Contents

[**Sydney Metro etc. update?** 2](#_Toc55988559)

[1. Introduction 2](#_Toc55988560)

[2. Parliamentary Inquiry 3](#_Toc55988561)

[2.1 Main findings 3](#_Toc55988562)

[2.2 Inquiry’s understanding of issues 3](#_Toc55988563)

[2.3 Inquiry acceptance of propositions 5](#_Toc55988564)

[2.4 Government response and beyond 7](#_Toc55988565)

[3. Federal land deals near Western Sydney airport 7](#_Toc55988566)

[3.1 Western Sydney rail 7](#_Toc55988567)

[3.2 Potential criminality 8](#_Toc55988568)

[3.3 Same place, same time, same organisation 9](#_Toc55988569)

[3.4 More mysteries 9](#_Toc55988570)

[4. Hand on heart 10](#_Toc55988571)

[4.1 Relationship reveal 10](#_Toc55988572)

[4.2 Mr Maguire and the Corruption Commission 10](#_Toc55988573)

[4.3 Coincidences? 11](#_Toc55988574)

[5. Never do anything wrong 11](#_Toc55988575)

[5.1 Perfection and prescience 11](#_Toc55988576)

[5.2 NSW codes 12](#_Toc55988577)

[5.3 Very careful wording 12](#_Toc55988578)

[5.4 A shredding 13](#_Toc55988579)

[5.6 Conclusion 14](#_Toc55988580)

[6. Public inquiry 15](#_Toc55988581)

[6.1 Was the Sydenham-Bankstown Inquiry adequate? 15](#_Toc55988582)

[6.2 Does a reputation for honesty and integrity overcome the questions 15](#_Toc55988583)

[6.3 And new information? 16](#_Toc55988584)

[6.4 Conclusion 16](#_Toc55988585)

# **Sydney Metro etc. update?**

*Beyond present matters of the heart afflicting NSW political discourse are developments that point to more serious concerns.[[1]](#endnote-1)*

## 1. Introduction

I previously called for a public inquiry into Sydney transport projects notably Sydney Metro.[[2]](#endnote-2)

In part, this reflected questions about what is behind the NSW Government’s Metro mania.

The questions arose from the outset in 2012, when a document from then Transport Minister Berejiklian’s Department was portrayed as saying Sydney Metro is the best way ahead. In contrast to that, the document stated the opposite:

‘*an independent metro system would deliver few benefits in terms of service enhancement, capacity improvements or better operating efficiency on the existing rail network. A dedicated metro-style system would not maximise the use of the existing rail assets. It would create a separate system that would divert funding away from service improvements on the existing rail network and only provide benefits to customers who use the new lines’.[[3]](#endnote-3)*

The contrary policy was initiated by Ms Berejiklian. It has been consistently implemented.

Since 2012, doubts about transport have not been dispelled. Rather, they have been inflamed by the Government’s inconsistencies, prevarications and misinformation. To illustrate the relevance of concerns: Sydney Metro imposes unnecessary financial costs of more than $40bn; jeopardises transport throughout Sydney; creates permanent disadvantage in Western Sydney.[[4]](#endnote-4)

This note looks at what light might be shed on the questions by recent developments in: a Parliamentary Inquiry; Federal land deals near Western Sydney Airport; NSW inquiries by the Independent Commission Against Corruption and by Parliament into grants to Councils.

In 2018 John Menadue questioned whether Sydney Metro was a (then) $40bn deception and called for a public inquiry.

This note concludes the Parliamentary Inquiry that was undertaken answered the limited question it set about a short line segment. However, did not address the important issues about Sydney Metro. It was no substitute for what Mr Menadue had in mind.

Rather, evidence at the Parliamentary Inquiry, and the other recent events, make Mr Menadue’s call ever more compelling.

## 2. Parliamentary Inquiry

### 2.1 Main findings

A previous article at Mr Menadue’s Pearls and Irritations referred to a NSW Legislative Council Inquiry into an aspect of Sydney Metro. That was the proposed conversion of the existing Sydenham-Bankstown rail line segment to Sydney Metro.[[5]](#endnote-5)

I presented evidence and provided a number of submissions to the Inquiry which doubted the veracity of Government statements and comments.[[6]](#endnote-6)

In April 2020, the Inquiry recommended against the conversion extension, principally as it would create permanent disruption to commuters and because there was no cogent reason to convert the segment to Sydney Metro.[[7]](#endnote-7)

The majority, comprising members from the Labor, Greens and Shooters and Fishers parties, were unconvinced by Government ‘evidence’ which was based on propaganda. An example is: there is a ‘plan’ in which Metro would take over Sydney’s branch lines - the inverse of the situation everywhere else in the world. Another is: the conversion would add to existing network capacity – the opposite obviously being the case because the conversion would remove a segment from that network.[[8]](#endnote-8)

The Committee majority was also unconvinced by Infrastructure Australia’s 2017 ‘assessment’ of the Sydney Metro CBD and SouthWest ‘business case’.

