Contents

[Doubling up 2](#_Toc484017874)

[A new double up 2](#_Toc484017875)

[Where from? Badgerys Creek! 2](#_Toc484017876)

[Would have been? 3](#_Toc484017877)

[Another thing? 4](#_Toc484017878)

[The Federal arguments 4](#_Toc484017879)

[The State projects-national economy argument 5](#_Toc484017880)

[Subsidiarity etc.? 5](#_Toc484017881)

[For completeness 6](#_Toc484017882)

[Calling all St Bernards…. 6](#_Toc484017883)

[Postscript: West metro 8](#_Toc484017884)

# Doubling up

  *Double up: to use or do two times as many of (something)*[[1]](#endnote-1)

## A new double up

At times the NSW Transport portfolio doubles up. For example, the Sydney and southwest metro doubles up on the north-west metro. Metro tunnels too small to handle commuter trains would double the double up![[2]](#endnote-2)

Telling Parliament there are no legislative restrictions on Newcastle port, despite fairly widespread knowledge of government contract restrictions, is another example.[[3]](#endnote-3)

A further case came to light last week. The Minister for Transport and Infrastructure, the Hon. Andrew Constance MP put the view that the Commonwealth should just dole out money for his government’s railway projects since *‘the expertise resides in Transport for NSW’*. So said a report in the Sydney Morning Herald, 24 May 2017, by Mr Jacob Saulwick.[[4]](#endnote-4)

The Minister previously invited people to look at the big metro picture; that is the last thing he should want. The new remark that rail expertise lies in his Department is the last thing he should say. The reason: it means he is responsible.[[5]](#endnote-5)

## Where from? Badgerys Creek!

What triggered the Minister’s comments?

Mr Saulwick’s article concerned tensions between the Commonwealth and NSW State governments over urban infrastructure, for example regarding an airport at Badgerys Creek.

His evidence: the Commonwealth favours a ‘north-south’ line through the airport site.

The Commonwealth’s attitude must be a surprise for the NSW Minister. The Commonwealth he knows would have favoured the opposite; no railway at all or, at a pinch, only an east-west spur 35km to Parramatta or 20 km to Liverpool. The spur would be an optional extra for the airport. The Commonwealth infrastructure department would donate cash to the project; no real questions since its partner in NSW has ‘the expertise’. When the idea proves infeasible the money would be diverted to the old favourite - roads.[[6]](#endnote-6)

Any NSW Minister would be generally concerned and old-timers horrified if that outmoded approach is being dumped; http://johnmenadue.com/?p=10515. Worse, they would sense Commonwealth powers-that-be view Badgerys Creek as part of a transport and land use network.

More specific concerns would arise from the reported Commonwealth preference, a north-south line through Badgerys Creek. Such a line would have been a superior option.

By connecting at least two existing commuter lines (South west line at Leppington, Western line at St Marys, possibly Richmond line at Schofields) a north-south line would substantially increase system capacity in western Sydney. It would have provided the million or more people in lower socio-economic south west suburbs much better access to growing, well-paid jobs in the ‘global arc’. It would have connected the two airports, universities etc. It would have been the type of thing needed for economic growth and promotion of fair opportunity even without an airport.[[7]](#endnote-7)

A north-south line would have been be embedded in Sydney’s transport and urban fabric; an integral part of network infrastructure. Moreover, a north-south line would be a victory for urban and economic agendas over infrastructure shovellers.

Worse, in pushing for a north-south line the Commonwealth would be seen to do something the NSW government should have done, indeed would have done, under any sensible Sydney rail plan.

More ideas might follow. Who knows; Prime Ministerial scrutiny of Commonwealth donations to big roads? The idea that the Commonwealth could have thought of a north-south line would be anathema to States righters.

Coincidentally on the day of Mr Saulwick’s report the jadebeagle drew an analogy between infrastructure policy and scenes in the 1959 Ben Hur movie. The beagle suggested the Prime Ministerial attitude to rail was akin to Mr Heston displaying a Rolex watch in the epic’s chariot race. Mr Saulwick’s report is more evidence of a real policy Rolex; that Commonwealth infrastructure policy is moving past a ‘sword and sandal’ era. The old brigade would not be amused.[[8]](#endnote-8)

## Would have been?

However, the ‘would have been’ phrase involves a real caveat about a north-south line through Badgerys Creek.

