategies that then delve into a greater level of detail that will identify specific strategy per region in Sydney, and I think there are 10 in Sydney.

Those sub regional strategies will identify specific opportunities. Secondly, the Transport Master Plan for New South Wales, which is currently under preparation, should deal with this issue as well, where strategic rail infrastructure is required for current operations and future operations, and thirdly, where possibly surplus assets exist or where there are opportunities to have alternative land uses which can deliver on the metropolitan strategy.

So they are linked and planning certainly does have a role. We accept that role and in fact willingly. The metropolitan strategy and its sub regional strategies are critical in identifying where the large contiguous land holdings exist and to that end to identify them for alternatives in consultation with senior officers from all agencies, but in particular Transport and RMS.

CHAIR: So what you are implying, if I were to go to planning ask them a simple question which would be what do you see as the need around the Ashfield commercial centre in terms of transport, community facilities? They would actually be able to tell me there is a bunch of RMS land, there is local government land and there is air space and it would be really great if we built this sort of development over the top of these land holdings and the air space. I do not think that would be the choice though, would it?

Mr CIRILLO: It does not exist as a detailed site by site level, no. It exists at a high level and I am taking this on notice but for Ashfield in particular I do not have the particulars.

CHAIR: Just use it as an example.

Mr CIRILLO: As an example, the sub regional strategies would identify, within that sub region which would be a few local government areas, three or four local government areas in some cases. In some cases a sub regional strategy might only be one council, like for instance the City of Sydney is a single sub region in itself because of its strategic significance. But in the case of Ashfield it would be the surrounding handful of councils and would identify strategic parcels of land for redevelopment. In particular, around stations, that is one of the planks of the strategy and sub regional strategies to identify sites such as that. So it would but not on a site by site basis. It would not go right down to a cadastre level.

CHAIR: My question would be who champions the concept of total community benefit which is across multiple government agencies, many ministerial portfolios and each are doing a great job but none of them are actually working to optimise the benefits of the community? So who do you see doing that particular role, not just at words in a document but rather championing and saying you know what? We know it is hard to build over the air space but we need to do that because we can take that and put it in with the adjacent land owned by the RTA and council, the opportunity for the community is optimised. So who is doing that? Do you see anyone doing that because I am trying to see if there is a deficiency here that needs to be addressed?

Mr CIRILLO: Yes, I would concur that there is something of a gap between the asset owner and the policy and planning perspective. We can only go to a certain level of detail as a state planning agency in the myriad of responsibilities that we do have. But whether it is transport

or RMS, or in fact a government state owned corporation or agency that could in fact have responsibility for delivering, for instance, urban renewal in a much more strategic sense. There could potentially be scope for that within government, yes.

CHAIR: Do you think the Department of Planning should be doing that or do you think someone else should be doing that?

Mr CIRILLO: Planning typically is along the lines of the strategic vision for the state and certain key strategic locations. We are not a developer and so I would be reluctant to suggest that Planning should be within the realm of property delivery and urban development, but it certainly has a very important role to play in identifying strategic locations for urban renewal and that includes rail corridors and areas around rail corridors. We do that already and will be increasingly reliant upon that land with a high capability to plan for those areas.

Who delivers is really the question and obviously how they work and how closely they work with the land owner is really I think the nub of the question.

Mr PIPER: My question has been, I think, largely answered because the question was once Planning does that strategic analysis and produces a plan, how do we trigger the next stage which would be to seek, I guess expressions of interest from somewhere. The issue is, I think Chairman mentioned before and I think Mr Wielinga from Transport had indicated that there should be an integrated authority.

I guess the question really was around whether or not a new authority should be created with that particular brief to seek out and pull together these complementary benefits to a local community. Whether or not from your experience it can be managed by one of those agencies, or whether it should be under the auspices of Premier & Cabinet, some area like that. State development, for example, which is Premier & Cabinet.

Mr CIRILLO: It is an interesting situation I suppose to present because each of the agencies has a very important and wide ranging brief and certainly Planning, Transport, RMS have very significant responsibilities to date. When one identifies the strategic redevelopment of key rail infrastructure assets for say for instance mixed use development, you have to ask the question how much priority it has? If government issues to spear head and deliver on that priority, then without having heard evidence by Les Wielinga, if he had suggested an integrated authority, or for instance a state owned corporation or an agency that had multi- jurisdictional responsibilities to draw in key expertise from the relevant agencies, then there would be some strength in that.

CHAIR: I must admit when Les was giving his evidence Les was positioning perhaps as some of the prime responsibility when we look at these developments is that focus on the transport task.

Mr CIRILLO: Yes.

CHAIR: Up until now I firmly believed that to the case but I am starting to shift my position just a tad, which is perhaps instead of looking at the transport task and then there is a prime consideration and then everything else is built around it, I am suggesting for a moment we should look at it from the community needs perspective and see how transport is best able to address it. So when you look at these developments, you do not just look at physical constraints or operating constraints on the transport node you are building the developments around, it is more driven by the fact that the community has an identified need and the need is serviced by the transport services and arrangements. Then the developments are actually sitting there addressing some of the community needs which may not be transport related but integrated with the transport function.

I would like to make a suggestion to you that perhaps when we look at these developments around air space and adjacent land, that instead of just looking at the transport task we look at it from the perspective of what is the strategic community need here? If the community needs affordable housing, if it is around about long day care centres, if it is about commuter car parking or bus rail interchanges, or any number of other needs, then perhaps that is the prime consideration. Then seeing how it best fits with the transport capacity of that node and then building the development around that. What is your opinion?

Mr CIRILLO: I am very supportive of the point you make. Transport shapes cities and that is three words but it is incredibly important. Your transport infrastructure is one of the most decisive shaping catalytic investments government can make to shape an efficient and sustainable city and the more you can minimise the need for travel, or at least those trips that people need to make, they can in fact make them closer to one another, then it is a possible and sustainable land use planning objective.

We certainly see this in Australia and to a much more intense degree in, for instance, Asia, where you provide shopping, child care, residences, places of employment and accessibility to other places of employment in the one space, you certainly make cities more liveable and sustainable because the distance between the number of things you need to do, if not made closer, in many cases it is made closer but it is made more convenient by the fact that you do not have to get in your car to do absolutely everything.

It is incredibly important as a plank of government policy, land use and transportation policy, to facilitate that. You must see land use planning and transportation planning as one and the same thing and that is it is not just about running a railway line, it is about running a city. So it not about simply amount of carriages per hour or volumes of people moved, it is actually ensuring that people are able to get where they want to go. They do not need to travel much because if you have provided all the facilities in a place, then you have served that purpose. Transport planning is almost about ensuring the trips that people do not have to make.

CHAIR: Music to my ears. In terms of the risk associated with gaining approval for some of these developments, we have had a lot of submissions, both formal and informal, that say the approval process seems to be protracted. The risk associated with that approval process is significant for an investor.

In some cases I have been made aware that approvals for these things, or non-approvals as many of the cases are, sometimes span a number of years. Given that we know the location and that we know the known community problems, issues of safety, amenity, congestion around these transport nodes, would it be practical to have an approvals mechanism that gave some guarantee in terms of from go to whoa that it could be done in six months? We know the history of the issues that have to be addressed. We do not need an extended community consultation process because in the lead up to this we have engaged with them on any number of opportunities, especially when you are planning around commercial centres. From a planning perspective, it is it practical to suggest that you may have truncated approvals mechanisms for around major transport nodes?

Mr CIRILLO: The department deals with a large number of major multi-faceted determinations, formerly under paragraph 3A and through the current Government through State significant development and State significant infrastructure. It is fraught to prescribe a period of time for an assessment because of the number of issues that may arise. Building over railway lines is complex for many reasons, not just town planning reasons, as you would be well aware from other experts that have been speaking to the inquiry. Some of the biggest challenges are in fact technical, how in fact you can build a large complex structure over an operating facility.

To answer your question is it feasible to give a guaranteed turnaround time for a determination, I think it is important that the department is efficient in the determinations and the assessments that

it makes but, given the need for consultation with communities, when you do make statutory assessments of major projects, because by and large these assessments are large and have significant impacts, we would need to consult with local councils and communities. It would be difficult to prescribe a period of time that presumes an outcome. It would be very difficult.

Mr PIPER: Just on that issue, what would you see as the role of local government in consideration of the strategic planning of the assessment, of any such development and whether or not it is just third party significant. How do you see local government fitting in to the planning process? Could you give any comment on the review of planning legislation that is going on at the moment?

Mr CIRILLO: Under the current legislative arrangements, my understanding is that developments exceeding \$30 million would be matters referred to as State significant development under the State and Regional Development SEPP. That being the case, the regulator or the determining body would be the Minister or the PAC if the matter was so delegated. Notwithstanding councils have an important role, not just, as I say, as a third party but insofar as their ability to engage with their communities and local government is very good at that grass roots communication so, as a facilitator of community dialogue, as a key referral body, as a provider of basic services in local government areas, local government has an important role but the determining role, because these matters are typically in excess of \$30 million, would be coordinated at a State level. That is not to say local government does not have an important role. It certainly does.

I can recall in previous positions that I have held at a local government level and most of my career has been at local government level, very detailed involvement with RailCorp or various other agencies in the consideration of rail assets and the potential for development. I recall probably going back a decade, very close work between RailCorp and either the Council of South Sydney or the City of Sydney in dealing with the assets over and adjacent to Newtown station. It did not actually eventuate. I remember at the time they had very close and productive dialogue with council at that time.

Even if the legislative arrangements were different at the time, probably certain parts of it would have been council approvals and adjacent to a railway corridor, for instance on surplus land adjacent to, these matters might not be exceeding the \$30 million threshold and might be council approvals as well.

Mr PIPER: Or jointly.

Ms MIHAILUK: It is envisaged that it will be over \$30 million.

Mr CIRILLO: That being the case it would be a State approval.

Ms MIHAILUK: I think it is probably given that it would be a State approval and would fall under the State and Regional Development SEPP in terms of the consent authority. In terms of whether you need an actual additional planning instrument for air space determination of floor space ratio zonings et cetera, I do not know whether you have a standardised instrument in relation to that, or for potential opportunities that may exist, or whether that is being a little difficult.

Mr CIRILLO: The infrastructure SEPP at the moment enables development to occur for a range of non-rail related land uses over railway lines. It is not prohibited as such at the moment. It is permissible but you would have to make a merit determination. There are not heights and FSRs and whatever except in unique circumstances where the council or the state have made a particular planning instrument for development over and around the station. For instance, the example I used earlier on, there were and there have been for some years and I am not sure under the current arrangements where the City of Sydney is completing a new LEP, but I do recall a decade ago there

were heights and FSRs applicable to the air space above Newtown Railway Station, for instance. The railway line was zoned commercial and I recall it had a 3:1 floor space ratio. It has been done in individual circumstances but, as is the case across the State, the infrastructure SEPP enables development for land uses that are non-infrastructure related and is, if you like, a level playing field to enable a merit determination in these instances.

When you enter the next level to prescribe a single instrument that then gives envelope controls, there would be a lot of work in doing that but that is not to say it cannot be done.

Ms MIHAILUK: The reason I suggested that might be what may occur, or potentially may occur, is because it seems to me from listening to Transport for NSW this morning and RailCorp that we are entering a new area of planning and the concept of having an authority, a particular authority for this, may create that, which is what Mr Wielinga was suggesting, may open up the idea of seeing a specific instrument for rail corridors. Where is your reporting structure?

Mr CIRILLO: I report to the Director General.

Ms MIHAILUK: That is just so I understand. I thought the Director General would be here today.

Mr CIRILLO: He was an apology.

Ms MIHAILUK: It seems to me that it will be clearly seen as something that Transport for NSW might be pioneering and it really will be the Department of Planning and Infrastructure's role possibly to facilitate these types of developments in terms of obviously, as the Chair has stated, reducing those protracted times in terms of approvals and so forth. What is your view of having a single authority? I think that SEPP that has been developed may override any authority that Mr Wielinga has suggested anyway. It is unfortunate that we did not think of that while he was here. I know that we have the opportunity for further questions on that, Mr Chairman, and I think we need to explore that issue legally where does the Department of Planning and Infrastructure stand if that was to take place and an individual authority was developed.

Mr CIRILLO: I think it is very important that Government takes a role in the best and most appropriate utilisation of its assets, whether it is land assets, transport assets, or other assets. The question is really the points you take in the delivery spectrum. The governance arrangements exist for the long range planning through land use strategies as well as the regular, so it occurs in three phases. You have your long range planning through strategies of various sorts, land use, for instance the city metropolitan strategy. Beneath that you have the statutory approvals mechanism, such as the infrastructure SEPP, so that is strategic and then statutory, and beneath that, the third step, is delivery. Within that realm of three critical stages who does what, that is the question and certainly the government has long standing expertise in growth centres act and through development corporation that can take a role. Whether it be, for instance, the Sydney Metropolitan Development Authority or for that matter LandCom, both of which have had and are currently working on projects that involve railway land, or land adjacent to railway stations.

Recent experience with Sydney Metropolitan Development Authority includes development over and adjacent to Redfern Station, for instance, so the RWA which became the Sydney Metropolitan Development Authority, they have done a significant body of work in developing around Redfern railway station for instance.

LandCom to that end also did recent significant work and achievements on surplus defence land around North Penrith, Edmunton Park, the new railway line running in the south-west and the new town centre that is around that. One is a state owned corporation, one is an agency but both have a significant involvement in this realm.

The question is should the planning agency do planning? I am inclined that the planning agency does and has successfully done planning at a high level but delivery, I think it is important that government focuses its efforts on delivery and to that end, whether it is an agency charged with that responsibility or a state owned corporation, there is room for this inquiry to explore that particular issue. I think it is quite important. There is no shortage of statutory and strategic powers available at the moment. I think in the space of delivery it is very important government does something.

Ms MIHAILUK: You mentioned the Sydney Metropolitan Strategy, and we heard that earlier in the day too, and anybody involved in councils is fairly familiar with the Sydney Metropolitan Strategy. I do not know at this stage whether you have had any real review of how successful that strategy has been in particular areas of Sydney but what is important though is I think any planning that takes place in relation to air space is in line with that strategy. There is no doubt they would need to be very cognisant of what has already been deemed as a CBD or regional centre and which areas are deemed for potential growth.