The majority noted only summaries of the ‘business case’ and ‘assessment’ had been published. The Committee took uncontradicted evidence the ‘summary business case’ itself was that in name only - being devoid of content needed for a real business case.

Underscoring the unreliability of the available Sydney Metro etc. explanations, ‘business case’ and ‘assessments’, the Committee majority recommended there be better explanations of, and consultation for, projects and that actual business cases be published.

A Committee minority – Liberal and National Party Government members – dissented, claiming the Inquiry was politically motivated.

### 2.2 Inquiry’s understanding of issues

While the Inquiry Committee majority came to the only conclusion available on the presented evidence, the Committee report did not demonstrate a true understanding of Sydney Metro and, therefore, of the Sydenham-Bankstown conversion.

The Committee and its report treated conversion supporter propositions leniently. They underestimated the gravity of: the situation created by Government decisions; implications of the Government not providing a reasonable explanation of those decisions.

The report was unaware that the key issue before the Committee was not the location of the conversion in suburban Sydney, but the resulting misallocation of actual - and likely destruction of latent - CBD rail capacity.

The reason for the lack of awareness appears to be the Committee not appreciating the implications of the defining aspect of Sydney Metro: a tunnel size that prevents other Sydney trains using the infrastructure.

That lack of appreciation may be understandable. The small tunnel size is so peculiar, seemingly unnecessary and questionable – yet so hidden and unexplained since the Government took office - as to be almost unbelievable.

That the aspect is so bizarre was indicated in the transcript by expressions of doubt and disbelief by the Committee, including Government members, when it was drawn to their attention – more than eight years after the Government had started pursuing small tunnel size as the defining characteristic of Sydney Metro:

*‘Mr AUSTEN: ……metro, reportedly, has smaller tunnels.*

*The Hon. WES FANG: Are you sure?*

*The Hon. NATALIE WARD: I thought you said the gauges are different.*

*Mr HOUNSELL: Yes.*

*Mr AUSTEN: Yes. They have six-metre tunnels.*

*Mr WARDROP: It was designed, regrettably, to a smaller loading gauge so that it has its own rolling stock.’[[9]](#endnote-9)*

That small tunnel size is inexplicable was confirmed by the only responses to Committee questions on the topic. The responses by a Sydney Metro employee were tautological and, in some respects, incorrect. He said he did not participate in relevant decision-making. Indeed, not one of the ‘Government’ witnesses had direct involvement in, or direct knowledge of, the decisions in question.[[10]](#endnote-10)

The implication of tunnels unable to take other trains and the ‘turn-up and go’ claim frequently made by the Government is: the central city-global arc component of Sydney Metro cannot be used by trains other than to/from Bankstown. The implication of its CBD route that likely prevents development of other north-south rail lines is: likelihood that no other rail capacity can be developed through the global arc.

The Committee report’s lack of recognition of tunnel size as the determining feature of Sydney Metro is a case of forgetting the admonition that in important matters:

*‘to ignore a difficulty, which at first seems light, is often determined to be proven serious.’*[[11]](#endnote-11)

When this aspect and its CBD-global arc implications are understood, the proposition behind the conversion can be seen as: that as much – if not more – global arc rail capacity should be permanently and irrevocably dedicated to the Bankstown area as can now ever be allocated to Western, South Western and Northern Sydney.

That the report did not refer to this implies the Committee did not understand the conversion would: badly misallocate some of the most important transport infrastructure in Australia; jeopardise opportunities for most people in Sydney; forever prevent continuity of public transport between Kingsford Smith Airport and the rest of the global arc.

As it did not understand those issues, the Committee and report did not understand that the Government’s decision to convert the Bankstown line is amazing – and not in a good way. This may explain the lenient treatment of evidence in favour of conversion and Sydney Metro. Nonetheless, it is a serious shortcoming of the Inquiry.

### 2.3 Inquiry acceptance of propositions

An example of the Committee report’s credulous acceptance of evidence is recital of a Government explanation of Sydney Metro that is almost inconceivably incompetent and/or a lie: that single and double deck trains cannot use the same infrastructure. The explanation is contradicted in the document from which it was sourced - Sydney’s Rail Future.[[12]](#endnote-12)

The Government invited the Committee and the public to believe it told the community in 2012 of the intention to build infrastructure only capable of taking small trains. In fact, it said no such thing. Instead it inferred the opposite, not least by claiming its plans would increase capacity by more than building on the existing network. In my view, its statements in 2012, Sydney’s Rail Future, and its cornerstone evidence to the Inquiry, were deceptive.

Not recognising this, the Committee was unable to properly inquire into the reasons and motivations for it.

