

**Submission  
No 177**

**INQUIRY INTO PLANNING PROCESS IN NEWCASTLE  
AND THE BROADER HUNTER REGION**

**Name:** Mr Greg Cameron

**Date received:** 23/10/2014

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The Director  
Select Committee on the Planning Process  
in Newcastle and the Broader Hunter Region  
Parliament House  
Macquarie St  
Sydney NSW 2000

Dear Sir/Madam,

Thank you for the opportunity to provide a submission to the "Select Committee on the Planning Process in Newcastle and the Broader Hunter Region".

Yours faithfully,

Greg Cameron  
23 October 2014

Attachments.

## **SUBMISSION**

### **Summary**

The NSW Government allocated \$340 million towards Newcastle's Urban Renewal Strategy from the proceeds of selling a lease to the Port of Newcastle for \$1.75 billion. The funds enable removing the heavy rail line between Wickham and Newcastle stations and providing a new transport interchange at Wickham for rail, light rail and buses.

No consideration was given to removing freight from the Newcastle – Sydney rail line, which would eliminate the main constraint on the development of rail passenger services in both cities. Removing freight from the Newcastle rail line would enable development of light rail transitway links along former rail corridors linking Belmont, Glendale, West Wallsend, Wallsend and University to Newcastle City Centre. Removing freight from the Sydney rail network would enable all rail capacity to be used for passenger services.

A Newcastle - Sydney rail freight bypass line is commercially viable by railing containers between the Port of Newcastle and a new intermodal terminal at either Eastern Creek or Badgery's Creek. The new line would enable rail to replace trucks for the 75 per cent of goods that enter Sydney with Sydney being the end destination (Source: Northern Sydney Freight Corridor, Scoping Phase Completion Report, February 2012).

It is possible to privately fund a rail freight bypass of Newcastle and Sydney by building a container terminal at the Port of Newcastle and railing containers and general freight for the Sydney market. However, through its leasing arrangement for the Port of Newcastle, the NSW Government is preventing the development of a container terminal.

### **NSW Government Policy Supports Rail Freight Bypass**

NSW Government policy supports a rail freight bypass of Sydney. For example, the NSW Freight and Ports Strategy, November 2013 states:

#### Case Study 13:

Proposed long term corridors support freight growth and provide opportunities to move a greater share of freight around the Sydney metropolitan area on rail. Examples of such corridors include the Outer Sydney Orbital, Inland Rail Line, Western Sydney Freight Line and Maldon to Dombarton Rail Line.

The potential for a new Outer Sydney Orbital corridor has been considered for some time as the means to address the significant industrial development occurring in the west of Sydney.

The 2007 Pearlman Review into the F3 to M7 corridor selection recommended that planning work commence to identify a corridor for a future orbital link between the M7 Motorway and F3 Freeway on the Central Coast.

Identifying a new Outer Sydney Orbital corridor and protecting it from incompatible development is an increasingly urgent priority, particularly as the corridor is of key strategic significance to both the road and the rail task.

While the corridor offers the potential to improve mobility between emerging suburbs and employment locations on Sydney's fringe, it is also a key enabler in progressing the separation of the passenger and freight rail networks in the Sydney metropolitan area.

The initial driver for a dedicated freight network includes the interstate freight rail task, as this traffic is the most difficult to accommodate within a densely trafficked, metropolitan passenger system (see Action 2C). The movement of coal around Sydney is another potential driver that would facilitate alternatives to the congested Metropolitan Rail Network and, in particular, the Illawarra Line.

Analysis carried out by Infrastructure Australia suggests that a multi-modal corridor from Western Sydney north to the Central Coast and lower Hunter may provide a more effective long term connection between Sydney, the Illawarra and areas to the north.

An adaptive Outer Sydney Orbital corridor would support a new level of integrated transport planning. It would potentially allow four significant modal problems to be resolved through one integrated corridor. An Outer Sydney Orbital would:

- Provide a dedicated rail freight line north from Sydney, beyond the current Northern Sydney Freight Corridor Project
- Identify and reserve a corridor for the new orbital road link
- Provide a Western Sydney Freight Line
- Provide a corridor for an Inland Rail Route.

An additional consideration is that it may be possible for energy and water infrastructure to use this corridor, where it is sensible to do so.

The NSW Freight and Ports Strategy gave the timing to begin building an "Outer Sydney Orbital" as being at least 10 to 15 years:

Other long term infrastructure projects such as the Outer Sydney Orbital and Western Sydney Freight Corridor are unlikely to commence construction within the next 10 to 15 years. However, work is needed to plan and implement corridor preservation requirements to expand network capacity.