I hope to see the Department of Planning and Infrastructure would have a bigger role in that sort of initiating stage, not just in the consent format, in the planning format, but rather in initiating those potential sites as well, or giving advice as to where the Department of Planning and Infrastructure sees future growth and future centres and CBDs.

Mr CIRILLO: I agree. My particular job relates to centres and urban renewal and strategic assessments. They are the two branches that report through me so I could not agree more. Government needs to do a lot. It has done a lot in the last five years, the metropolitan strategy has identified Sydney not as - and those of you with familiarity of the document would know it is not seen as a CBD with a great expansive residential periphery. It is seen as a city of cities, multiple cities. So this is exactly what we have been advocating for a number of years, to make best use of land with a high capability for urban renewal and that is particularly driven by transport infrastructure. So I agree.

Mr PIPER: While you have mentioned a few examples around the Sydney metropolitan area, are there any examples that you would give of good or bad development, or any examples that you might draw on, internationally even although we have heard all about Hong Kong, that we could channel, that we could be looking towards as, I guess, a guideline for potential here?

Mr CIRILLO: In Asia there are some very large examples of very intense developments around railway stations which are theoretically applicable, very different contexts and very dense examples. So the examples you have been spoken to about in Hong Kong is one of the densest points on the globe. So it is not necessarily something you can easily transplant into Sydney for good reasons. Whether it is Singapore or Tokyo, same thing applies, some of the densest urban centres in the world.

I understand there has been some work in the United States, Denmark, again sites I cannot speak to with great authority. I have not been to many of these. I have certainly been to Singapore and Hong Kong and I have experienced those and very large tower complexes and shopping centre podiums that are built at the same time as railway lines in metro systems, which are some of the most feasible railway lines in the world because of the density around them.

I think the fare boxes in places like Hong Kong, Singapore, Japan, some of the only transport systems where the fare box actually covers maintenance and operations of a railway system because of the catchment, the very dense catchments around individual stations themselves. Probably Les can speak to that with much greater authority.

Obviously examples in Sydney, places like St Leonards, Bondi Junction are recent examples, Chatswood is under construction at the moment. They are fairly sense developments and recent

ones and applicable ones in New South Wales, some that immediately come to mind. Other overseas examples, they are the main ones that I can speak of.

Mr PIPER: There are some areas with greater similarity to our geography and our demography such as in Canada, parts of the United States of course, but there is nothing that comes to mind? The ones we are hearing about are actually really in those very high dense areas and a lot of those countries that you have referred to probably also have other infrastructure benefits too such as high speed rail that it might be complementary to these networks. Not Hong Kong I do not think, they do not need it because the distances are not so great.

Mr CIRILLO: Yes. I think California has done a lot of recent work on it you can look up on-line or I can find you some examples. I am not sure if Colorado as well but I am pretty sure there has been some recent work in California that are fairly good examples of transit oriented development, terms the Americans use, but obviously relevant here.

CHAIR: Right now, under the current arrangements, who would be responsible for maintaining a master plan of a commercial centre/transport node? I am not talking about like Central or Redfern, I am talking about places like Ashfield, Burwood, Lidcombe, perhaps less so Parramatta because it is an emerging CBD, Blacktown perhaps. Right now is there someone who makes sure that such a thing exists?

Mr CIRILLO: I think the forthcoming Transport Master Plan for New South Wales through Transport for NSW would probably be the best repository for that. It would work, if you like, hand in hand with the metropolitan strategy. It would be informed by it and in turn would inform future iterations of the metropolitan plan and the sub regional strategies. But I think probably the most significant document that would guide this would be the Transport Master Plan for New South Wales.

CHAIR: We all know the significant risk for a developer once he gets approvals for one of these sorts of developments, but in so far as we can mitigate risk and shorten the risk profile from the time of concept to the time of actually getting an approval, I think the committee would be asking the department for their suggestions about how we can actually shorten both the lead time associated with the approval and also the mitigation of the risks associated with that.

Would you like to comment on it now or do you want to wait till you get the question and respond to it formally?

Mr CIRILLO: I think it is very important, particularly where you have a long term vision for a corridor, for instance North West Rail, that you engage early and you engage well with constituents and agencies. So we need to understand as a state planning agency not just the delivery of infrastructure and the approval of the railway line itself and the boxes that in fact will form the stations, but how we best plan the land uses around, for instance, the North West Rail.

To that end the State Government or the NSW Department of Planning and Infrastructure is working with North West Rail link to actually ensure that we can have a coordinated approach towards not only the delivery of infrastructure but the land use planning for the land surrounding and in the immediate catchment of those stations to ensure we get planning decisions and governance arrangements that actually work sort of hand in hand with the increasing capacity that is generated by having a new railway line that runs through the North West sector.

My tip, personally, is work closely with local councils and work closely with them as representatives of their communities, to ensure there are no surprises later in the piece, so that you actually do your planning well and do it early so that you can best manage risk and manage expectations.

CHAIR: If I was a developer right now and I had this brilliant concept and I had three of

those already from local government, and if I turn up to RailCorp and started talking to the engineers, they are going to turn me off it within about three hours of me opening my mouth. That is what I am hearing from some of the people who deal with RailCorp. Who do they go to, to get a bit of encouragement, who says: Yes, it is difficult but we can work around this. I am working with you to help you. Is there any place in government where they can get that sort of encouragement right now?

Mr CIRILLO: I think it would be Transport for NSW because, as the owner of the Transport Master Plan, they would really have to be the champions of the best use of these assets. As you say, it is not just about running trains, it is about a whole of Government approach towards the asset and that includes its land.

Ms MIHAILUK: You mentioned earlier the North West Rail Link. Is that corresponding with the Sydney metropolitan strategy with the potential of growth allocation for that region?

Mr CIRILLO: There are significant growth targets for the north-west sector. They are some of the highest targets in metropolitan Sydney. Obviously the firming up of that as a piece of infrastructure to be delivered in the coming years would probably require some iteration in the sub-regional strategy and there is a review this year.

Ms MIHAILUK: There will be a review.

Mr CIRILLO: Yes.

Ms MIHAILUK: Just on the Transport for NSW Master Plan for which, we were told earlier, submissions close at the end of April, is the department putting in a submission?

Mr CIRILLO: They would be. I am not responsible for it but I imagine they will be, yes.

CHAIR: Lane Cove council has raised concerns that the St Leonards Plaza plan has been referred to the Joint Regional Planning Panel. Are you familiar with it at all?

Mr CIRILLO: No.

CHAIR: The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to further questions?

Mr CIRILLO: Yes, of course.

(The witness withdrew)

(Luncheon adjournment)

PETER BROWN, General Manager, Lane Cove Council, affirmed ,

WAYNE RYLANDS, Executive Manager, Open Space and Urban Services, Lane Cove Council, and

BRIAN O'DOWD, Manager, Urban Design, Lane Cove Council, address, sworn and examined:

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal or administrative action that might otherwise result in relation to the information you provide. I should also point out that any deliberate misleading of the committee may constitute a contempt of the Parliament, an offence under the Parliamentary Evidence Act 1901.

I understand that you would like to table a document to support your opening statement, is that correct?

Mr RYLANDS: It is.

CHAIR: Would you like it to be considered as part of your formal evidence to the committee and be made public?

Mr BROWN: Yes. Chair and members of the committee, thank you for the opportunity to meet with you and provide you with the presentation for the St Leonards bus/rail interchange and plaza. As you are aware St Leonards is considered a specialised centre within the metropolitan strategy as it is part of the global economic corridor.

Back in 2006 three lower north shore councils, Willoughby, North Sydney and Lane Cove, got together with the Department of Planning to develop a St Leonards strategy. In 2010 Lane Cove Council gazetted its LEP and its DCP as a companion document. This work highlighted the need for a St Leonards bus/rail interchange and plaza to be situated on the southern side of the Pacific Highway and spanning the rail corridor in the Lane Cove LGA. This government inspired inquiry into the utilisation of rail corridors provides council with a unique opportunity to detail how our proposal espouses the principles that are embodied in the inquiry's terms of reference and how this proposal could provide the framework for other like projects at key regional transport hubs.

Today will show you how we have developed our planning and urban design principles with regard to this site. We are excited to be working on this unique opportunity and believe it will become a most valuable asset for the community and local business. I will hand over to Wayne and Brian will talk as well on the project in a bit more detail. Thank you.

Mr RYLANDS: You will probably find our presentation and our submission are a little different to a lot of the other submissions you have received. We had a quick look ourselves on the website to see what else had come in and I suppose rather than talking to you about theory and what should not happen and should maybe happen, what we want to talk to you about today is something that can happen and we want to happen.

It is a real project. We think it would form a basis for similar projects at all other regional type centres and provide a great community asset and we would really enjoy the support of this inquiry as well as elsewhere where we have been trying to garnish support for our proposal.

Just quickly some background for you. St Leonards, under the metro strategy, is seen as being a specialised regional centre. The main reason for that, as you can see on that diagram on the right hand side, is that we have the Royal North Shore Hospital and a lot of medical specialised practices in that area. From that and on the fact that there is a lot of commercial in that area, it has been tabled as a regional type centre and we want to build on, I suppose, the good points that have

occurred in that regional centre to date.

CHAIR: Does that circle actually designate the area, is that a certain distance from the rail node?

Mr RYLANDS: I think that is the 400 metres. There is a normal 400 metres from either a rail or a bus node or things like that where they see people can comfortably walk.

Just another bit of background for you, you are probably all aware that the current St Leonards railway station underneath the Forum development on the northern site of the Pacific Highway. For a number of years it actually sat on the southern side of the Pacific Highway on the rail corridor while the Forum building was a hole in the ground. For those of you who can cast your mind back a few years, you will recall that the original developer went broke back in the end of the 1980's when there was a bit of a downturn in the property market and so the site sat vacant for quite a while. It was a bone of contention I think for the rail authority at the time that this temporary station had to remain in place for so long. The idea was that it would originally only be there for three years so you can see it lasted a lot longer.

From our perspective and for the use of the station by our community, it was quite successful. It actually had good pedestrian links which you can see here. There were two pedestrian links on the eastern side of the rail line, this is south of the highway and there were two links on the western side. So it had very good cross connectivity into our commercial and residential area of the interestingly, in some of the meetings that we have had, a number of the business owners that said back when the train station was on this side, their rents were double what they are now because there was such good business opportunity that came out of having the rail station on that side. We realise that cannot be the case now but we want to do the next best thing and that is to bring the people back onto our side of the highway and activate this area around the rail corridor.

Just very quickly, to give you a bit of background on where we have been and who we have spoken to, our very first up meeting was with our local state member, Anthony Roberts, Minister for Fair Trading. Anthony, when we first spoke to him, was very excited about the proposal and actually lined us up for a meeting with the Minister for Transport, Gladys Berejiklian. Again we had quite a successful meeting there and I will go into that in a little bit more detail later.

We met with Charles first up because we were very excited when we heard about in inquiry into the utilisation of rail corridors. For us a few stars have aligned so to speak and this inquiry is even one of them for us. It helps to highlight the need to activate those areas over the rail corridors. We have spoken with the Department of Planning and Infrastructure staff and also with staff at Transport for NSW. We have met staff from Department of Premier & Cabinet and currently lined up to meet with staff in RailCorp and again with Transport for NSW.

We have also had meetings with two large adjacent property developers, one being Loftex Pty Limited and the other being the Winten Property Group. We will go into a little bit more detail on that.

We have also met Willoughby City Council and North Sydney Council, they being the other two triumvirate councils that form part of the St Leonards, funny little boundaries all over the place in St Leonards, but the three councils have a part to play in anything that happens up there and we have kept them closely involved in what we have done to date. We have also kept NSROC involved because we see they will have an important part to play in promoting this as an strategic regional project.

We have also had discussions with the Royal North Shore Hospital, although they have been a little infrequent because I think where they are with their own site is a bit up in the air and they are not quite sure exactly where they are heading at this point in time. We have also met with other

property owners that are adjacent to the highway in front of what is called the Winten site at 88 Christie Street.

We have also met with the medical and dental associations which have quite large property holdings just to the south of 88 Christie Street as well and you will see this in a little bit more detail as we go through this.

Just quickly, as I said at the beginning, St Leonards is a specialised centre under the metro strategy 2036. As Peter alluded to earlier as well, the St Leonards strategy was developed together between North Sydney, Willoughby, Lane Cove and also with the Department of Planning and I know that some of the officers who are now in Transport for NSW were in their previous lives in the different transport departments back there in 2006. They were involved in the development of that strategy as well because transport does play a significant role in what is going to happen in St Leonards. As Peter also alluded to, in 2010 our LEP and DCP were gazetted and adopted.

As I said before, we met with Anthony Roberts in the first instance and he was very excited about what we had come up with as an idea and thought that we should really try to take that further. In doing so he lined us up a meeting with the Minister for Transport, the Hon. Gladys Berejiklian, and she was also supportive of what we had come up with. She said that she would give us a framework that she thought we needed to work from and that once we had gone through that framework to go back and see her.

We have lined up a meeting with her for this Friday, to talk with her about what we have done and who we have met and what support we have and where there are hurdles and maybe how she can help us take this a little further.

We have been through who we met and discussed the proposal with, so I will not bore you further with that. As we said before, we were quite excited when we found out that there was an inquiry into the utilisation of rail corridors. We saw that Charles was not too far from where we were, so we thought we would meet with him and give him a quick synopsis of where we are at and what we are trying to achieve. We found that Charles was as excited as anyone about the proposals. That was, for us, another big plus and gave us the incentive to keep on moving forward with this.

We met with some of the senior officers at the Department of Planning and Infrastructure and Transport for NSW. They also commended us on the sorts of urban design initiatives we have come up with in this proposal that we will be showing you. What they really said is we can see what you have done is quite good. This seems like a quite significant type of project but you really need to meet with the Department of Premier and Cabinet. Make sure that you do not have an unsolicited proposal. We were quite interested in what that all meant. We thought we must have had an unsolicited proposal because no one had solicited it for us. Apparently we do not have an unsolicited proposal, we are another step back again. Anyway, there were letters to that effect from the Department of Premier and Cabinet.

Following that, we also met with the Roads and Maritime Services Regional Traffic Committee and that was more to do with the development at 88 Christie Street. They also saw what our vision was for St Leonards and you will understand why we went and saw them at this meeting as we go down the track here. They were quite excited about the way that we considered pedestrian movements and the impacts of any development on any other development and how we can get good synergies in trying to link them all for everyone that is involved.