The NSW government’s Sydney metro, centrepiece of its rail ‘plan’, jeopardises the idea in several ways. One example: tunnels too small for commuter trains in the north-west metro segment would prevent many options for future commuter rail services into the global arc via Castle Hill, Parramatta or Epping. North bound commuter trains from Badgerys Creek would need to use the Western line. Presumably this is the reason the Western line is mentioned by Mr Saulwick as key to the north-south idea.

Another example: it is possible, but unknown whether, Sydney metro prevents a second commuter harbour crossing necessary to expand capacity on the existing Western line.

How could this happen? Perhaps the origin was in the June 2012 publication, *Sydney’s Rail Future*, supposedly the starting point for the State government’s metro rail projects. While presented as the ‘plan’ for the future, the document did not mention the possibility of an airport at Badgerys Creek. This failure is consistent with views expressed in March 2012 by then Premier the Hon. Barry O’Farrell MP, reportedly reiterated by then Transport Minister, now Premier, the Hon. Gladys Berejiklian MP; there should be no second airport in the Sydney basin. That view had changed by mid-2013, when the Coalition had taken office in Canberra.[[9]](#endnote-9)

Yet in typical NSW ‘double up’ style, the recent (summary) business case for Sydney metro, October 2016, also ignored the planned airport.[[10]](#endnote-10)

It would be understandable if the present NSW Minister thought exposure of any such jeopardy to be a concern. Discussion of north-south line options might raise the issue. NSW would hardly welcome such a distraction from what could otherwise be a triumphant roll-out of the metro; starting in 2019, coincidentally the same year as State and Commonwealth elections.

However, not knowing whether or what problems metro is causing Badgerys Creek should make Sydneysiders, the Prime Minister chief among them, livid. Ms Turnbull, Chair of the Greater Sydney Commission, should be very concerned.

The uncertainty about this vitally important matter would partly explain the new interest of the Prime Minister’s portfolio in urban rail. And wails from NSW to not second guess ‘the expertise’.

Interestingly, it seems another State government media campaign about its ‘plan’ and transport projects has just started.

## Another thing?

Against this background Mr Saulwick’s article could be seen as virtually a call for Freedom of Information applications about what the NSW and Commonwealth Governments have been told by ‘the expertise’ about rail and Badgerys Creek.

His article also could be read as implying the Commonwealth should get real knowledge and insight rather than rely on old departments or States that double up by media bluffing. Why? The Commonwealth could hardly rely on a State where ‘the expertise’ forgot about an airport.

Yet the Herald on 24 May also carried a ‘comment’ piece by Mr Saulwick. In this he argued the Commonwealth should butt out, citing:

*‘a concrete example of where federal involvement can unhelpfully complicate matters: “I’m just saying to Canberra you’ve got to look at our infrastructure plan here and what we’re doing and don’t treat it in isolation in your agenda” says Constance….the state government fears such a (north-south) line will simply create more pressure on the already overcrowded Western line.’[[11]](#endnote-11)*

Would it be churlish to point out the State government, not the Commonwealth, ‘forgot’ about Badgerys Creek?

Would it be reasonable to ask whether ‘the expertise’ would have come up with the current rail plan if it didn’t ignore the airport? Would it have insisted on north-west rail reportedly including small tunnels and a metro conversion that may preclude many rail options for directly connecting Badgerys Creek with the global arc? Or a metro harbour crossing that might or might not - have we been told? - preclude expansion options for Western line trains?

Would it be fair to ask why the Western line was not the priority for (metro) augmentation?

Etcetera?

## The Federal arguments

No doubt those who worry about Canberra meddling in local matters – cash hand-outs excluded of course – have good intentions.

Recent comments in the Herald suggested principles as support for arguments to limit Commonwealth involvement to just handing over cash to State projects. Resort to principles is needed since facts such as State government ‘expertise’ overlooking an airport hardly justify a ‘leave us alone’ proposition.

Some of the comments could be read as implying there is a principle that the Commonwealth should support State projects because Commonwealth taxpayers live in the States or because the Commonwealth has lots of money. The less said about this the better.[[12]](#endnote-12)

In the same class is the view that the Commonwealth should allow States (to try!) to fail on infrastructure etc. Ignoring the possible Freudian slip, ‘to try’, this is no reason for the Commonwealth to provide funds to State governments. It is especially no reason for Commonwealth support of State projects that contribute to failure. It is no reason to ask the Commonwealth to put out State fires with gasoline.

