

INQUIRY INTO TRANSPORT ASSET HOLDING ENTITY

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Date Received: 19 December 2021

Secretariat
Public Accountability Committee
NSW Legislative Council
Parliament House
SYDNEY NSW 2000

TRANSPORT ASSET HOLDING ENTITY INQUIRY – CLARIFICATION

Dear Secretariat

I reluctantly write, with some embarrassment, to draw attention to some ‘false narratives’ provided to the Inquiry.

My submission to the Inquiry, in September, observed commonalities between the present structure of the NSW Government rail sector and that between 1996 and 2000. This includes strong similarities of the present Transport Asset Holding Entity and the then Rail Access Corporation.¹

Subsequently, I have read the documentation and transcripts at the Inquiry’s website.

I also have written several blog articles about related issues. Another is underway.²

Those articles identify critical misconceptions that have been propounded in quite emphatic – at times, dismissive - terms at the Inquiry and associated public debate. The more significant include fundamental misapprehension of the Glenbrook and Waterfall Commissions’ recommendations.

For example, it seems commonly believed the Commissions recommended (infrastructure) asset maintenance should be conducted by the operator of commuter trains.

The belief was expressed in (what appears to be) the 2016 Cabinet submission which formed the basis for legislation creating the Entity. It presumably is a reason for claims the Entity is somehow not – and should not be - responsible for maintenance of its assets.³

Yet the Commissions made no such recommendation.

The Commissions did make recommendations about sector structure. They were very different from what some apparently believe.

The Glenbrook Commission (2000) recommended: (infrastructure) maintenance be conducted by the asset owner; that owner be a statutory authority not a State-owned corporation; that owner be responsible to the Minister for Transport.

¹ <https://www.parliament.nsw.gov.au/lcdocs/submissions/76366/0002%20John%20Austen.pdf>

² <https://johnmenadue.com/policy-wreck-were-being-told-two-contradictory-stories-about-nsw-trains/>;
<https://www.thejadebeagle.com/policy-spad-update.html>

³ https://www.parliament.nsw.gov.au/lcdocs/other/16111/TRANSPORT_TENDER_002.pdf para 5.12;
<https://www.parliament.nsw.gov.au/lcdocs/transcripts/2784/Transcript%20-%20Uncorrected%20-%202016%20December%202021.pdf> at p.5.

That was the very first recommendation in a report by the Commission, requested by Government, on structure - about which senior advisers and policy makers now appear entirely ignorant.⁴

As another example of misconception, the Inquiry was recently told the structure that has governed rail safety since responses to the Glenbrook and Waterfall Commissions remains unchanged.⁵

That is false. The structure of rail safety administration and the structure of the Government rail sector have changed several times since responses to the Waterfall Commission report (2005). To illustrate, Table 1 shows conformance of sector structure with the Commissions' recommendations – green shading indicates conformance, red shading indicates non-conformance.

Table 1: Conformance of NSW sector structure with Glenbrook Commission recommendations

Start	Infrastructure network owner: is it a statutory authority? (a)	R1: Network maintainer: is it the network owner? (a)	R3: Commuter train operator: does it perform all of network control? (b)
Pre 1996	State Rail Authority	State Rail	State Rail
1996	Rail Access Corporation	Rail Services (c)	State Rail
2000: Glenbrook Commission (2nd interim report): R1: Statutory authority infrastructure owner to maintain network; R3: Train operator performs all metropolitan network control functions.			
2000	Rail Infrastructure Corporation	Rail Infrastructure	State Rail
2004	RailCorp	RailCorp	RailCorp
2005: Waterfall Commission Report: reiterated Glenbrook Commission recommendations.			
2009	RailCorp	RailCorp	RailCorp
2013	RailCorp	Sydney Trains	Sydney Trains/ RailCorp/ TfNSW
2017	Transport for NSW	Sydney Trains	Sydney Trains/ TfNSW
2020	Transport Asset Holding Entity	Sydney Trains	Sydney Trains/ TfNSW

(a) Glenbrook Commission (2nd interim report) recommendation '1. That the infrastructure owner RAC and the infrastructure maintainer RSA cease to be State owned corporations and that their property and functions be merged into a single statutory authority, to be known as the Rail Infrastructure Authority, responsible to the Minister for Transport.'

(b) Glenbrook Commission (2nd interim report) recommendation '3. That SRA be responsible for the control and management of timetabling and train movements and other functions of network control within the area of operation of the present CityRail network.'

(c) Statutory authority 1 July 1996 to 1 July 1998; State owned corporation from 1 July 1998

Source: Forthcoming

The Commissions' sector structure recommendations:

- were not fully adopted by NSW until 2009 - when RailCorp became a statutory authority;
- have been progressively discarded since 2013 and are now abandoned.

Parties making wrong assertions like those mentioned above may not realise the present sector structure, and Transport Asset Holding Entity, conflict with the Commissions' recommendations. Hence, among other things, their narrative (so far) about how the Entity etc. arrangements conform with the recommendations - by e.g., claims about Sydney Trains' responsibility - is unsatisfactory.

There are similar issues relating to infrastructure access - 'agreements', charges, regulation etc.

Yours sincerely

J Austen

19 December 2021

⁴ [https://www.parliament.nsw.gov.au/tp/files/42517/GlenbrookInterim2\[1\].pdf](https://www.parliament.nsw.gov.au/tp/files/42517/GlenbrookInterim2[1].pdf)

⁵ <https://www.parliament.nsw.gov.au/lcdocs/transcripts/2784/Transcript%20-%20Uncorrected%20-%202016%20December%202021.pdf>
p.5.