Operational expenditure will also need to be directed to investigate key transport corridors benefiting freight. Identifying and protecting these corridors is imperative, as the land is already under pressure from urban growth and encroachment.

### **Compensation Payable to Port Botany Leaseholder**

As a condition of leasing Port of Newcastle, Port Botany and Port Kembla, the NSW Government undertook to pay compensation to the Port Botany leaseholder for container movements that exceed an annual threshold at the Port of Newcastle, on terms described to parliament by The Hon. Duncan Gay, on 17 October 2013:

**The Hon. ADAM SEARLE:** My question is directed to the Minister for Roads and Ports. How much compensation will be paid to the private operator of Port Botany if a new container terminal is developed at Newcastle Port?

**The Hon. DUNCAN GAY:** The rules in the organisation that did the scoping study for Port Botany and Port Kembla and introduced guidelines there indicate that while general cargo is allowed there will not be an extension under the rules for the lease of Newcastle Port. So the short answer to the question is that we do not envisage that any compensation will need to be put in place. The Government has been clear on this all the way through the process, even before it indicated it would lease the port at the stage when Newcastle Port Corporation was in place. I have indicated in the House, as I have in Newcastle—indeed, I made a special visit to Newcastle to talk to the board, the chief executive officer and the local community—that part of the lease and the rationalisation was a cap on numbers there. I am not saying that there will be no containers into Newcastle. Certainly, a number of containers will come in under general cargo, but there will not be an extension. The only time an extension is allowed is when a specific number is reached and is tripped in Port Botany and Port Kembla.

It is assumed that the Port of Newcastle leaseholder is required to pay the NSW Government a fee that is the same as or similar to the compensation that is payable by the government to the Port Botany leaseholder. Such a commercial arrangement would then explain why the NSW Government would not "envisage that any compensation will need to be put in place". Furthermore, a container terminal would not be developed because the fee payment would make such an enterprise commercially unviable.

### **Relevant questions for the NSW Government are:**

1. Is compensation payable to the Port Botany leaseholder if container movements exceed an annual threshold at the Port of Newcastle?
2. If yes, what is the annual threshold?
3. Is the amount of compensation an amount between \$76 per teu and \$120 per teu, where \$76 is the fee currently charged by NSW Ports for an export container and \$120 is the fee currently charged for an import container (Source: Australian Financial Review, 11 September 2014)?
4. If no, what is the amount?
5. Is the Port of Newcastle leaseholder required to pay the NSW Government a fee for container movements through the Port of Newcastle on the same or similar terms as the government is required to compensate the Port Botany leaseholder?
6. If yes, when did the government undertake to pay compensation to the Port Botany leaseholder and to impose a fee on the Port of Newcastle leaseholder?
7. Did state cabinet approve the payment of compensation to the Port Botany leaseholder and the imposition of a fee on the Port of Newcastle leaseholder?

8. How many containers must be moved through Port Botany and Port Kembla before an extension is allowed in the number of container movements at the Port of Newcastle that do not attract the compensation payment and fee respectively?
9. When The Hon. Duncan Gay spoke to the Newcastle community on 2 August 2012, did he refer to the compensation and fee?
10. Is the purpose of the fee charged of the Port of Newcastle leaseholder to constrain the number of containers passing through the Port of Newcastle?
11. If no, what is the purpose of the fee?
12. Is the purpose of the fee charged of the Port of Newcastle leaseholder to prevent development of a container terminal at the Port of Newcastle?
13. If no, what is the purpose of the fee?
14. Did the NSW Government abolish the cap on container movements at Port Botany to increase the value of the lease to potential purchasers?
15. Did the NSW Government agree to compensate the Port Botany leaseholder in respect of container movements at the Port of Newcastle to preserve the commercial value of the Port Botany lease?
16. Was a cost-benefit study undertaken?
17. If yes, will the government release it?
18. Does it benefit the NSW economy to prevent competition between NSW ports for handling containers?
19. If yes, how?
20. Does it benefit the northern NSW economy to require goods to be transported to Port Botany by truck for export?
21. Does it benefit the northern NSW economy to require imported goods to be transported between Port Botany and western Sydney before being transported by truck to northern NSW?
22. Does it benefit the NSW economy to predicate future growth in Port Botany container movements on transportation by truck?
23. What is the container-carrying capacity of the rail line serving Port Botany?
24. Will the NSW Government fund the Western Sydney Freight Line?
25. If no, who will fund this line?
26. When will the Australian Government respond to the NSW Government's request for funds to build stages 2 and 3 of the Northern Sydney Freight Corridor?
27. Is it true that there are no state or federal government funds available for building the Western Sydney Freight Line and stages 2 and 3 of the Northern Sydney Freight Corridor?