As far as our LEP and DCP goes, to put it in a little bit of context, the council has broken our part of St Leonards, or the main part on either side of the rail corridor into what are two precincts. The one on the eastern side is what we are calling our Christie Street precinct, and that is mainly because we have Christie Street sitting down to the east of the development and in between the rail corridor, and what we proposed was a building that would go north-south on that site and have some quite

large podiums leading towards the rail corridor.

Back when we developed this we had not had the vision, I suppose, nor the thought that you could possibly get a platform over the rail corridor. We never really thought that we would have developers moving on the area so quickly. We have two large developers ready to do two large developments either side of the rail corridor which has helped us with this particular proposal. It shows the form and shape we expect the development to take. This part of the slide shows the 88 Christie Street site. I am now pointing to the Pacific Highway buildings. I am now pointing to what we call a new lane. This is where the council is proposing that a new lane go through. That is the Dental Association site, the New South Wales Pharmaceutical Society and for those of you who know St Leonards, the Norths Rugby site, so those three sites form a V portion.

Winten Pty Limited initially put in a part 3A concept proposal through the previous State Government's process and they got an in principle approval for that concept proposal. We notified them of the concerns that we had with that particular proposal but in the end what they have done is submitted a development application which is purely along the lines of the concept proposal that they put in through the part 3A, which was for us quite disappointing and we have found out through a number of the objections which have come through from the major land owners adjacent to the site that they are quite disappointed in what has come through as well.

What that particular proposal does is it isolates from our point of view at least three of the frontages, the Pacific Highway frontage, the Christie Lane frontage and the Lithgow Street frontage. It does not really respect the urban design planning principles, particularly for pedestrians around the site, and trying to get links back to the rail station, so we were quite concerned about that. As I have said, it sterilises the achievement of any urban design and planning objectives through our DCP, LEP the St Leonards strategy. It completely ignores all of them. We are quite disappointed about that.

Both ourselves and the Roads and Maritime Services staff have had major concerns with the pedestrian vehicle conflict based on that development application. They are talking about 2,500 new employees going into that building and the majority coming by rail, yet they have done no real analysis of the impacts between the vehicles that will be going to that site and the rest of that commercial area and the rail area which is again to the north of the Pacific Highway.

This slide shows what their particular proposal would end up looking like. It is boundary to boundary to boundary, 18 storeys. 73.5 metres high. You can see how it isolates all of the buildings on the highway. We still end up with this sitting on the highway. There is no connectivity here whatsoever. There is an underpass at the moment which is poorly used because it is poorly set up. You feel like you are taking your life into your hands if you go into that in semi-darkness. Basically, once you get into the middle, if you had a group of people coming behind you and a group or people coming towards you, you have nowhere to go. You are stuck there. You are it. You are fresh meat.

Like I have said, it has the Pacific highway isolation. The bulk of the scale is excessive. It is stark and imposing. It overshadows the buildings into the south. That is the dental and pharmaceutical sitting in behind here and Norths Rugby. They will basically get no sun for the majority of the day. It is a complete contrast of character of the area, as established by another building that the same developer did across the road, the Forum. You probably all know about that and the architectural awards it is has won. The same people are doing this development. They are chalk and cheese. We are amazed about it.

This slide shows the view that we have come up with of what we believe the area should look like, based on our DCP and LEP and you can still get some quite significant commercial retail development in on those sites, but you can really activate the building and the surrounding area quite well.

This would be where the rail corridor is sitting through. This would be Lithgow Street running up the

side and in underneath, but we have done is we have pedestrianised the whole area which provides fantastic linkage back through the Christie Street site, back onto the highway and, as you will see later on, back on to Marshall Avenue as well.

That is the difference between the two proposals looking at exactly the same angle. You can just see the bulk and scale of what Winten have proposed here and we have looked at trying to keep more in tune with what we had there in our DCP controls and through our LEP. Having the podiums, quite well activated podiums and then a couple of separated buildings. Also to make sure you provide sight lines from other buildings to the north back towards the city. There are quite excellent views back towards the city from the Pacific Highway because it is on the ridge.

The second precincts, the one to the west of the rail corridor, so if you imagine the Christie Street precinct was sitting here, here is the Marshall Avenue precinct. Without going into too much detail here, one developer has actually come in and bought all the properties along here. So all the existing low density residential, they have purchased all these. That company is Loftex and they are purely a residential type developer. They were not interested in purchasing the highway properties but we do have a better chance of something still happening on the highway than what we do with the Christie Street development. There is quite a bit of extra length there so somebody could get some better built form on that particular site.

With their particular proposal with Loftex, because they are making some changes with respect to what our LEP and DCP allow at the moment, they have actually put in a planning proposal which I think is sitting in the gateway at the moment with the Department of Planning. They were very excited about what we have come up and they have actually taken that into account. What they have done, this is how they propose that you would come out of their development looking back towards the rail corridor. You can see here that would be where the rail corridor is. They have looked at having a similar type of platform where you come out of their development, there is activation straight away so people just want to be there. It is a place to meet, greet, sit down and talk, do what you want to do, have a bit of a space which just does not exist at St Leonards.

This was our vision. You can see they are quite similar again. What we have tried to do is activate that area straight outside their building. You would be able to come out, plenty of places to meet, sit down, have a coffee, get a meal, do what you want to do. Even room for the kids to run around a bit. We have also made sure we have good connectivity back down to the rail line through some travelators or some lifts and the like.

Just very quickly, this is the real vision that we have for that area over the rail corridor. You can obviously see where the railway line is, this is the Forum development to the north of the highway. What we are basically looking at is activating all that area back to where these major developments are occurring. After our conversation with Charles, we have even made sure we put in a little area here for some child care centre or something along those lines. If you live here, you are about to go into work in the city, you can drop your kid into the child care and away you go. Likewise, if you work in this building or this one, you can come up, get here, drop your kid into the child care and off you go to work for the day and you pick them back up when you finish and back home you go.

We have looked at activating from that side. We have also looked at making sure we have the good connections back down into the rail station. We have put in a bus interchange. At the moment, for anyone who knows St Leonards, the buses have to pull up on a very narrow footway over here outside the Royal North Shore Hospital site. The footpath is only about two metres wide and there are at least 500 people per hour trying to get on the buses in the afternoon peak. It is just absolute chaos there and I think Charles said he used to do a little bit of jogging along there. Probably have to do a bit of hip and tuck.

That is pretty well our vision for what we have come up for with the utilisation of rail corridors.

As a second option, if we had difficulty trying to get the people under the ground, we have also had a look at the possibility of taking them over and above the highway and into the centre of the Forum building. That would also help to activate the centre of this Forum building which we understand they are having problems trying to lease out. So you could provide extra activation that way. Again, bring people up either by a lift or some stairs or escalators from this bus interchange area and the commercial and retail and residential precincts that will be occurring.

We expect some of these developments to start within the next twelve months and I suppose that is part of the reason for our expediency in trying to go through different government departments. While we saw it as a fantastic opportunity to come to this inquiry and tell you what our vision was for this area, we do not see why this sort of thing could not happen in most other regional transport hubs. It is a great way to activate an area, get the developers on board to look at the properties that are adjacent and give them an additional frontage into an activated area.

Just quickly, Brian will go through what our response was in particular, more to do with the submission we put in to you before about the inquiry's terms of reference and just how we believe this particular project ticks all of those boxes. Hopefully rather than just being a theory based thing where people are talking to you all day about transport oriented development and all this sort of stuff, this is actual we want to get this sort of thing happening, we want to build this. We have gone to the point of getting structural engineers' plans drawn up, we have had them costed, we started to talking to the developers about the possibility of voluntary planning agreements.

The big box that we have to tick though is through the government and trying to get something like this happening. If we can, I don't see why it could not be a model for what the government tries to get happening at a lot of these regional type centres. I will let Brian give you a bit more background on our decision.

Mr O'DOWD: Thank you Chairman and panel members. As Wayne said, we have embarked upon this. It would remiss of me not to go back and point out the situation as far as Lane Cove Council is concerned in engaging an urban designer onto this project in the middle of last year. I do not know any other council that has done that and I applaud their initiative in doing so. My firm view is that every council should have someone looking at the urban design aspects of how all these things fit together.

Unfortunately, being a planner of over thirty years, planning has lost its way. It has been, in many respects, arrested and incarcerated by the legal profession. The design aspects of planning have been pushed by the wayside and we are not producing the outcomes we should be in terms of meaningful planning and urban design solutions.

Mr OWEN: And a bit of innovation.

Mr O'DOWD: Exactly. What we did in the presentation we made previously was look at the terms of reference here and what we have done very consciously is observe what has been established over a period of time since at least 2006 with that development control plan and the St Leonards strategy that was developed under the auspices of the Department of Planning, in conjunction with the three, triumvirate of councils that existed at that confluence of boundaries that occur at that point at St Leonards station.

What we have endeavoured to do is provide the best solution that we can to connections to the bus rail interchange so that we do not have the poor cousin aspect that is demonstrable if you look at it today. The Forum development on the left hand side, you can see it picks up some certain architectural language and develops a dialogue within the area. It also has buildings in the background there, the IBM background which has slender towers which have the right spatial arrangement to them from an urban design perspective to sit comfortably within their environs.

What I have sought to do as far as fine tuning and finessing the urban design plans is to bring those buildings, the two that you see on the southern side of the footbridge there, into what I consider to be the desired interpretation of the development control plan that emerged from that St Leonards strategy in 2006 and was embraced by the Lane Cove local environmental plan 2010 and the accompanying document, the 2010 DCP. Those aspects are critically important as far as implementation.

As Wayne has demonstrated to you, we are anxious and enthusiastic about implementing this proposal now. We have advanced in the last nine months I think in leaps and bounds towards achieving the goals of what we are trying to establish here. What we are keen to see happen is that we do not get developments like Winten's that are going to frustrate our situation. My own personal point of view is that it was one of these applications that got swept up in the hiatus period between last government and the part 3A debacle that eventuated with that, and these were ones that were clinging to the coat tails of that whole exercise. We have taken the opportunity to go and get some advice from senior counsel, which we only received late on Friday afternoon, as to what the appropriate method was of analysing and detailing and writing the reports, both from a council perspective and from the joint regional panel's perspective.

We have enthusiastically pursued the right way of going about this. We feel that the Winten project which, to me, was thrown in at Christmas time just to try to catch the last gasp of part 3A - I do not think you have to be an expert in the field of planning, or urban design, or engineering, or architecture to understand that that is what a lot of these projects were seeking to do but, in my view and council's view, because we have taken this to various forums within the council itself, we have taken it to a number of other external forums, as Wayne has alluded to and demonstrated to you, in every case it has been resoundingly embraced and accepted as being a beneficial and appropriate and creative solution to developing a bus-rail interchange over what is superfluous government land.

If we come back to addressing your specific terms of reference, we believe that the urban design and development opportunities here have been addressed. We believe that we have gone a fair way down the track towards assembling all of the entities. We have one side of the railway line fully supportive of what we are doing in there. We had a meeting with them on Thursday of last week and they are modifying their plans and massaging their plans into accepting what we are putting forward and I think the comment was: You are doing a great job so far from what we can see. They are anxious to be part of it. We do not want the other side of the railway line to be something that is going to bring about its demise.

As far as the income generation aspect, we believe that this can do that in terms of providing all of the jobs, all of the mixture of residential and commercial that will generate from those two tower developments. The utilisation of the bus-rail interchange, when we did some research and found that the station was already there, it would be very difficult for anyone to come back and say you cannot do it as it has already been done, so the connections were there before and we believe that it is an appropriate and pragmatic way of going about implementing a great community asset for this community on the Lower North Shore.

We would be interested to hear what the next presenters have to say because they are our neighbours at Willoughby and they talk about the rail corridor comparisons between what happened at the Forum and the way in which they did that and what happened at Chatswood. We have read their documentation. We have had some deliberations upon it and we can see that the way we are going about things is what we consider to be the appropriate and responsible way and what has happened through a 3A process at Chatswood in their report, which you would have probably read, there is litigation which is outstanding and pending and looks to be long term to me.

CHAIR: Messy.

Mr O'DOWD: Yes. We believe the income generation will be there from the development of these two major projects. It will also be there from the point of view of utilisation of public transport. It will also be there from the point of view of creating a community facility in open space, which is sadly missing and not available in any nearby sense within that circle, Charles, that you pointed out on the initial plan within that 400 metre radius of St Leonards Centre.

As far as sustainable urban renewal is concerned, we believe that the whole exercise is sustainable on the basis of it being an ongoing situation. We can see that it is going to be something that the rest of the community will seize upon. They will be looking to use that area. We have other ideas. Be mindful of the fact that we are at the schematic stages and what you are seeing are artists' impressions and graphic representation, but we are hoping to work up the detailed fine-tuned working drawings.

As Wayne said, we have gone to the trouble of having a structural engineer prepare plans, so we know it can be done. We have some costings on what it is going to cost to do it as far as the situation across the railway line is concerned, so again we believe that that satisfies another one of your terms of reference.

As far as transport oriented development is concerned, we believe that the Winten and Loftex proposals again satisfy that situation and if they are done correctly and they are fused together in a cohesive and comprehensive planning and urban design fashion, we believe that they can achieve the goals and the aims of your outlined terms of reference here.

The community connectivity I have touched upon. We can see that when we start to get into doing some of the detail work, we can provide parking areas underneath the roads and you will see from that one that you have got in front of you, the perspective of the zoom version, that there are opportunities there to get spaces below Lithgow Street and Canberra Avenue on either side where we can get car parking stations. We can do different things to satisfy the community connectivity as far as being able to get their cars in there, being able to have direct access to public transport, and then into the city or on to Chatswood.

Mr RYLANDS: Just further to that, when we engaged the structural engineer to have a look at this for us, there were two main things he had to consider. One thing that the Transport for NSW representative said is that any columns or such had to be outside the rail corridor, so a 30 metre span and the other thing that we asked for is to make sure that over the two roadways that are adjacent to that rail corridor that we could get in other levels of parking for things like kiss and ride, or even a car share type scheme or something like that, so people can come in via the bus or the rail and come down and if they need to go locally to do their business, when I say locally, within five kilometres, they could go to the car share thing, get a car, do and do their business and come and drop it back and get back on the bus or the rail. Those were some things that we asked the structural engineer to make sure could happen as well in his initial design for us.