Indeed the ‘allow to fail’ argument is one for the relevant activity to become a responsibility of the Commonwealth after, because of, State failure.[[13]](#endnote-13)

I am saddened that these could be presented as arguments in the 21st century. Such claims, while ill-conceived, must nevertheless worry those on the wrong side of the tracks or in areas to be hit hard and long by State failure.

A further ‘anti-Canberra’ argument is the vertical fiscal imbalance i.e. the States are needy. If a blind eye was turned to States’ ability to solve their ‘need’ by raising taxes – and their recent refusal to do so - this may be an argument for Commonwealth payments to the States. However, the scheme of the Constitution implies such payments should be general purpose, i.e. untied, for a State to use on anything. The payments should not be for projects.[[14]](#endnote-14)

Fiscal imbalance is no argument for Commonwealth interference in State affairs by meddling or equally by grants to State projects. It is no argument for Federal support of any State projects; even projects that pass a cost-benefit analyses, are included in ‘plans’, or produce national benefits.

## The State projects-national economy argument

Another argument is that Commonwealth funding of State projects can improve the national economy and benefit the Commonwealth. Proponents of this have not recognised its serious flaws.

The legal criterion for Commonwealth funding is generally that the matter falls within a Constitutional head of power. National economy, national significance etc. are not heads of power, a matter made abundantly clear by the High Court on several occasions, most recently in 2014. Hence in most respects the argument for funding projects to improve the national economy etc. is an argument for Constitutional change to expand Commonwealth power. Proponents may not have such a result in mind.[[15]](#endnote-15)

The main exception is specific purpose payments, tied State grants, under Constitution s.96. This is a mechanism used by the Commonwealth to provide a State with funds (on condition) to use on a particular project. The Commonwealth can set any condition, even meddling ones. One safeguard for the States is that the funds and therefore conditions do not have to be accepted. Another safeguard is that the power to set conditions lies with the Commonwealth Parliament not the Government.[[16]](#endnote-16)

Consequently Parliament, not merely the Government, should be relevantly informed of State projects for which Commonwealth specific purpose funding is sought. This should logically involve greater scrutiny of State proposals by the Commonwealth as well as all relevant information being placed in the public domain. Proponents of more funding and less scrutiny from the Commonwealth might not have that in mind.

The above means that Federal and national arguments should no longer be considered in a simplistic Canberra versus States framework. They should be understood in the context of debates about the balance between Executive and Legislature in responsible government.

The crux is a tension between the Commonwealth Executive Government and the States rather than the Commonwealth Parliament and the States; States have concerns regarding the activities and ambitions of the Government and its Ministers rather than the Parliament.

At the Commonwealth level the key issues concern what the Government does in the Parliament’s name.

## Subsidiarity etc.?

What of the subsidiarity principle?

In his comment piece Mr Saulwick appealed to its logic:

*‘there is no reason in logic that Canberra would have a better sense of what Sydney needs than Macquarie Street’.*

This may an argument for subsidiarity but it does not determine where (Constitutional) responsibility should lie in particular cases. Moreover, in the present case, Sydney rail, the real problem is suspicion that logic is suspended in Macquarie Street’s metro mania.

An absence of believable State government information on key Sydney rail issues means the critical assumption of subsidiarity, of matching power - not agency - with democratic accountability, is not met. Something more is needed so the public can access information to enable a reasonably informed judgement about Macquarie Street’s rail plan. Needless to say, it would be foolish to rely on ‘the expertise’ that overlooked an airport.

This leads to an argument that among the Commonwealth’s roles is assurance of State democratic accountability at least for activities that impact on its responsibilities, such as those arising from heads of power. In short: informing the public about the effectiveness of agencies which are subsidiary in delivering Commonwealth purposes.[[17]](#endnote-17)

Railways are one of the Commonwealth’s heads of power; airports and their connections are within power too. Clearly rail to Badgerys Creek is a matter of Constitutional interest to the Commonwealth.[[18]](#endnote-18)

Provision of factual information to the public would enhance State democratic accountability and thus should be within Commonwealth power. Were Commonwealth funding sought for a State project the Parliament, and probably the Government, would have power to provide the public with information relevant to Parliament’s decision.