### **ICAC "Operation Spicer"**

The Select Committee Inquiry was established because of matters raised by the ICAC's "Operation Spicer". One of these matters concerned a container terminal at the Port of Newcastle.

"Operation Spicer" revealed that the Grup TCB/Anglo Ports Consortium was ready to sign a contract with Newcastle Port Corporation in December 2010 to develop a 1 million teu per year capacity container terminal on the former steelworks site. A contract was not signed before the March 2011 state election and negotiations were summarily terminated by the NSW Government on 27 July 2012. It is likely that a container terminal would be operating now had the contract been signed in December 2010.

It is likely that a container terminal that was either operational or at an advanced stage of construction would have been excluded from the lease to the Port of Newcastle as sold in 2014.

### **What was Newcastle's "smart money" told?**

"The Newcastle Herald" reported on 31 January 2012:

A \$600 MILLION proposal to redevelop the BHP steelworks site for port uses, including a container terminal, will be considered as part of the case being mounted for plans to lease Sydney's Port Botany.

A spokesman for NSW Ports Minister Duncan Gay said yesterday that an announcement on a Newcastle container terminal would be made after the scoping study for the Port Botany transaction, due to the government early this year, is completed.

There was no mention of a "cap on numbers". The report also said:

But financial advisers are also expected to consider whether to lift a cap on container movements on Port Botany's operator, Sydney Ports Corporation.

Last week, Premier Barry O'Farrell threw the spotlight back on a container terminal for Newcastle when a government panel led by his department rejected a proposal from the Nathan Tinkler-owned Hunter Ports for a \$2.5 billion coal-loader at the Mayfield site.

He said last week the government wanted to maintain the existing long-term strategy for diversifying Newcastle harbour.

There was no mention of a "cap on numbers".

On 13 June 2012, "The Newcastle Herald" speculated about "smart money" knowing about the government's plans for the Port of Newcastle:

The lack of agitation from the Hunter's business lobby over a Newcastle container port may be showing the smart money knew the game was up already.

There was no mention of a "cap on numbers". As part of BHP's 1997 plan for developing a container terminal on its then steelworks site, Newcastle transport planner, Mr Len Regan, produced a comprehensive plan for significant changes in rail transport that were possible by removing freight from the city's rail line. The Regan plan was supported by the "Newcastle and Hunter Business Chamber" for many years.

"The Newcastle Herald" reported on 28 July 2012:

But Mr Baird said yesterday Port Kembla was found to be the most cost-effective location "for any potential future overflow of containers from Port Botany", based on an assessment of the NSW freight network and its proximity to businesses and warehouses in south west Sydney.

Mr Baird made no mention of a "cap on numbers" at the Port of Newcastle including the economic implications for northern NSW of maintaining the Port Botany monopoly over container movements.

"The Newcastle Herald" reported on 3 August 2012:

In truth, the writing has been on the wall for some time before now, but in coming to Newcastle to deliver those words, Mr Gay was saying clearly and absolutely that Newcastle had lost its place in the planning queue to Port Kembla as the overflow port for the state's main container facilities at Port Botany.

Mr Gay made no mention of a "cap on numbers" at the Port of Newcastle.

In a media statement on 1 May 2014, NSW Treasury said:

The [Port of Newcastle] lease has been drawn up in accordance with the current NSW Government freight policy of Port Botany being the first container facility priority, with Port Kembla designated to take the overflow once Port Botany is full. Newcastle will be further developed once Port Kembla is full. Newcastle container throughput is, in the meantime, fully able to grow organically.

Treasury made no mention of a "cap on numbers" at the Port of Newcastle.

Mr Mark Speakman SC MP, Parliamentary Secretary to Treasury, wrote on 1 July 2014:

The Port [of Newcastle] lease, which will be made available at Land and Property Information, does not constrain container shipments passing through the Port. The lease also does not prevent a container terminal being developed on the former steelworks site.

The State's Long Term Transport Master Plan, the Freight Strategy, and the State Infrastructure Strategy each support the full development of Port Botany and Port Kembla's container capacity before the Port of Newcastle. Port Kembla is the logical location for the new container facilities, due to its proximity to transport links.