CHAIR: Can we just assume that you have met those other criteria for the time being? I am mindful of the time and I would like to get some questions in. We will assume you have ticked off on the rest of them, as I am sure you have because I have spoken to you before. One of the questions I have is you are the third council that has come to me that is undertaking a certain role that I was not familiar with until you came to see me. The role I am talking about is you are now championing a vision for a significant development around a transport node. I have a number of concerns. One is how do we get those visions into the master plan process right now and we will address that in a number of different ways. The other role that you are undertaking is you almost become a de facto coordinator across multiple government agencies and multiple ministerial portfolios. You are championing this vision across a diverse number of stakeholders right now.

Given your experience to date, is it appropriate and do you see it as the role of local government to

do that in future or do you see a separate mechanism perhaps dealing with this in a better way than you have been able to, given your role within the community?

Mr RYLANDS: I suppose the reason that we have championed this as hard as we have as a local government authority is that we believe so much in it from a community point of view. We can see the benefits for the community in doing something like this. We are at the level where we saw what was going on around that rail corridor. We could see these two large developments in the process of happening. We also had the inquiry into the utilisation of the rail corridor. In a way these three stars aligned to give us the impetus to try to get these things going.

Our experience has been if we went off to higher levels of Government and just spoke about doing it without actually doing some of this leg work, it would sit in a little can over there and wait for the other cans that were in front of it to be opened first. That is why we have been so keen to champion this ourselves and to try to make sure we can do as much as possible to keep it moving. If we leave it too long the developers have basically said we are only really interested in this if it can happen at the same time as we are ready to do our developments. If we lose that window of opportunity this is gone because we do not have the funds ourselves to try to do something like this even from the bus-rail interchange part of it.

I do not know far down the track if it is in the State Government's plans to do a bus rail interchange at this particular location. I have not seen it in any plans as such. We are quite lucky that everything has sort of come together but it was almost like Brian said, we saw the public domain, the urban design opportunities here and that is why we engaged both Brian and our urban design planner in the gallery, Simon, to look at things like this for us. To do a lot of the work where we did not have the specialties in it but we just believe so strongly in this and there are a number of other little projects like that we are trying to undertake.

Mr OWEN: How far down the approval process are the developers for their initial developments?

Mr O'DOWD: Maybe if I can answer that and supplement what Wayne has said to you. We have one development application in at the moment so we have got to deal with that. We are obliged to deal with that in a shorter timeframe. We have got the other developer Loftex on the western side of the line that we spoke to again on Thursday. They are ready to go with their LEP to modify the development that they can achieve on the site. Instead of having the range of three and four storey developments down Marshall Avenue, we have encouraged them to come with a higher density which you saw there on those perspectives, so that they are ready to go and they are anxious to proceed as soon as they can.

The next point that I was about to touch on is the planning and policy situation which again supplements what Wayne has just said to you about this is a now situation. If we do not act now, if we do not get this happening, I am responding to your question Charles, then we miss the opportunity forever and a day. But the fortunate situation that exists here is that the LEP and the DCP have been adopted or gazetted back in 2010 so the planning is in place right up until the boundaries of the rail corridor. We do not have any development over the rail corridor per se other than the platform or the plaza or the community facility. So everything is in place for it to happen. This has a spontaneous opportunity to occur now.

If we were to get support, as we are seeking from you today and again from Gladys Berejiklian on Friday, then we are pretty well advanced to starting to get into the detail of putting together the working drawings and these architects on other side, that is the Loftex development, are enthusiastic to bring in, they have taken a copy of that zoomed perspective away with them to take that to their architect, to bring in our scheme to fit into their program. So it is all dovetailing together and meshing.

I understand where you are coming from in saying there might be other authorities that can do it but I do not believe that they can do it with the expedience that we have been applying to it because it has been the focus of council and the focus of our section for certainly the last nine months.

Mr RYLANDS: In saying that, any state or federal government assistance that we can get will be well appreciated.

CHAIR: The reason I ask it is that I actually have a very progressive, innovative vision inspired council that has come to me represented by you and I have an equal opportunity in my own electorate with government land, no one has identified the opportunity. Now the issue as part of this inquiry is how come over here we are about to seize an opportunity and there is an equal opportunity which should have been easier in theory to actually bring to realisation but no one is doing anything about it.

So my question about roles is from two dimensions, one is where local government is progressive and saying we want to take on the champion of this because we see it, and the other side is we have so many government departments, so many ministerial portfolios that come into play to realise significant opportunity that seem to fail. There is some breakdown. So what we do is we sell land for \$2 when the real value is \$200 when you utilise it with something else. I commend you for taking the stance that you have.

Mr O'DOWD: Charles, could I just respond to that on the basis of what I opened with? In the preface of my presentation and submission to you I outlined that this council has taken the initiative of employing an urban design team. So we are looking at it and we are focusing on it. Council have had that vision and have done the right thing, in my view, in looking at it.

What is happening, and I believe this is firmly the case, is that in planning and in other areas, these opportunities, these visions are not there. You will not get them from planning per se. In my view, again it has lost its way. It has lost its way and that urban design initiative and that impetus needs to be pursued so that that is coming across from all of these councils. So that that gap, that void needs to be filled. Someone has recognised it and they have brought it to your attention, but we have recognised it, the council have done so here and they are implementing it.

Mr OWEN: A lot of times in reality it is the locals who actually have the vision, the people who live and breathe and eat it, this block every day. You could probably bring something at a governmental level that can sit over that and oversight the broader development. I think your point is well made about urban design type approaches to these sort of things, rather than everybody just sitting around saying I wonder if anybody could tell us how to do this?

Have you had any informal discussions at all with RailCorp or anybody like that?

Mr RYLANDS: Yes we have.

Mr OWEN: What have you got from them?

Mr RYLANDS: As far as RailCorp goes, at the moment all we have been able to do is put in our formal \$10,000 submission for them to look at it and tell whether we are right to come in and have a meeting with them. But I have to say that the Department of Planning, particularly Julia Grant, was quite receptive to meeting with us and helping us through the process. At that same meeting we had Rex Gunton from Transport for NSW and he is quite heavily involved. He was involved in our St Leonards' strategy so he is quite across the range of issues that we will need to comply with to keep this moving on down the process.

I just wanted to say further to what Charles said before, if we can get our little proposal across the

line and get it happening, we are willing to help whoever else through the process in getting their little thing moving along as well because we have learned quite a lot in a short period of time, how to move through the steps on this.

CHAIR: And we will exploit the opportunity because you are now going through a process. I think to be fair, because of the transition in roles and responsibilities between RailCorp and Transport for NSW, in the space that we are playing I think there is still a shaking out process needs to occur. I am hopeful as you can go through the process and you highlight certain obstacles and impediments, along the way you will be able to share those with us and inform the Committee in terms of deliberations over the next few months.

That said, I am mindful of the time and on that basis can I thank you for appearing before the Committee this afternoon? The Committee may wish to send you some additional questions in writing. In fact we definitely will because there are a few unanswered ones. The replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to further questions?

Mr BROWN: Yes.

(The witnesses withdrew)

NICHOLAS ASHLEY TOBIN, General Manager, Willoughby City Council, Level 4, 31 Victor Street, Chatswood; and

LEONIE JOAN DE CARVALHO, Chatswood CBD Place Manager, Willoughby City Council, 31 Victor Street, Chatswood, sworn and examined:

CHAIR: Can you please confirm that you have been issued with a copy of the inquiry's terms of reference and the relevant Legislative Assembly Standing Orders relating to the examination of witnesses?

Mr TOBIN: Yes.

Ms DE CARVALHO: I have.

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal or administrative action that might otherwise result in relation to the information that you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1981. Nick or Noni, would you like to make a brief opening statement?

Ms DE CARVALHO: Willoughby Council's submission is in two parts, one going more to the practicalities of developing in the rail corridors and the other being something that we saw as an oversight, which was the issue of linkages for ecological reasons that are provided by the rail corridors that do not appear in your terms of reference for this inquiry.

The first part of our submission is, largely because of the experience we have had in doing this sort of development, there is no question that Willoughby Council is not a supporter of transport oriented development. That is clear in the sort of development that has occurred in the Willoughby area. We have three examples of rail land being developed. One is the Forum, one is Chatswood interchange and the other one is land that was sold by Railways to Mirvac and it is known as the Pacific Place site. It is an area of land north of Chatswood Station.

They have all been different. We have learnt a lot from them, not necessarily good experiences all the time. We do feel that, as a council, we managed the Forum development very well and that that development has been very successful. However, the Chatswood interchange is still not complete. It is still not occupied other than as a railway station. It is still in litigation and has been in litigation since 2005. That development, as far as the station goes and the shopping centre, although it is not being used, was completed in 2008 and here we are in 2012 and it is still going and the development above the station has yet to be completed.

That is why our submission is in two parts, because we have had some experience of this on the ground. We are not theorising about it. We support the concept. That is not the issue. It is how this can come about, how it can be managed and how we can learn from what has gone on.

In the case of the Forum we went through a long strategic planning process, leading to a site specific development control plan. It was done cooperatively with our neighbours, being Lane Cove Council and North Sydney Council. The developer was on board from the beginning. The architect involved in the development was on board from the beginning and I think probably this Committee is aware that that site has won awards.

I cannot say that the Chatswood interchange had the same kind of path. The Mirvac development north of Chatswood had a similar path in so far as we did develop a site specific DCP, fully advertised within the community, eventually leading to change to planning controls and properly going through the process of planning and strategic planning. The unfortunate part of that particular exercise was

that we were seeking to achieve a mixed use development on the land. At the 11th hour the development company bypassed council and went to the previous Government under the part 3A process and got an approval in February last year for a residential building on the site, which really takes the number of residential units outside what would be reasonable on a site in the heart of Chatswood CBD.

CHAIR: Just to make it easier for me, because I am Italian and I cannot think in sophisticated terms, in terms of the Chatswood project, could we limit our comments for the next few questions to Chatswood, because I would like to use that as an example if I may, of perhaps the way not to go about business, which is what I am hearing from a number of people. In terms of the Chatswood project, could you give us some comments about the role of the Government agencies that came into play during the approvals process and how you saw that developing? Were there some major stumbling blocks that you could make us aware of? Could you describe that process prior to the actual approval being granted?

Ms DE CARVALHO: I should say that I am a town planner. That is my background. There was a lot of cooperation initially with that project, so with the Chatswood interchange you had an initial approval for what was the Parramatta Rail Link and the Chatswood interchange design was based on a concept that council had actually put together, because we had developed our own interchange for Chatswood station and I think it opened in about 1988. Yes, it needed upgrading. We were aware of that and we were moving towards doing that and then the Parramatta Rail Link came along, so the initial environmental impact statement picked up the concerns that the council had to solve the problems at the interchange.

The operational issues for railways were that they really needed to have two island platforms and that was really the driving force for what happened then. By having two island platforms, that meant when movement between the two lines occurred, you moved across a platform, rather than up and over a footbridge.

They then moved to the position of demolishing Chatswood station and looking at the options available to redevelop it. Council was in line with that. Of course there was an element in our community who did not want to lose the station for its heritage value, but generally council was supportive of that process.

CHAIR: Who was driving it at this point in time?

Ms DE CARVALHO: It was driven by State Government. Initially they had a Parramatta Rail Link Authority, which eventually evolved into Transport Infrastructure Development Corporation. Then it evolved into the Transport Construction Authority more recently, and I do not know what it is called now. There is another name, but I cannot remember what it is.

Once that decision was made there was a cooperation between the Department of Planning, the Parramatta Rail Link Authority, State Rail Authority as it was then, and council to prepare a new master plan and that then became a basis for an amendment of the Parramatta Rail Link approval.

CHAIR: That master plan, was it just the interchange, or was it an area around the interchange as well?

Ms DE CARVALHO: It was an area around the interchange as well.

CHAIR: How far out did it go, do you remember? Was it 400 metres that was the pedestrian catchment?

Ms DE CARVALHO: Actually, in terms of proposals, it affected pretty much the whole of the rail corridor between Help Street and Albert Avenue. That would have been about 2003 and

that then led to an amendment of the Parramatta rail link approval as it applied to Chatswood. It also led to a private development approval. So in other words, you had the public infrastructure component of it approved under part 5 of the Environmental Planning and Assessment Act. Then you had a private development component that was approved under part 4 of the Environmental Planning and Assessment Act. The two of those approvals came together to give the total outcome. That became what was known as the Preferred Project Report and I presume that was the basis that it was put to the market as a public tender process.

We are not really sure what happened during that period because obviously we were a little on the sidelines in that process. That was approved in December 2004, from memory, but no sooner did we enter 2005 than a joint public private partnership was announced with CRI. That public private partnership must have been on the boil for quite some time because it was considerably different to what had been approved in the master plan. So having known of the master plan approval in December, we first saw a more or less in completed documentation stage for DA in February. Now you do not put together a project like that in the space of Christmas and holidays of January and present it to the local council on the 28th of February, something like that it was. There must have been a long lead time and I cannot comment on that because we do not know.

CHAIR: When did the project come from being a bus rail interchange driven thing to being something else? Was there a time that that happened?

Ms DE CARVALHO: That proposal was to try to pay for Chatswood station through the development, that went with the station that is the actual station construction. So it was the public private partnership endeavouring to offset that cost, and anyone can understand the endeavour.

CHAIR: But in your opinion that was happening parallel to your understanding of where the process was?

Ms DE CARVALHO: That's right. That is my summation, I cannot guarantee that, but it is just the timing from when those proposals went through and when we were first presented with the new design, and it was significantly different, it was only a space of a couple of months, less than a couple of months.

CHAIR: So all up then, just so I have the timing right, from the time someone said we need to do something about the bus rail interchange around Chatswood to the time that approval was given, how long was that time before the public private partnership, PPP?

Ms DE CARVALHO: I think it was the year 2000 when the Parramatta rail link was approved. We had actually worked up options for the bus rail interchange before that. In fact they went on exhibition in the Chatswood master plan in 1999. That process got shelved because of the announcement of the Parramatta rail link. As I say, initially the concepts that council was working towards did go into the initial EIS for that project, but that evolved as the operational needs of the railway became more apparent.