## For completeness

The Herald also said the National Commission of Audit, requested by the Abbott Government and chaired by Mr Tony Shepherd AO, could be a useful guide to Federal infrastructure activities even if it was largely disregarded for *‘ideological overreach’*.

Unfortunately there are more than ideological issues with the Audit’s discussion of infrastructure. The Audit concluded in March 2014, prior to the June 2014 High Court’s pivotal decision on Commonwealth spending powers. The Court’s decision up-ended many previous assumptions including some which were central to the Audit such as about nationally significant infrastructure and co-ordination of the States.[[19]](#endnote-19)

For those who hark to Prime Minister Abbott’s reform of Federation proposals as a guide to roles and responsibilities in infrastructure; infrastructure was not among the topics covered by the in-depth discussion papers.[[20]](#endnote-20)

## Calling all St Bernards….

Mr Saulwick’s comment piece concluded with the line: *‘in some areas less can be more’*. It was aimed at the Prime Minister’s ideas of Commonwealth involvement in cities.

Given what is currently in the public domain it might end up as an epitaph for the State government’s rail plan; of metros in suburbia.

The Commonwealth Government has said it wants to work with the States on an urban rail plan for each capital city.[[21]](#endnote-21)

To achieve this, the Commonwealth will need to understand what each State government is doing rather than what each State wants it to hear or being greeted with an avalanche of promotional material.

And by the way it has always been possible to run single deck trains on Sydney’s commuter lines.

Good luck to all.

J Austen

31 May 2017

Postscript: West metro

On 29 May, the Herald carried another piece by Mr Saulwick, an ‘exclusive’, claiming the proposed Parramatta-CBD West metro might: be extended to Maroubra; have up to 12 stations; include ‘overtaking lines’ so that some trains could skip stations.[[22]](#endnote-22)

Each is an example of doubling up!

Previous articles indicated a practical likelihood that the West metro would need to be extended to Maroubra. This is due to capacity constraints to arise from the City metro in the CBD. It was among the reasons the West metro ‘plan’ announced by then Premier Baird was underdone.[[23]](#endnote-23)

The (up to) 12 stations proposed for the West metro could be compared with the 18 stations between Central and Parramatta on the current Western line. The West metro will have a substantially lower station density than the present line indicating: potential major strategic flaws; metro trains may be inappropriate for the proposed route.[[24]](#endnote-24)

The idea of ‘overtaking lines’ is evidence of awareness of such flaws; a ‘need’ to skip stations signifies the need for a commuter line and services rather than a metro. A need to skip stations could also shed light on two other matters.

First, ‘overtaking lines’ may arise from a State government desire for the West metro to connect to an east-west line between Badgerys Creek and Parramatta. An east-west line may only make sense if trains between Parramatta and Sydney’s CBD are faster than normal metros.

Second, skipping stations may be needed to achieve end-to-end train speeds that would attract people from the existing commuter trains; i.e. relatively fast. The West metro proposal should be very carefully watched as it may ‘require’ degradation of existing Western line commuter services eg. termination of trains at Central and/or addition of new stops to make metro relatively attractive.

There are obvious questions about the West metro, particularly given the Minister’s comments that the Western line is overcrowded; a fact known by others for many years. Four are:

* why was the West metro not considered a higher priority than (say) the north-west rail or the Sydney city and south-west metro?
* whether and to what extent could augmentation of the existing commuter Western line deal with issues?
* if such Western line augmentation is no longer viable, why not?
* does the State have the resources to pay for the project(s)?