Mr Speakman made no mention of a "cap on numbers" at the Port of Newcastle. It is immaterial that there is no legislated cap on container movements at the Port of Newcastle when a fee applies to movements above an annual threshold. The State Long Term Transport Master Plan, Freight Strategy and State Infrastructure Strategy are all predicated on a "cap on numbers" at the Port of Newcastle and will require revision if the fee on container movements is removed.

### **Northern NSW Disadvantaged**

All of northern NSW is economically disadvantaged by the NSW Government preventing development of a container terminal at the Port of Newcastle by imposing a fee on container movements there. The Port Botany monopoly over container movements in

NSW requires imported and exported goods to be trucked between Port Botany, western Sydney and northern NSW thereby adding an intolerable cost burden. A Newcastle terminal would compete for business with Port Botany for container services to northern NSW and would be commercially viable by serving the needs of northern NSW alone.

### **Insufficient Rail Freight Capacity In Sydney**

In 2005, a condition of approval for expanding Port Botany container terminal was a cap on container movements set at 3.2 million teu per year. It was imposed to limit truck movements due to insufficient rail capacity. The cap was abolished in 2012 without increasing rail capacity. The Australian Government accepted a NSW Government requirement to restrict the capacity of its proposed Moorebank intermodal terminal to 1.2 million teu per year, due to insufficient rail capacity (Source: Moorebank Intermodal Company web site).

The NSW Government is obliged to disclose how the freight capacity of the Sydney rail network will be increased. The government estimates that rail will carry 34 per cent of 10.8 million teu moved through Port Botany in 2046 (Source: NSW Bureau of Transport Statistics, Heavy Vehicle Forecasts, February 2014 Release), amounting to 3.7 million teu by rail and 7.1 million teu by road. This compares with 13 per cent of containers moved by rail in 2013, or 300,000 teu, with 1.9 million teu moved by road.

NSW Government policy is to support an intermodal terminal at Eastern Creek after the (proposed) Moorebank terminal reaches capacity. The problem with this strategy is that it assumes there will be sufficient rail capacity. Based on the restricted capacity of the network to rail containers between Port Botany and Moorebank, there may not be capacity to rail containers between Port Botany, Chullora and Eastern Creek. Nor would it be possible to rail containers between Port Botany and Eastern Creek via Moorebank and Glenfield, by building the southern section of the rail freight bypass between Glenfield and Eastern Creek.

In contrast, 100 per cent of containers for the Sydney market can be railed between the Port of Newcastle and a single intermodal terminal at Eastern Creek or Badgery's Creek. (Badgery's Creek is proposed by Liverpool City Council for the intermodal terminal instead of Moorebank and Eastern Creek).

Container trucks would be removed from Sydney's roads. Containers would be unloaded/loaded at Eastern Creek/Badgery's Creek and the goods transported to the end destination by light truck. Both the NSW and Australian governments support minimising the use of trucks to carry containers. Bypass line construction could be completed by 2028 if planning and development start by 2016. However, NSW Government policy is not to start construction for another 10 to 15 years.

An intermodal terminal at Badgery's Creek is immediately possible by using the buffer zone land owned by the Australian Government for Sydney's second airport. Containers would be railed between Port Botany and Badgery's Creek by building the southern section of the rail freight bypass, between Glenfield and Badgery's Creek. However, this would require abandoning the proposed intermodal terminal at Moorebank to make sufficient rail capacity available.

### **Compensating NSW Ports**

An alternative to compensating NSW Ports for container movements at the Port of Newcastle would be for agreement to be reached between the three parties – NSW Ports, Port of Newcastle Investments and the NSW Government - for relocating Port Botany operations to Newcastle and profitably participating in development of the rail



freight bypass. A container terminal could be expanded by accessing land currently occupied by Arrium Limited, adjacent to the former steelworks.

### **Port of Newcastle Development**

There is no legislated cap on the number of container movements at the Port of Newcastle. With 1450 metres of quay line, the 150 hectare steelworks site is slightly larger than the 140 hectare Arrium site.

Port of Newcastle Investments said:

The Port of Newcastle handles a small volume of containers, and will continue to do so. Port of Newcastle has no immediate plans to build a container terminal. If a container terminal was commercially competitive and sustainable, we would look at it. It would also need to go through relevant planning approvals with the State Government.

Last year, container movements through the Port were 15,000 teu. Newcastle Port Corporation said that growth in container movements would occur in line with population growth. The NSW Government described this growth as "organic".

### **Site Acquisition**

BHP gave the former Newcastle steelworks site to the NSW Government in 2002. The NSW Government accepted liability for the site's contamination. It should not have done so. The government's objective was to prevent a container terminal being developed in competition with Port Botany. BHP's objective was to exit Newcastle and the steel business. Both sides were happy with the arrangement. The northern NSW economy, however, was the loser.