Then you had the master plan 2003, amendments to the Parramatta rail link approval and an associated part 4 approval for the development outcomes. But then a year later you had a PPP which then gave it another outcome.

CHAIR: And if I have read you right, your knowledge of the PPP was virtually zero?

Ms DE CARVALHO: Zero. We actually did, under Freedom of Information, ask for more information but I think we got three or four pages. It was all commercially in confidence, which I guess it would have had to have been.

Mr TOOLE: You might not be able to answer this Noni, the master plan signed off in 2004, council was involved as part of that, who were the other stakeholders and I am just curious who was involved, if you are allowed to say or not, in the PPP agreement that was signed off in 2005?

Ms DE CARVALHO: Well, firstly who was involved in the planning for the master plan? It was council, it was State Rail and eight other government agencies like the RTA, Department of Planning, State Transit, they all had a seat in that process.

Mr TOBIN: That does not mean we are actually listened to though.

Ms DE CARVALHO: As for the PPP deal, we had no part of that. That is a matter between State Government and their partnership. I have no idea.

CHAIR: So what were your observations once construction actually started? What was the role of council and what were your observations during that period?

Ms DE CARVALHO: We struggled with some of the changes and made our submissions accordingly. Not because we did not support the concept, the principle of what had to happen, it was just the manner in which it was going to happen and the changes that occurred because from our view, the change to the development outcomes was imposing itself on Chatswood without properly integrating, although there are a lot of positives out of the design, there were a number of negatives as well. Not the least of which included resumption of council's land that it owned at Chatswood station which we subsequently had to seek compensation for.

It did become a matter of litigation between council and government and was ultimately settled in 2008. That was unfortunate because the bulk of the development land that the developer was given was land that had been resumed from council. So naturally we were a little bit upset with that outcome.

The other thing that happened during that process is that that PPP design did not confine itself to the land that they had already resumed from council. It managed to have one of the towers on land that they had not resumed from council. So then we had this mishmash of subsequent resumptions to fix up the situations. That included a further land resumption, but then when the design was being worked through everyone realised they could not exit people from fire exits so they then resumed easements over other land that we owned and this process just went on and on through lack of planning. What more can I say?

Mr TOBIN: And a lack of listening to people that had the knowledge in the councils. I can recall sitting in meetings where people came in and they did not even bring a pen and paper and make any notes because I do not think they really cared. They were on a mission and they wanted to get this project finished. They would walk out and very few things we had mentioned got incorporated into any future plans.

The big issue we have is that the Chatswood interchange has no future proofing in it at all. The bus interchange is now overflowing and we could have told them that at the time. We did tell them that at the time. We now have buses parked out on the streets again in Chatswood CBD. So that lack of consultation, lack of listening has been a major issue and we still have an empty shopping centre, we do not have the apartments built. They should not have been apartments, they should have been a commercial tower based on our planning LEP but to get highest and best use, the residential towers were put into the proposal to get the dollars out. It is all dollar driven and not outcome driven, in our opinion. The station is quite nice but everything that goes with it is not working.

Mr OWEN: So Nick or Noni, if I was to say to you in a perfect world how would you have seen this being done? Maybe through a lead government agency or how would you have seen

with council? I am just asking because I do not come from this background. Could you give me a sense of if you had your time again and you were still keen to have this done, how you would think this would be a more palatable process?

Ms DE CARVALHO: Are you meaning just to do with Chatswood or are you meaning in the broader context?

Mr OWEN: In the broader context but using some of the problems that have occurred in Chatswood as possibly leading into this.

Ms DE CARVALHO: I honestly think for this to really work government needs to set up some kind of multi-disciplinary management unit that draws on the experience of people who have been involved in this sort of thing and whether or not that is co-opted on an as needs basis, I do not know. But it certainly needs a coordinating facility that brings together people who can plan these things.

By that I mean not just planning the concepts in a strategic planning sense and working with local communities to get them on side for what is going to happen, but it is also managing it through the detailed design and the manner in which the site is going to operate for future generations. Now that operation gets very, very complex when you have a rail authority trying to manage a rail line and move people through a site and then you have got perhaps different representations of different uses on the site, all trying to run their businesses, or live there, or whatever the case may be, and all of these have complex interactions right down to sharing loading bays, to having separate garbage rooms to access, and they all have their distinct demands on a centre. All of those things need to be understood by the managing agency when they are setting up this kind of a project.

When we were writing our submission, quite honestly we could have gone on for hours. We had to cut it right back. We could give you our files. We could give you whatever you want from our experience. It is all public information. All council's files are public information. You are perfectly welcome to see what we have learnt and what we have been through, but there is a logic to this that sometimes gets lost, and it is the logic of competing interests and balancing those interests to make something happen, something that most people in the community accept as being the right way to go, especially if you can value capture for the greater good of the infrastructure in the longer term.

CHAIR: We had the Director General of Transport for NSW give evidence this morning, as indeed the Chief Executive of RailCorp gave evidence. The message, if not explicit definitely implied, was that a prime consideration when we talk about developments in air space or adjacent to land to the rail corridor should be given to the transport function. I firmly believed that when I was in the RTA. I am now starting to shift a little bit, certainly as a result of the inquiry. Is perhaps having too much of a predisposition to consider the transport function as a prime consideration working against the community interest and I would like to suggest with your comment, perhaps that should be shifting in favour or what does the community need around a particular area, around a transport node? Normally major transport nodes come with commercial centres located very closely to them. Are we so focussed on the transport function that we sometimes forget when you start building over air space, over the rail corridor and adjacent land, there is already a defined community need and it is articulated in different templates and instruments. Do we pay enough attention to that when we look at these developments of our transport nodes or do we just look at the transport and say this is the capacity of the transport infrastructure right here, we plan around that, as opposed to the broader need, which could be that around here we need a long day care centre, we need better commuter car parking. We may need a better bus-rail interchange of a certain flavour.

In Chatswood did they pay too much attention to the transport function and not enough to everything else? I do not want to put words into your mouth.

Ms DE CARVALHO: I think that is quite true. We did grapple with those issues a bit better

at the Forum. We had the knowledge of the local needs and the cooperation of other councils in recognising that the station actually gave a focus to St Leonards, because St Leonards is an interesting area. It is the meeting of three councils and it used to lack identity. Willoughby happened to be the one that had the station. We set out to create an identity, to give St Leonards a land mark. As well as that, it does have the child care centre. It does have mixed use. It does have 38,000 square metres of office as well as the 700 units. It has some retail and it has some restaurants. It is a classic mixed use development at a transport nodal point.

Along the way we worked with the developer to get widening of the Pacific Highway for the bus connections. We got a bridge over Herbert Street. Although it does not work yet, when the North Shore Hospital development goes ahead that bridge will link into a pedestrian network that will take people straight into the hospital.

CHAIR: That begs the most obvious question, which is what was the difference between the two? From memory, it was the same government at the time, dealing with the same public sector agencies. What was the difference in approach between those two that made one very successful and the other one a litigation nightmare? I am asking for your opinion more than anything else.

Ms DE CARVALHO: I work for the council. I have to say it is because we remained involved in the Forum development. We were the consent authority and I would like to think that was the very important difference.

Mr TOBIN: And the developer was a different developer that was really across the issues and wanted to work with the council and the different bodies. Your question about is it too transport orientated, it has to be transport orientated. It is about getting the linkages right as well. If you get all of that right then you can add the other things on afterwards. I think that what has been happening in the case of Chatswood is that it was too dollar driven. How do you get enough development on this site to make it a viable proposition and 501 units in the first development and now it is up to 515, I think.

Ms DE CARVALHO: It is 550 now.

Mr TOBIN: It is growing every day. The way that site integrates back into the city has not been properly planned. They are the things that we should have been able to work on with the developer and the Government bodies and get a better result instead of them having to come to us and say we need to claim part of your Chatswood Mall now because we have nowhere for the escalators to come up. Thomas Lane, where they had to reclaim part of that because that is where they had to put in a lift for disabled people. All of those things could be better planned if people work together. We are happy for it to happen. It is the only way to get improvements, but people have to work a lot closer.

CHAIR: The most obvious question when you deal with these sorts of inquiries is in terms of the net benefit to council, in terms of financial benefit to council of these two developments, Chatswood and the Forum, have there been any benefits flowing to council and, more broadly, to the community, which is of note where we should be paying particular care?

Ms DE CARVALHO: Chatswood Station, probably the main benefit is the connection across the station, although you still have to go down and up instead of going up and down, but visually there is a connection which is probably better than it used to be. The rest I am not really sure. We do have a nice new station.

Mr TOBIN: We have accessibility now and all the things we did not have at the previous station. The link through to Epping is great. When it is finished it will be a good addition to Chatswood. We have done our bit to upgrade the rest of Chatswood. We have upgraded the

Victoria Avenue mall. We have built the new performing arts centre. It is holding us back now because there is a whole commercial centre there that when you get off a train there is nothing in it. That needs to be the greeting point and then send the people out to spend and enjoy themselves in Chatswood.

Ms DE CARVALHO: We have indicated to the purchaser of the shopping centre, because we are well aware there are aspects of the shopping centre that are going to need modification to make it workable and we have indicated that whatever section 94 arises from that in order to get the floor space to work, that we will let the purchaser try to manipulate the design and if it involves an increase in floor space we won't charge them section 94. It is absolutely vital that that works.

CHAIR: Have you got a feeling for how Chatswood will progress from this point on? I know that we spoke about some of the elements of it. Have you a feeling for how long it will take to do anything?

Mr TOBIN: To finish the project?

CHAIR: Yes.

Mr TOBIN: As soon as the court case is complete I think then it will move quite quickly. The cranes are up ready to build the towers. The purchaser of the retail is ready to go still. It will happen quite quickly after that. With all the development, we have got 880 units coming into Chatswood as a result of these two railway owned land sites, which is almost like a small country town coming into the middle of Chatswood, so we need the shops, we need all those things completed so we can service all those people.

CHAIR: This morning we heard that Chatswood could be held up to be reasonably best practice in terms of how the transport agencies went about their function. I would suggest that you are saying to me that in terms of total development as a best practice, that would be one of them. Perhaps the Forum would be something we should be looking at closer in terms of producing viable outcomes for the community, would that be fair to say?

Ms DE CARVALHO: I would think so but as a transport agency, perhaps it is best practice. But when you are talking about an integrated development as a transport oriented development, that is another issue. It is more than just the transport infrastructure.

Mr TOOLE: You said there were two issues, one was about protecting wildlife and habitat as well. I was just wondering, you said sometimes it is overlooked, I was just interested in what your concerns might be that you perceive in this particular area.

Ms DE CARVALHO: This is a submission on behalf of a NSROC Council in that the rail corridors do act as wildlife corridors for the local areas and some of them do have threatened species, trees or fauna in them. So I guess it was more a case of seeing within the terms of reference that issue had not actually been acknowledged as a matter for consideration for this inquiry and we felt it was important that that be raised with this inquiry, that it is a head of consideration that the inquiry must have regard to.

It is all very well to talk about development opportunities but it is balancing those opportunities with the ecological considerations for the corridor itself as a space, as an interconnecting space within communities.

CHAIR: I am really interested to find out what is the community's response at both Chatswood and the Forum when they first heard about this transit oriented development over those sites? If you could just talk me through what was the initial response and how it developed past that to the time it was actually approved?

Ms DE CARVALHO: Possibly the Forum was most controversial because it was something so entirely new and the scale of it. Do not forget we are talking about a new DCP, early 1990's, the development application was 1996 so you are talking about quite a long time ago now. It was something entirely new; there was a fair bit of resident opposition because it just seemed too big.

Chatswood was a little bit easier because Chatswood CBD, a number of years ago, as part of its resolution of demand for urban consolidation, Willoughby Council made a decision to let places like Chatswood become high density to save some of our conservation and foreshore areas from high density development. In other words we focused on those nodal locations and allowed the development to go up.

CHAIR: What was council's position, especially with the Forum? When the proposal first came forward, did the council become an active supporter engaging with community in a support position, or was it neutral or how would you describe it?

Ms DE CARVALHO: Council had to live through the complaints and it has but it made a decision and it pursued that decision. As staff of council we were fortunate that our councillors supported that. I do not know if Lane Cove are still here, there was a little bit of help there. Because you had a boundary with two other councils, there was a lot of opposition from the Wollstonecraft area, they are not voters in Willoughby, are they? So let us just be realistic about this.

CHAIR: We will keep a that in mind. So these developments are easier to get across the line if you have three council boundaries?

Ms DE CARVALHO: I would not recommend it, it was very complicated, but the fact is council had a vision, the councillors supported that and we worked towards that vision. That vision included working with State Rail, working with RTA, working with State Buses and working with the three councils.

Mr TOBIN: In relation to Chatswood, the community was with us, happy they were going to get the new station. It was so overdue that anything was going to be a benefit and it is a benefit. The issue we have now is they all complain to council it is not finished, they think it is our problem, us that are causing it to be delayed so we refer them to our local member.

Mr OWEN: In the latter part of your submission you talked a little about this community public benefit test. It is a nice segue into that, could you give us a bit of your thought process behind that?

Ms DE CARVALHO: I am not sure how this is going to work fully but it is this notion of value capture for the benefit and weighing up. Say in the case of Chatswood, yes, you have another I do not know how much floor space right at the station. The only issue with Chatswood is probably too many residential units, we need some commercial jobs generating because when you have a nodal point you should have a balance. You have to have your dwellings but you need your jobs generating floor space as well.

This is what I mean by weighing up the benefit so that in that particular instance the benefit test would have been getting that balance, it would have been getting your rail infrastructure, making your station work for the connection between two rail lines. For us a big thing was our old station did not have any disabled access. You could only get to the platform via stairs so obviously that was a big thing for us at the time and the interconnecting of Chatswood. So that is those benefits.

The drawdown of that is you must accept that it is going to be higher density. You have got to accept there are going to be these towers on the sky line.

CHAIR: Thank you very much Noni and Nick for coming this afternoon. The Committee may wish to send some additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply to further questions?

Ms DE CARVALHO: Yes.

(The witnesses withdrew)

GREG WOODHAMS, Vice President, Planning Institute of Australia (NSW Division) Level 11, Berry Street, North Sydney; and

INGO KOERNICKE, Senior Environmental Scientist, Planning Institute of Australia, Level 11, 231 Miller Street, North Sydney, sworn and examined:

CHAIR: Can you please confirm that you have been issued with a copy of the inquiry's terms of reference and the relevant Legislative Assembly Standing Orders in relation to witnesses?