Beyond these, if what seems to be State metro mania is to persist, the NSW government should look at equipping the West metro with infrastructure capable of taking double deck trains as well as single deck fleet. This is done in Paris RER.[[25]](#endnote-25)

1. <https://www.merriam-webster.com/dictionary/double%20up%20on> [↑](#endnote-ref-1)
2. <https://www.sydneymetro.info/sites/default/files/Sydney%20Metro%20CSW%20Business%20Case%20Summary.pdf> [↑](#endnote-ref-2)
3. <http://www.thejadebeagle.com/some-thoughts-on-nsw-ports.html>. [↑](#endnote-ref-3)
4. <http://www.smh.com.au/nsw/nsw-pushes-back-on-federal-governments-rail-pitch-20170524-gwbzh7.html> [↑](#endnote-ref-4)
5. <http://johnmenadue.com/?p=9662> [↑](#endnote-ref-5)
6. Indicated by the quality of the Western Sydney rail needs scoping study discussion paper issued by the Commonwealth and State transport and infrastructure departments; see <http://www.thejadebeagle.com/western-sydney-rail-needs---submission-october-2016.html> and <http://www.thejadebeagle.com/toucheth-not-the-monorail-western-sydney-rail.html> [↑](#endnote-ref-6)
7. Especially after the north-west metro etc. has stopped potential improvements in this cross urban access by preventing a Parramatta-Epping connection in the commuter network.

 [↑](#endnote-ref-7)
8. <http://johnmenadue.com/?p=10515> [↑](#endnote-ref-8)
9. <http://www.traveller.com.au/second-airport-proposal-struggles-to-get-off-ground-1u89p> [↑](#endnote-ref-9)
10. <http://www.thejadebeagle.com/toucheth-not-the-monorail-metro-summary-business-case.html> [↑](#endnote-ref-10)
11. <http://www.smh.com.au/comment/canberra-should-let-states-try-to-fail-on-infrastructure-and-planning-20170524-gwc7i4.html> [↑](#endnote-ref-11)
12. Chris Johnson CEO Urban Taskforce at <http://www.smh.com.au/comment/smh-letters/violent-past-surely-an-adequate-predictor-of-monis-actions-20170525-gwcuiu.html> [↑](#endnote-ref-12)
13. See note xi (above). [↑](#endnote-ref-13)
14. Explained at: <http://www.thejadebeagle.com/governance.html>, and see <http://www.thejadebeagle.com/commonwealth-urban-transport.html> [↑](#endnote-ref-14)
15. See note xiv above and <http://www.thejadebeagle.com/williams-case.html>

 [↑](#endnote-ref-15)
16. See note xv above. [↑](#endnote-ref-16)
17. Commonwealth Executive Government powers include maintenance of the Constitution. See note xiv above.

 [↑](#endnote-ref-17)
18. Airports such as Badgerys Creek would be within power, for example, because of their connection to interstate and international trade and commerce, Constitution s.51(i). Railway powers are s.51 (xxxii, xxxiii, xxxiv): control of railways for military purposes; acquisition of a railway from a State with the consent of the State; construction or extension of a railway with the consent of the State. Railways connected with airports would seem to be supported by either head of power. See also note xiv above. [↑](#endnote-ref-18)
19. National Commission of Audit at <http://www.ncoa.gov.au/>. It is discussed at note xiii <http://www.thejadebeagle.com/commonwealth-urban-transport.html> [↑](#endnote-ref-19)
20. The issues to be covered were health, education, housing and homelessness, financial relations. <https://ahha.asn.au/sites/default/files/docs/policy-issue/rotf_issues_paper_1_-_a_federation_for_our_future.pdf> [↑](#endnote-ref-20)
21. <http://transportinfrastructurecouncil.gov.au/publications/files/Australian_Government_Response_to_Australian_Infrastructure_Plan_November_2016.pdf> [↑](#endnote-ref-21)
22. <http://www.smh.com.au/nsw/up-to-a-dozen-metro-stations-possible-between-cbd-and-parramatta-20170529-gwfpk1.html> [↑](#endnote-ref-22)
23. Premier Baird’s announcement of a West metro plan is discussed at <http://www.thejadebeagle.com/toucheth-not-the-monorail-metro-summary-business-case.html>. [↑](#endnote-ref-23)
24. Metro, or rapid transit, systems are generally characterised by stations that are closer together than commuter rail systems and therefore lower route speeds. The lower route speeds mean that passengers are not greatly inconvenienced by standing; metro trains have fewer seats than commuter trains. [↑](#endnote-ref-24)
25. See for example: <http://www.abc.net.au/news/factcheck/2014-04-11/barry-ofarrell-sydney-trains-claim-doubtful/5371446>; <http://www.railway-technology.com/projects/mi09-double-deck-train/>. [↑](#endnote-ref-25)