It is extraordinary that the state government should be actively preventing use of prime deepwater port capacity for shipping terminal purposes.

### **Northern Sydney Freight Corridor**

The NSW Government must complete stages 2 and 3 of the Northern Sydney Freight Corridor by 2028 to provide what in effect will be a dedicated rail freight line between Strathfield and Newcastle. The expansion is required to cope with the forecast increase in freight demand by 2028 (Source: Northern Sydney Freight Corridor, Scoping Phase Completion Report, February 2012).

The cost of building stages 2 and 3 is \$4.4 billion, in present value terms (Source: "The True Value of Rail", report for The Australasian Railway Association by Deloitte Access Economics, 3 June 2011). The NSW Government has no funds for stages 2 and 3 and is asking the Australian Government to provide the funds. The Australian Government does not have the funds. A rail freight bypass line removes the need to build stages 2 and 3.

### **Western Sydney Freight Line**

Building a rail freight bypass removes the need to build the Western Sydney Freight Line, between Chullora and Eastern Creek, costing around \$1 billion. The line would be required to serve an intermodal terminal at Eastern Creek, which the NSW Government expects to be operating in 2031 (Source: NSW Bureau of Transport Statistics, Heavy Vehicle Forecasts, February 2014 Release). The NSW Government has no funds for building this line and is obliged to disclose how the line would be funded and built by 2031.

### **Inland Freight Line**

The Western Sydney Freight Line is required to connect the Inland Freight Line with Port Botany. It seems that the NSW Government is banking on the Inland Freight Line, between Melbourne and Brisbane, as a substitute for both the rail freight bypass line and the Northern Sydney Freight Corridor stages 2 and 3. This strategy fails to address basic lack of freight capacity of the Sydney rail network and the freight requirements of northern NSW.

### **Moorebank Intermodal Terminal**

The Australian Government claims that its proposed Moorebank intermodal terminal will remove 3300 truck movements per day from Sydney roads, or 1.2 million trucks per year (Source: Moorebank Intermodal Company web site). Given that the average number of containers carried between Port Botany and western Sydney is 1.93 teu per truck (Source: NSW Ports, 3 September 2013) it seems the Australian Government is claiming that the Moorebank intermodal terminal will account for 2.4 million teu per year.

The Moorebank intermodal terminal project should be abandoned because of insufficient rail capacity and adverse impact on local roads in terms of congestion, noise and air pollution.

The Australian Government declines to release the un-redacted Moorebank Intermodal Terminal Business Case. It is impossible to independently assess the business case, obviously, when most of it is redacted.

### **Land Use Planning**

Eastern Creek is closer to the main demand areas for freight than Moorebank. With ample available industrial land in outer western Sydney, there is a strong incentive for industry, which occupies expensive inner western Sydney real estate, to relocate to outer western Sydney, close to an intermodal terminal at Eastern Creek or Badgery's Creek. These businesses occupy 5,500 hectares of land in the inner west (Source: Intermodal Logistics Centre at Enfield, Project Overview, Sydney Ports). They can relocate to new premises, with superior transport services for freight and workers, while realising a capital gain when their land is re-developed for medium density housing.

The South West growth Centre is the size of Canberra (300,000 people); the North West Growth Centre is a little smaller (200,000 people); and the Broader Western Sydney Employment Area is planned to provide over 200,000 jobs. If the surrounding suburbs are included, this is about 2.2 million people.

The land use planning should be for a self-contained city, rather than another "suburb" of Sydney.

### **Maximising Rail Passenger Capacity**

A rail freight bypass line between Newcastle and Glenfield would allow all freight to be removed from the Sydney rail network and the Main North Line between Strathfield and Newcastle. The benefits of using all network rail capacity for passenger movements would far outweigh the benefits of using capacity for freight.

Deloitte Access Economic estimated that if rail absorbed 30% of the forecast increase in Sydney urban travel then congestion, safety and carbon emission costs could be reduced by around \$1 billion a year by 2025 (Source: "The True Value of Rail", 3 June 2011).

**Sydney Airport Expansion**

The Port Botany container terminal site is more valuable when used for airport purposes. Sydney Airport's short north-south parallel runway can be lengthened to 4000 metres by relocating displaced airport facilities to the container terminal site. The Airport's noise footprint over residential areas would be reduced as more aircraft movements occurred over water due to the lengthened runway.

**Recommendation**

That it is in the national interest to terminate any compensation payable to NSW Ports in respect of any container movements at the Port of Newcastle.

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