Mr KOERNICKE: Yes.

Mr WOODHAMS: Yes.

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal or administrative action that might otherwise result in relation to the information that you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Would you like to make a brief opening statement?

Mr WOODHAMS: The Institute's primary focus is on the strategic role of rail corridors, the strategic value of rail corridors and how developments on those rail corridors can be the catalyst for growth in New South Wales. I would like to explain the process that the Institute sees for that. The first is that we have a suite of planning controls of the strategic form, that are the State plan and the metropolitan strategy and a series of regional and sub-regional plans. They provide the overall framework for the Government's aspirations for the future of land use and transport planning in New South Wales.

With that vision then the expectation is that there is a series of principles underpinning that vision and what the Institute is proposing is that there ought to be some underpinning of the principles that apply to rail corridor development. There is not at the moment. It is a blank canvas, which I think many agencies would see as beneficial because it does not define the expectations of the Government or the community about how these projects might be delivered.

Those principles, I think the institute is saying, is not just transport driven and that they are broader than just transport. Rail corridors are important community assets and therefore it is incumbent on the councils who adjoin those areas, who are the stewards of the land around those areas, and the Government that owns the rail corridors, to develop the best outcome for each site in terms of the land use potential, incorporating the land use value of those corridors. It is the mixed nature of these transport oriented developments that really make them the power house for economic growth that the Institute sees has not been realised in New South Wales.

There are some notable exceptions to that but when you turn to some of the experience in the US, for example in Portland, Oregon, where they have used the potential of transport developments to leap frog growth beyond the metropolitan boundaries, that has enabled jobs and employment and housing to be delivered in areas where it could never be delivered before. That sort of potential, looking at the use of rail corridors not just as transport lines but as growth areas, is something that I think needs to be considered very carefully in New South Wales. The Institute has done a lot of work on the constraints on New South Wales and on Sydney for its metropolitan growth.

Transport corridors are a logical way of providing growth outside the metropolitan area in locations where jobs and housing can be provided and there are things call eco towns and transition towns where they can make use of those transport corridors for growth and development in regional areas. Some examples where that has happened is in Perth, in WA, in Mandurah and Rockingham and Armidale, where those areas have now become their own growth centres and we see the potential

for that occurring in New South Wales, particularly metropolitan Sydney.

The first thing was strategic vision and then principles. The third thing is the funding strategy. I think the preoccupation with road based transport has meant that there has not been sufficient focus on the value of rail transport as an opportunity for funding, not just the infrastructure, the transport itself, but for other things that might go with that transport corridor so the funding strategy, instead of just yes, we need to deliver the Parramatta Rail Link is too narrow thinking. We have to deliver the North West Rail Link is too narrow thinking.

There are opportunities at Leppington for a major commercial mixed use development on that railway centre. The development of each of the corridors out to the north west link have enormous potential in them for up-zoning to grow those areas around it for jobs and for housing. We would like to see the Government take a more proactive, aggressive, assertive stance about the potential of those centres, and the term has been used earlier, by value capturing the properties, up-zoning it, re-using that development potential to fund not only the transport growth but other public domain community benefits around those areas. There is the opportunity in the funding strategy not just to think of Treasury handouts but in terms of incentives for developer potential.

The next area is in terms of precinct planning around the centres and the difficulty has been you have a transport agency delivering a transport product. I think that misses the point about the interagency coordination, about delivering the railway station and its curtilage and its hinterland and that does not seem to happen on a regular basis. You have a disconnect between a transport agency delivering asset and potential for public benefits accruing from that redevelopment.

CHAIR: That is an interesting point. I think in previous submissions we highlighted that particular issue. Who do you think is best placed to undertake what I call a reasonably sophisticated and quite extensive coordination across multiple government agencies and multiple jurisdictions. When you talk about ministerial portfolios, is there an authority that is supposed to be doing it today from your perspective, or should we be proposing one?

Mr WOODHAMS: I think we should be proposing one. I do not see that there is an agency now that is fulfilling that role. Again in Perth, the Subiaco Development Authority, the East Perth Redevelopment Authority, is an entity that is established with powers for land acquisition and for fund raising. They do the community consultation. They engage with the different agencies to deliver the product. Subi Centro is an excellent product that has been delivered and it is on time, on budget and it is a mixed use centre around a very good rail head. That model is one way to establish an independent authority that is overseen by Parliament to deliver a product and I think that is a good model.

CHAIR: What is the role of the Sydney Metropolitan Development Authority as you understand it? Could it be the same authority, or does it require realignment or change of role?

Mr WOODHAMS: I think the Metropolitan Development Authority could be the one that deliver that, but there is a certain expertise in understanding how to deliver not just in a project management sense but in a planning sense, how it cascades from the vision into a product on the ground, so my nervousness is that you probably get a bunch of bureaucrats running the authority, but it is people who have lived and breathed, like Noni and those sort of people who have lived and breathed delivering these sorts of projects that need to be at the coal face.

I would say that the Metropolitan Development Authority might be one entity that oversees that but draws on experts to deliver different aspects of the proposal as it goes through its project delivery.

CHAIR: What is the role of local government do you think in first developing a vision for a precinct and then actually championing the cause or making sure it gets done?

Mr WOODHAMS: The risk is that there is the potential for influence by community interest groups and for political influence. So the council planners and the council officers are serving several masters, the view of the institute is that council planners should be given the opportunity to do that but not have that influence by the community interest groups and politicians who they work with. So it is a very difficult role for the council planner to do that unless they have the support of the council and there are councils in New South Wales that have that very good relationship with their council and their community to deliver good projects.

CHAIR: Do developers have a role in articulating a vision for a precinct? I mean we all understand there are vested interests at play here but do you think it is very well within their right and also do you see any community benefit in developers identifying a particular location or a precinct for development and actually championing the cause? Or do you think that is best left to some other entity?

Mr KOERNICKE: I think relating to all that the issue we raised with regards to typologies is central to that, particularly for a local government perspective because it sets out the future purpose of each of those centres along the railway line. At the moment we have a plan, a metro strategy which designates the particular land use function. It does not specify what the transport function necessarily is in that particular centre.

By having that typology what it does is it creates then a greater certainty for everyone, particularly for local government in that they know then how best to address it from their infrastructure perspectives, what they do best, the footpaths, the lighting, the bus stops, car parking and those sort of things. As well for the developers because they know then that the focus of a particular centre perhaps is a transport hub. They know then that there will be certain constraints on there, it is unlikely to change, just gives them greater certainty and ability then to develop.

CHAIR: When you use the typology, are you talking about a master plan concept for an area? Is that what you are talking about?

Mr WOODHAMS: It is a distinction, if there is a hierarchy of retail centres and transport centres, at one scale there is the regional hub of Central Station around which there is a lot of activity which becomes the focus of transport, as distinct from a centre that has a park and ride facility with commuter parking. So the typology is that range between that sort of a local station up through to a regional centre.

CHAIR: And you would apply an appropriate one for a specific site?

Mr WOODHAMS: That is right.

CHAIR: That would actually form part of the planning process and the approval process?

Mr WOODHAMS: That is right. So saying to a developer, with the understanding of that typology, how can we best achieve what the vision is on this site with your capital, your expertise, and our ability to coordinate the activities to get you the approval and the delivery of the services?

Mr KOERNICKE: Because sometimes what happens at the moment is that we will have a centre that has a strong public transport focus and there is a lot of money invested in the infrastructure for those particular facilities, but through, I guess, an uncoordinated approach, that can be sometimes undermined by the provision of carparks, for instance, that are closer to the station than should be. So you undermine the public transport strength of that centre.

Mr WOODHAMS: Our submission also touches on another implication of this typology, that the developer is not really sensitive to the community outcomes, the implications of the

development in the way that rail corridor development can be transformative of an area and that gentrification does happen and that can displace low income housing. It can fundamentally change the nature or the character of an area and so in many metropolitan Sydney areas, a lot of them are surrounded by conservation areas which are low density small scale housing. So this transformative character of major development on a railhead is not something that most developers would be in tune to.

I think that is where the council performs the role of determining this typology, how the precinct should occur in the future, but allow enough flexibility in the delivery of the project to enable the developer to be part of the process, to provide their capital, but be circumscribed by the council at the local level and the Metropolitan Development Authority at the next level up.

CHAIR: One of the areas of concern is at the moment we have a number of concurrent processes that, despite the best intentions of this major stakeholders, still seem to be disconnected from one another.

Mr WOODHAMS: Yes.

CHAIR: An example would be right now there is the Transport Master Plan being put together that people say will solve many of the issues we are talking about right now. But yet the problems that I see are the Transport Master Plan I know addresses land use and urban consolidation and all those other things, but there is also a bunch of specialists in there looking at where do we put community carparking? Where do we put bus rail interchanges and trying to come up with a philosophy. You do not put a bus rail interchange at every station, you try to look at where most of the bus services terminate, look at it that way. So there is a fair amount of top level strategic influence in the process and yet there is a certain amount of local influence that needs to be there for all the reasons that we heard previously.

Mr WOODHAMS: Yes.

CHAIR: What I am seeing is that while you may have good knowledge at a local level, it is somehow not making it through to the right people at the right time that actually have a definitive impact on a proposed development. I have not heard anything yet that would give me any more confidence that that particular issue is going to be dealt with in terms of what we are proposing to do in the future.

So the question that arises and I would like to explore it a little bit further, the role of local government and how best can we use local government to actually deal with all of the boundary or interface issues between a development over the air space or adjacent land and the rest of the community? One of the ways that Lane Cove Council is dealing with it is they have an urban planner to begin with and actually looked at it from the perspective of here is a community, we are building something and it has to be integrated.

My question to you is in terms of the role of local government, where it is today, is it appropriate and we are just misusing the opportunity afforded by local government, or does there have to be a change in the role of local government or the processes that engage with local government from a state level? What is your view?

Mr WOODHAMS: I think what you are pointing at is the fundamental tension between state and local government. And that as a creature of the state, the local government is circumscribed by the power that it has. So it is always subservient to the TIDCs and the RailCorps and the RMS. Whilst the government might talk about partnerships and inter-government relations between state and councils, the reality is that it is a subservient relationship and until you break that relationship and start to deal with council planners on a professional basis, I do not think you are going to get rid of that tension. So that is why an independent authority that has

equal representation with council planners and with others on it would probably be a better model than one where a developer comes in, deals with TIDC, deals with RailCorp, and then the council planner then has to do battle with everybody to try and reflect the community's interests. I do not think that model is working effectively in New South Wales.

Mr TOOLE: My question is in relation to Queensland's transit oriented development. Do they have different guidelines or legislation conditions that they work under? Is there some guidance there that could be given to New South Wales to follow that lead? What do they do that is different that might be looked at or observed?

Mr WOODHAMS: Their legislation is very much a strategic planning focus. Whereas the New South Wales planning legislation is development focussed, theirs is more strategic planning focussed. They require strategic plans to be delivered at the state level, then at regional level and then at local level. The current review of the Planning Act is, I think, heading towards that direction. The Queensland approach is to have very much a focus on strategic plans being delivered at different levels and then agencies signing off at each point along the regional plan, sub-regional plan, local plan and then delivery is based on the local plan. I think that format is better than what is happening in New South Wales where it is really development or project focussed and you are just delivering a project, rather than dealing with the strategic context that that project is fitting into.

That is where the Queensland approach, whether it is in south-east Queensland or in Brisbane where they have the rail facility coming right into the centre of the city, which works very well because they have that strategic focus all the way down with sign-off all the way down from the different agencies to delivery at the local level. They are a bit different in the sense that Brisbane is the council and so that is again much different from New South Wales, where you are dealing with Hunters Hill and Lane Cove and Strathfield and other places, so you could deal with the ROCs [Regional Organisation of Councils], I guess, on a larger scale and that might be one other way to deal with it. The fundamental difference between New South Wales and Queensland is the strategic focus all the way down.

Mr TOOLE: In comparison would that reflect over Western Australia and Oregon, I think you said at the start as well, a very similar strategic approach.

Mr WOODHAMS: It is, that is right. The difference with the Perth model is that they consciously decided to set up project authorities with an extraordinary level of competence in just dealing with the local issues. There was one in Midland where they looked at what happened in east Perth and the community said to the State Government: We want one of those. They put up their hands and said: We want a Midland Development Authority to redo this renewal area. It has gone in. There is now a university going in and all of the rail facilities and the shops are going in because the community wanted it and so it was community driven, not state encouraged. That would be extraordinary for something like that to happen in New South Wales.

CHAIR: What you have just spoken about, is it able to exploit opportunities that come up at very short notice? For example, from a planning perspective it makes absolute sense. As a military officer I love plans. If you have an opportunity that pops up because, as we have heard at Lane Cove, two developers are doing concurrent activities on either side of the railway line, so maybe a few years ago that would not have been identified as a strategic opportunity, but it has happened very quickly so the forces have to marshal together and go to government and say: This has popped up out of the blue, we want to do something with it. Is that model you talked about able to accommodate that sort of opportunity?

Mr WOODHAMS: In New South Wales, no chance whatsoever because you have Department of Local Government, Ombudsman and ICAC looking at you constantly. With that oversight you have not got the flexibility of the Lane Coves and the Willoughbys to be able to come up with smart answers and deliver them on the ground. That is why the Queensland model of

dealing with strategic plans, rather than developments which have got consent conditions that you have to abide by, and protocols, is a more effective way of dealing with these sorts of projects. You need to be able to give these development authorities enough power and confidence and trust to deliver the product. I do not think that will happen in New South Wales unless there is a fundamental shift in attitude.

Mr OWEN: Greg, you are quite critical of the Sydney Metropolitan Plan 2036 in terms of its ability to actually to just think of mixed use, commercial use, residential, retail. If we are with that plan and that is really what we are looking at, how do we get around that? What do we do?

Mr WOODHAMS: It is having the guts and the conviction to stand by what the plan says. If the plan says this will be a mixed use development that will deliver these outcomes, do not fall to the dollar and just say we are going to do residential development. Time and time again the Institute is seeing capitulation, whether it is by a developer or the government, to the financial outcome rather than the community outcome. So there is not this net community test about community benefit rather than financial benefit. I know that there are economic conditions that we all have to work under, but I think the frustration is that once a plan has been adopted and agreed there should be the commitment from Parliament down to say that is the plan. That is what we are going to deliver and do not change from that. That is where you need a very strong government to deliver the products with the professional advice from the professionals.

I am hoping that Infrastructure NSW is a model that will deliver that, that you have a job and they will deliver that job.

CHAIR: The Institute's submission recommends legislative change to enable the application of developer contributions and incentives in centres that are situated along a rail corridor and designated for urban renewal. Could you explain further why these legislative changes would be beneficial and what are the limitations for achieving this in the current legislation without making any changes?

Mr WOODHAMS: At the moment the local environmental plan or the plan making process is constrained by the standard template. There is a template that all councils have to follow and this is what has to be delivered in this area and you follow all the definitions. Development does not work that way. What invariably happens is that councils and developers negotiate solutions. Sometimes you need to go outside those standard controls. Yes, there is a process called a voluntary planning agreement where things can be negotiated and they can be agreed up-front, but that is not the way the process evolves. It is generally an initial application, discussion, negotiation as you are evolving it and then to have thought we are going to have a VPA that deals with that later on, it is not a linear process. It is an iterative process.

The second thing is that the Department of Planning, because of the Ombudsman and ICAC and all this sort of tension, are opposed to bonus facilities and incentive mechanisms because they smack of developer deals, but if you have a very clearly codified way of delivering community benefits for incentives through FSR, and there are councils that have done that, then you can make it clear to everybody yes, we are going to get a child care centre out of this and there will be a bit of open space and there will be bicycle facilities and so on and the developer will still get his return.

It is coming up with the bonus mechanism that everybody agrees on at the start, at the strategic level, and it is delivered through to the end but it is having the vision at the start that in this precinct we want to be able to deliver this, this and this, which will cost \$50 million and for the developer to provide that he will need a return on investment of X, so that is the sort of negotiation that the current legislation does not allow for.

What the Institute has advocated is through the strategic planning process you determine what those community benefits are right through the process and you develop a mechanism to achieve

that on a particular site. That is not possible in the current legislation.

CHAIR: Associated with that in some small way is relative to where we are today in terms of how long it takes before someone puts up their hand and says I have a vision, to actually going through the approvals process to a point where the risk of just getting approval for a process has now gone because I have at least conditional approval for this. At the moment a lot of the comment is that that period of time is so long now as to provide a significant disincentive for investors. Relative to where we are today, do you think truncating that process in some way, whether it be through high performance standards being set to Government agencies to turn things around, or perhaps dealing with things in a more pragmatic rather than academic way, in terms of community consultation and the like, can we truncate that significantly from where we are today without producing poorer outcomes from a community perspective?

Mr WOODHAMS: I think the answer is yes. The process though has to trust these development authorities or trust the councils to do the job. So part of the process is what we have talked about at the institute, a change in the culture of planners, a change of understanding about planners and the role of planners and developers. It is not us and them, we are all delivering community outcomes so there needs to be a change in the culture, the attitudes about development in New South Wales. That is one of the hurdles.

I think the answer is yes, we can deliver that by getting the sign-offs through the strategic areas and then the delivery. You do not need community consultation at that point because it has occurred at the strategic level. So the council and the state should have done consultation at that point and not hold up the development when it is consistent with the strategy. So you can cut that out and one would hope that during that process, the different agencies involved in developing strategy, the vision for an area, and signed it off at that point. So it is more machinery at the end of the line, if you like, in delivering the product, rather than all the interrelated referrals that you have got to do and the community consultation which is just endless.

The other frustration is the mechanism for changing approvals, another hold up and that you have got to get, under the part 3A process, 75 Ws or s.96s, so with a major project you might end up with thirty or forty s.96s, that is absurd. You need a concept or planning approval in principle based on the strategy and then a process just to deal with those changes as the project goes ahead.

Mr TOOLE: We note in your submission from the institute that you spoke about noise and vibration of freight. You also outline pollution from the diesel engines. Do the guidelines from the Department of Planning at the moment address those concerns and is it really an issue for older houses compared to newer houses that can be built along corridors at a later date?

Mr KOERNICKE: The guidelines that are currently available now I think are well on the right track. The intention of comments in there was more to provide, as part of that whole land use assessment process, greater information for everybody. At the moment the way noise and vibration and pollution impacts are dealt with is more on a case by case basis. I think we are suggesting there the potential for a contour type of approach along railway lines so the information is informative for everyone, for the individuals buying into those areas, also for councils if they want to do land use changes. So rather than relying on individual sites and then suddenly figuring oh, that does not work, I find it is better to have a broader overview where you can apply the principles on a better perspective.

The issues of particulate pollutants and noise will no doubt increase because if we are intending to concentrate more people around centres and along the corridors, then you simply end up obviously exposing more people to those impacts. I think by having the tools to better inform local government and the community about where those impacts are, it is then easier to make the right decision.

Mr TOOLE: A follow up from that, obviously the Department of Planning, council, the specialised coordinated group to look at that?

Mr KOERNICKE: Yes. It would be part of this sort of strategic approach that you would be looking at the centres but also looking at the corridors and how they affect the community within the noise and the pollution aspects. That would all come into the whole gamut of strategies and direction. I think it gives everybody greater certainty.

Mr OWEN: Do we have specific design codes at the moment that we work to? Is there anything like that at all? I know that is a lower level and we are talking principles, but clearly there should be something at least to see say here are the standard design codes that we are going to use for transit sort of developments. Do you agree?

Mr WOODHAMS: There is in terms of vibration and I think noise, but I do not think there is in terms of particular distributions of pollutants and things like that. The Department of Transport or the rail authority has the policy on noise vibration and so on.

One of the other aspects is the change in the expectation. If you build a development over a railway station and it is a high rise and it generally is of higher value, the type of occupants that move in are expecting a high quality living environment. They are outraged that the train actually blows its horn as the goes into the station so you have got a barrage of complaints from all these people about this train, extraordinary. They are the sort of minutiae that councils have to deal with, the difference in the expectations about living in a rail corridor. Living near a school, you have to expect noise from school kids.

CHAIR: I think you raised this before, I will ask the question to make sure it is clear in my mind. What form of value capture do you consider will bring the best return to government and rail corridor developments? Is there a specific mix of the sort of things that you think will derive the most benefit for the community? Or is it very much site specific?

Mr WOODHAMS: I think you need to do the strategic analysis and that strategic analysis is two things. There is a social analysis of the community benefits as well as the economic analysis because to be able to deliver a project in Bathurst is going to be quite different to doing it in Double Bay because of a land values principally involved and the access and other issues. So each project would have to be analysed as to its funding requirements and value capture, but essentially what we are talking about there is a base land value of the existing land where the rail development is going to happen. If you increase that density by tripling it from two to one, or three to one up to ten to one, that value should be able to be quantified and therefore why not make it twelve to one so that the government captures the value of the two to one and uses that two to one to fund the public domain improvements rather than giving a development contribution levy for the developer?

I think that is what we are talking about terms of value capture to be able to deliver those public benefits but it has to be hypothecated back to the area where the impacts or the development is occurring, not into Treasury.

CHAIR: Those are where the green constructions enjoy the benefits after construction?

Mr WOODHAMS: That is right. The council planners have to sell it to their community and if they are seeing there are these community benefits, there will be child care, there will be open space, then you get the tick and that is how to sell it.

CHAIR: I am hoping we get to the stage where if we do the first two to three under a new regime which makes it easier, and provides a whole lot of community benefits, that the

government will not have to sell it. It will be the community standing up saying we want one of those and we will take one of those as well while we are at it.

Mr WOODHAMS: Yes.

CHAIR: Thank you very much for appearing before the community today Greg and Ingo. That was very worthwhile. The Committee may wish to send you some additional questions in writing, the replies to which will form part of your evidence that will be made public. Would you be happy to provide a written reply to further questions?

Mr WOODHAMS: Of course.

(The witnesses withdrew)

ANDREW McCUSKER, Director Rail Logistics, SMART Infrastructure Facility, University of Wollongong and

TANIA MARIE BROWN, Chief Operating Officer, SMART Infrastructure Facility, University of Wollongong, sworn and examined:

CHAIR: Can you please confirm that you have been issued with a copy of the inquiry's terms of reference and the relevant Legislative Assembly Standing Orders in relation to the examination of witnesses?

Mr McCUSKER: Yes, I can confirm that.

Ms BROWN: Yes, I have.

CHAIR: I draw your attention to the fact that your evidence is given under parliamentary privilege and you are generally protected from legal and administrative action that might otherwise result in relation to the information that you provide. I should also point out that any deliberate misleading of the Committee may constitute a contempt of the Parliament and an offence under the Parliamentary Evidence Act 1901. Would one or both of you like to make a brief opening statement?

Mr McCUSKER: I think we are very happy to come here to present to the Committee in terms of rail corridor usage. We see that rail corridors should be used for integrated community benefit but that some of that benefit should be directed towards improving transport and transport infrastructure within the areas in which it is being used. I think one of the key things that we have highlighted in our short report is that there has been quite a bit of transport oriented development around the world, in places like Hong Kong where there is development above rail corridors and rail stations and we encourage the Committee to consider the land value uplift and we distribute that back into the community wherever possible.

We have highlighted that it is a very complex business in terms of trying to develop these types of areas and meet a series of objectives and in our review we have seen that through going into this thoroughly and understanding the issues that are involved and also the integrated nature of building above corridors and putting in community residential commercial facilities can benefit greatly from modelling the interactions in what is a bit of a brownfield site, how you integrate with the adjacent transport links and whether that is bus or transfer more integration.

We have made an appeal within there that if you are considering large development of the corridor itself, as opposed to focussed and distinct areas above the corridor, then you should consider multiple use of the corridor in terms of infrastructure facilities, gas, water, power et cetera. In that case, if you are improving the transport distribution, consider what use of these corridor developments might be made to improve freight and freight transport throughout the territories that you are considering.

We quote some interesting examples from around the world but generally these are where people consider problems that they have and looked at a very integrated approach to bring solutions to those problems in terms of use of the transport oriented developments, so that transport is eased in the areas that you are developing, not wholly above the corridor you are developing or above the station you are developing, it includes the surrounding area as well to ensure that transport flows are used and improved, both when you tackle the development and when you come out of the area and complete those developments. I trust that we are providing you with some information.

CHAIR: I think it would be fair to say, that given your background, working in the MTR in Hong Kong, I am very interested in terms of listening to some of your experiences and asking about your observation about your experience relative to what you are seeing here in New South Wales

and are there lessons for us to learn. We have a whole lot of questions to ask you. We are not going to get through them all but we will send them to you later and get your responses. We will cover some of the more interesting ones now.

Given your experience with the Hong Kong MTR model, and everyone refers to it one of two ways, and it is highly commendable and they are saying: This is great, look at the revenue that they derive from it, but others say: Well, that's okay but it has pretty much all been a greenfield site. I would like to ask you, as someone who has been involved in it, how successful is it and what are the main lessons for New South Wales to take away from what has occurred in Hong Kong that could be applied here?

Mr McCUSKER: I think in terms of lessons, we have learnt that really you have to work extensively with the community in the areas that you are going into and to try to take opportunity of urban redevelopment to improve the connectivity of your system so that then leads to this virtual cycle of more public transport use. We have found, of course, that development is riskier, perhaps a little bit more risky than governments would like to entertain because retail and house prices can vary over the time that you do the construction and so it is a matter of getting the right model for this development, how you would approach it, who would be the equity players, where is the funding going to come from and how you are going to arrange that.

CHAIR: The risk that you are describing now is a commercial investment risk as opposed to the actual risk of the project itself?

Mr McCUSKER: Correct. What we have found is that the uplift in terms of value is certainly there. Even in the time of economic downturn people still value having that close proximity to ease of transport, to get around town, to move. You are right in your observation that a lot of the initial developments were done on a greenfield basis, that we are building ahead of the population arriving. The latest development in Hong Kong has borne that out, where there was absolutely no development at all and a new city has been created. That has to be done in conjunction with the government as to the first period of operation for the transit system you take there because it must be run at a loss for seven to 12 years, so understanding that and building models that can accommodate that in the whole invest you have, but it is not just greenfields development that has happened in Hong Kong and I think one of the more associated developments which was done, was over the first metro railway that was built in Hong Kong back in the 1970's, the company came back then in the 2000s to redevelop the depot and increase the development above the railway by planking out and building new facilities and building some offices and retail centres, et cetera.

What applies in the greenfield area is equally applicable in the brownfield area. It depends on the local economy, the vitality of the area that you are developing. So with the huge land corridors that you have here adjacent to the city, I would think there must be opportunity to be able to do that, to open up new areas, to distribute more working centres just slightly away from the CBD and to build that out. Our experience has been extremely good in terms of that.

A big decision was whether you self develop. The model on which you do that, the company in Hong Kong tends have the developer carry most of the risk and go to market to bid against a basic design. So for self development you retain the ownership of the properties until they are sold off to the public and those that buy them and sometimes retain, as part of your profit level then, some of the facilities rather than sharing in the profit stream that the developer creates for you in doing that.

CHAIR: With Hong Kong MTR, did it change from just being an operator into a property developer and establish the capability within MTR itself?

Mr McCUSKER: Yes. I think MTR was established initially as a rail operator, as a private

corporation, which further down the road was privatised. You can buy shares today in Hong Kong MTR if you wish. But very rapidly during the first phase of construction it was decided that this property uplift should be sought to deliver some capital towards the building of railways. In fact it considers itself a company with too many projects. One is the rail business and the other is a property business and the government has said it would not support in any way the rail operation side of the business. It would only deliver funds to construction of railway, to new construction, et cetera.

So the railway has to be a self supporting business on its own and Hong Kong MTR railway in fact operates at a 50 percent even out margin and is able to. This is done at what is considered to be a medium level of fare. They pitch their level of fare at the medium major cities around the world and constantly keep it there. The company has had full fare autonomy for many years, twenty years of its thirty plus years existence, but it was invited in 2007 to take over all railways in the territory. There was a surface rail, inter-city link into China, to Beijing and Shanghai, plus commuter suburban type railways.

In saying that over, there was no business case to be made unfortunately from taking over the government railway. A long term lease so it is operated under a long term leasing franchise arrangement and the companies have to turn that around into a profitable situation as well.

CHAIR: When they started operating in the property market per se, was there any legislative change that gave that new entity with them and the Hong Kong MTR the sorts of ability to deal with multi-jurisdictional type issues or issues that fit across different government portfolios?

Mr McCUSKER: No.

CHAIR: So how did they do it, just out of influence?

Mr McCUSKER: They do it out of influence. They have to convince the planning committees within governments. When you are building out of course into a greenfield site and there is not very much population, et cetera, it does make it easier. But when you are doing this within a ready constructed urban area of course you have the same long tortuous trail to go through. So they had no special facilities. They had facilities under the initial construction of the railway. Hong Kong was totally gridlocked in the '60's and the '70's before the construction of the railway so they had ability for compulsory purchase which helped to do that. That can be used in terms of property development but it has to be an extremely rare occasion and governments will not support that being done at any frequency whatsoever.

Mr OWEN: A couple of previous speakers have talked about some reasonably good examples in Western Australia, possibly in Queensland. Have you had an opportunity to look at what is being done in this country and can comment?

Mr McCUSKER: As yet I have not been able to do that. The only experience I had is quite some years ago in Perth where a transit corridor was laid down with I think very much the future in mind that it could be upgraded in terms of initially for rapid bus and then for heavy rail type services. But I have not seen in terms of construction side or the property development side yet what has occurred.

CHAIR: Your submission on page 5 notes that rail corridor developments can significantly reduce car dependency and increase public transport use. Are you able to quantify that for certain types of developments or are you aware of any studies that have measured and quantified this in any way?

Mr OWEN: In countries similar to us.

Mr McCUSKER: I think the most similar situation is probably looking at the Nordic countries and Stockholm where there is long running history. It has been quantified where they undertook the sort of public scope developments and they either had some definite turn down in car usage and a reduction in the growth of car usage was noted. So there is some quantified information there in terms of studies that were done for Stockholm.

Mr OWEN: And Denmark I think as well.

CHAIR: We had some evidence given to us this morning that there is a significant risk during construction activity over the rail corridor, but in Hong Kong MTR we know constructing over the rail corridor, especially for over the metro or brownfield site, is the risk overstated here in New South Wales because it appears that other jurisdictions in the world are able to mitigate this risk without too much of a problem?

Mr McCUSKER: I think the first thing is yes, you have to recognise that there is a significant level of risk in construction so close to operating facilities. But that risk has been seen to be overcome and certainly in Hong Kong we have done that. You have the same risk if you are forced to build noise enclosures in certain parts of the railway. You have risk if you are approaching to build noise barriers along the railway, et cetera.

If you are considering developing depot type areas which are usually larger land allocation for railways, for sidings with depots, that type of thing and they represent a good case for developers, particularly where they are adjacent to the centre of town, et cetera, there is additional risks in terms of the very limited spacing that trains have to move around these areas, et cetera. But there is no reason why with proper planning, understanding what you have to do with the railway because you may have to change how the railway operates for a period of time and this is probably the greater risk that would be seen by railway operators.

Giving you access might mean that they have to do some rerouting of train lines, we are not talking massive rerouting but moving a train line a few metres and to allow you to do that to let construction access get in there while you are piling, while you are building foundations, et cetera.

That is not just a safety risk for the people involved and the work crews in the area but, of course, it is a risk to continue keeping your transport system moving, to move your people around the city, getting them from A to B and particularly risks which are involved with the very peak demand that you have here. 70 percent of your people are travelling in peak time and it is a very tight window.

There is no doubt that in tackling these risks you do add to the construction burden. You do elevate the costs of construction and so suppliers and major constructors et cetera will pad out these type of costs and that is another risk that has to be contained and has to be managed. The big problem is that there is are not too many people that understand the risks of construction near the railway, so it is very difficult to counter these arguments about safety.

Certainly we have done it in Hong Kong. We have done it in the brownfield area as well as new areas. It just means that your construction takes that much longer to deliver.

Mr OWEN: I understand you are doing some work with Transport for NSW in terms of rail use, land use and transport modelling. To be frank, how much traction area do you think you are getting? Is it being absorbed by them along the lines of what we are talking about, air space use and things like that?

Mr McCUSKER: I think they are rather blinded to this because there is not a universal opportunity right across the system. They look at what has been done in places like Hong Kong and Singapore. I have been saying to them that that is not the case because if you look at Cross Rail in

England et cetera they have part contribution to what they are trying to do and you really need to bring together the opportunity with developers where that land uplift might give you a maximum return, where perhaps office accommodation is tight in the city and close to that where you can open up new areas, new facilities and have that integrated mix of some public service, schools, hospital, health centres as well as retail, building attractive retail, and access to transport. I think they see it really as somebody else's business.

Mr OWEN: So they are not getting it.

Mr McCUSKER: It is somebody else's problem.

Mr OWEN: Have you been engaged by them? How is it working?

Mr McCUSKER: What I have been doing in the first instance is go in and support their people, mentor their very senior staff in terms of this rail reform and making suggestions to them. I keep asking who is working on this, the commercial aspects, and who is going to uplift that. That is going to come at a later date, is what I am being told. I do not think there is an enthusiasm for it.

Mr OWEN: That answers my question.

Mr McCUSKER: Perhaps they did not want me involved at this time while they are going through their deliberations.

Mr OWEN: It is a busy time for them. I acknowledge that.

Ms BROWN: SMART is working separately with the Bureau of Transport Statistics on a separate transport modelling, so they are very engaged with us in that regard in looking at interdisciplinary transport modelling.

CHAIR: We talk about some of these processes that appear at strategic level sometimes, some at the operational level and some below that, and yet the opportunities that come to me are not coming from the strategic level. Every opportunity for rail space development has come at the lowest level. Local government is championing these. There is not one single one, of the seven or eight of them, that are actually being championed by anyone other than local government or specific developers with vested interests of course in this.

It concerns me that we now have a master plan process and I am not sure whether it actually provides the opportunity to be able to exploit some of these things. An example that I give, and it came to me rather by accident and I would like your comment on it, is that we have a bunch of government departments that are selling off surplus to needs land and they go off and do it and they do exactly what Treasury tells them to do, to maximize the value and return to the community for the asset you are disposing of. Everyone gets it.

Roads and Maritime Services goes off and does its thing, forgetting that in the middle of their two parcels of land is actually local government land and if they actually spoke to one another and put the parcel together they would actually increase the value by another 10 or 15 percent. Someone misses the point that all of this stuff they are proposing to do is actually adjacent to a rail corridor and that putting something over the top of it, be it a land bridge or community facilities would be at minimal cost, but someone has forgotten to tell RMS or RMS is not looking and local government is definitely not interested in this particular instance.

Then of course you have a bunch of community organisations that see that these community needs could be satisfied by air space and adjacent land development but no one is listening to them. It intrigues me that we have these opportunities presenting themselves almost every second day. I exaggerate because I am Italian and I am prone to do that, but the opportunities are real and they

are not being seen by the people who make the decisions. How do we get around that? What do we do?

Mr McCUSKER: Do you have a land development agency? Do you have an urban renewal agency?

CHAIR: That is an interesting series of questions.

Mr OWEN: Within planning and infrastructure there is. There is part of the planning department that does all the urban renewal SEPP process. It is Giovanni's job to look at all that stuff.

CHAIR: He would not see what I got to see because someone pointed it out to me and said look at this. We do have these processes but what I am feeling uncomfortable about is they do not get that whole of opportunity picture.

Mr McCUSKER: Whereas if you had a department with the mission of land development agency, they would have to take a broader perspective and a bit more of a helicopter look at what is happening in these particular areas where land development is proposed and could take in the broader view of what is happening.

Mr OWEN: We do have it but I just do not think their eyes are open to it, is probably the issue.

Mr McCUSKER: Probably what you need to do is give them the new vision of what you are trying to achieve in terms of the total land area developments.

CHAIR: That is interesting. Hong Kong MTR has gone down a route which is different to what we are thinking of doing because of earlier evidence given before the inquiry, which is a number of different agencies said it would be great if someone could do what you are suggesting in terms of what I just presented but it would have to be an authority with powers, sitting at a level high enough to see this whole of opportunity because they do not believe that within RailCorp or Transport for NSW or any other existing government agencies that they would be the appropriate to do it, especially RailCorp, whose prime mission is to move people and freight, not to develop air space or adjacent land and things like that. I am now presented with a model where it appears to be working in Hong Kong even though the predominance is greenfield sites as opposed to brownfield sites.

Mr McCUSKER: Coming back to that, it is working very well. Of course, in Hong Kong there is only so much land you can develop.

Mr OWEN: It is high density. There is nowhere else to go.

Mr McCUSKER: It is such a small place. We are also looking at the New Territories in terms of development and there were the developments, as I described to you, that we leased the government run railways over a long lease period and we have been looking at developments in those areas and they have become predominantly public housing, public facilities developments because they are in areas that developers are not primarily interested in. There is still the opportunity then to improve.

Mr OWEN: To uplift.

Mr McCUSKER: Improve local communities, latch into redevelopment of the area, urban modernisation and so even with the non highly densely populated areas we can still use the land value uplift to create benefit for society.

CHAIR: Do you see some of these developments actually addressing known community issues? If you have a railway station that has safety and amenity aesthetic type issues associated with it, a poor performing commercial centre per se, do you see these developments as being a catalyst for renewal?

Mr McCUSKER: Yes. They definitely are because in conjunction with the government, when we seek approvals in terms of the scheme quite often they will designate a certain amount of the area that has to be developed for schools or for health or for sometimes facilities they find very difficult to locate, methadone centres. These are all required and I recall one of the last jobs we did was redeveloping one of our older stations. Part of the deal with the government was actually to be able to accommodate and house a methadone centre in terms of that station redevelopment and what is happening. We are getting really down the value chain again here, the station was built thirty years or so ago and we are just bringing in some things to modernise it and to improve the connectivity now with the developments around about. We have to find the money with that in uplifting the commercial shops, et cetera, which are within that station going up the value chain and within that uplift in terms of money, et cetera, to accommodate some of the government requirements.

Mr TOOLE: You have suggested here that you could use the rail corridors for things like gas, water, telecommunications. Have you seen that happen in other jurisdictions and how effective has it been?

Mr McCUSKER: I cannot say that I have. I have seen it used for telecommunications where in Hong Kong some telecommunications fibre was run through into China. I look on it as a very valuable resource in terms of government ownership and if you are going to redevelop a major trunk through the city, really getting access to that is extremely limited in terms of time. So it would be beneficial if you can have a multi-development for utilities as you are looking at opening up that corridor and doing something with it, et cetera, and encourage working towards that in the longer term.

Mr TOOLE: I know you have touched on it with the New South Wales transport plan and some of the things that have happened in Hong Kong but I just want to know in best practice form for New South Wales, what actions do we need to take to start addressing some of the impediments that are stopping New South Wales from going forward with addressing these issues?

Mr McCUSKER: For clarifications, impediments of running the rail system?

Mr TOOLE: Utilising the rail corridors.

CHAIR: Why cannot we have twelve of these developments happening right now?

Mr McCUSKER: I think you want your developments to be used. You want them to be supportive of the requirements in the development area. Looking at it over the years in Hong Kong with developers, not all areas will respond to that. The developers themselves have limited amounts of funds and cash to be able to do it so you are going to get have to start with those which would be considered most profitable. You are going to have to set the scene so that the market can adjust to this approach. You are coming in with a new solution, a new model in terms of development and you have to decide whether you are going to participate and whether you are you going to raise equity? Are you going to be part of the fund provision or are you looking for the commercial market to do this entirely and you look to gain benefit in kind in terms of siding or having some facilities for the public constructed in that area?

I think the market is the area that would stop you from doing it wholesale and the market appetite. So in introducing something which would be entirely new in the structure, what is going

to be the appetite of the developers out there? What is going to be the appetite of the market? I would say those considerations are more what will hold you back and will be constraining you to tackle it.

CHAIR: One of the things that gives a little bit of impetus to what we are talking about is I met with the Master Builders Association the other day and they were lamenting the fact that A, there is not enough construction activity and B, there were 200,000 homes or places of accommodation in New South Wales so we are really way behind the eight ball in meeting demand.

Mr McCUSKER: Yes.

CHAIR: One of the things we are going to have to determine is over the rail corridor, allowing for perhaps that we have already an unmet demand for residential apartments, do we just build residential apartments over the rail corridor on every site that is appropriate where the return is okay? Or do we need to maintain a line that we really need mixed use type developments? We cannot just concentrate on one particular type of use because there is an unmet demand there? Would you wish to comment?

Mr McCUSKER: Yes, I would. I think going on this sort of singular approach of meeting your suppressed demand in terms of residential areas, I would not advise it. I really think you are creating communities when you build this and you really need to have that mixed development. We have found that the more mixed the development, the more successful has been the outcome. You are trying to create not just places where people will live but places where people will go, places where outside of your peak time, if you take it, people are still interested in going out. It has to be attractive.

Simply putting residential facilities there will not build that attractiveness. Although there is a pressing need, I hear you say, and although perhaps there is a desire to meet that pent up demand, you do not want to end up with a sort of residential wilderness where people really have to leave the area to go.

CHAIR: In Hong Kong when they are building these mixed use developments, do they actually address affordable housing as an issue there as well as part of it?

Mr McCUSKER: Yes, this is what we do in terms of with the government and so some of the sites will be classed to build lower cost housing, affordable housing. Going forward there is always pressure from the government to try and have some mix of that. I would say that the vast majority of developments are done on a commercial basis and obviously you are looking to get up the value chain in terms of your residences. Also get up the value chain in terms of the shops and commercial facilities that are there and if you can accommodate businesses, offices, et cetera, then of course it tends to move you up the value chain.

But governments, just to reiterate, will make requests for some lower cost housing within these developments and in terms of the approvals, planning permission, et cetera, then those deals will be closed out as we move towards finalising what those facilities will be.

CHAIR: Andrew, are you the man to come to if we needed some introductions to Hong Kong MTR if we wanted to go and have a look?

Mr McCUSKER: Certainly I can arrange that for you without any problem.

CHAIR: As I said earlier, we may send you some questions, that will form part of the evidence and subject to parliamentary privilege as well with that. Are you prepared to accept those questions on notice?

Mr McCUSKER: Yes.

CHAIR: On that basis I would like to thank you very much for your time. You have made it very worthwhile.

(The witnesses withdrew)

The Committee adjourned at 4.50 pm