The Government put to the Committee a decision-making process for Sydney’s Rail Future difficult to reconcile with facts. Those facts indicate the central decision – small tunnels - was made at least seven months earlier, in November 2011, contrary to statements by Transport Minister Berejiklian a month later.

The facts indicate the decision was also: made prior to expert advice provided to (perhaps even commissioned by) the Transport portfolio on the matter it claimed to have determined the choice of Sydney Metro – capacity. The decision appeared unknown to Infrastructure NSW who advised the Government on the portfolio’s strategy. It appeared unknown and unsuspected by international experts engaged by Infrastructure NSW. Further, it was in direct conflict with a blunt warning from Sydney’s pre-eminent rail expert.

The documentary evidence provided to the Committee by the Government did not refer to the small tunnel decision. Rather, like Government witness statements, it distracted from it. The decision appears to have been made in secrecy and subsequently has been downplayed with its origins, author, timing and reasons obscured.[[13]](#endnote-13)

The Committee did not refer to the conflicts or uncertain status of Government witnesses supporting the conversion. Nor did it challenge misleading statements by those witnesses.[[14]](#endnote-14)

The Committee report inferred Infrastructure Australia’s assessment of Sydney Metro was thorough and credible. It appears the Committee accepted misleading interpretations of Infrastructure Australia’s summary and did not adequately examine or assess it.

The report did not recognise that Infrastructure Australia’s summary: merely recited proponent (NSW Government) claims; ignored the essence of the project; did not consider alternatives such as non-Sydney Metro options or a Sydney Metro route to Kingsford Smith Airport; was unique in being the only document in Infrastructure Australia’s history that recommended a project go-ahead without knowing costs; has not been revisited despite a $4.5bn-$5.5bn cost blowout.

As is the case with the decision to convert the Bankstown line to Sydney Metro, the Committee did not appreciate that Infrastructure Australia’s assessment was amazing.[[15]](#endnote-15)

The Committee appeared comfortable to observe competing and at time conflicting contentions that went to the heart of the Sydney Metro and the Bankstown line segment conversion. However, they did not resolve these.

They rightly did not feel that it necessary to resolve contentions in order to reject the proposal for the conversion. However, the non-resolution of basic conflicts in the evidence presented to it – to say what was right and what was wrong - to my mind is a failure.

That failure is similar to a Committee’s previous Inquiry into WestConnex. Perhaps one saving grace is the Committee correctly said the Government needs to prove the case for the Sydenham-Bankstown conversion, whereas the WestConnex Committee assumed it was up to others to disprove the case – which was rendered impossible by refusal of the Government to provide relevant evidence.

The Committee’s rejection of the Sydenham-Bankstown conversion logically should have been followed with a call for a further inquiry into the entire Sydney Metro scheme. covering all of its previous, current and proposed projects and plans. A further inquiry should call for evidence from those who participated in and made decisions, not just those attending the conversion Inquiry hearings.

As was the case with WestConnex, the Government did not provide the Committee with the facts it needed. That raises serious issues of further erosion of democratic accountability, responsible government and the supremacy of Parliament over the Executive.[[16]](#endnote-16)

The Committee should have recommended an inquiry with powers of compulsion for documents and witnesses e.g. a judicial inquiry. However, like the WestConnex inquiry which was frustrated by Government obfuscation, it did not do so.

The Committee may have been motivated by a desire to not unduly ‘rock the boat’ or by sayings such as about honey and flies. However, irrespective of its motivations, its Inquiry report did not demonstrate an investigation and resolution appropriate to concerns of the gravity of those arising from Sydney Metro and the Government’s actions.

### 2.4 Government response and beyond

The Government’s response, on 8 October, rejected the Committee’s recommendations. It did not address the substantive issues raised in the Inquiry. Some of it was misleading – such as the oxymoronic reference to publication of a detailed summary in an effort to excuse the failure to produce a business case. [[17]](#endnote-17)

Given an apparent ongoing dedication to policy opacity, it is difficult not to ask about hidden reasons for the Metro mania. Speculation, unchallenged at the Inquiry and Government response, has Sydney Metro arising from a bureaucratic spat and continuing for fear of admitting gullibility and error. That is, policy was assumed to be based on vanity.

Such speculation is supported by other Government infrastructure obstinacies. Among the examples are pretences that massive cost overruns for light rail, purchase of trains too wide for tunnels and ferries too tall to fit under bridges etc. are intentional and not mistakes. Credulity has been further strained by the Premier claiming it is necessary to source misfit equipment from overseas because Australia is ‘not good at building trains’ etc. Examples like these mean NSW Government comments on transport and infrastructure projects cannot be trusted without independent corroboration.[[18]](#endnote-18)

As usual, the Government’s response to the Committee report was to the effect it intends to push ahead no matter what.

## 3. Federal land deals near Western Sydney airport

### 3.1 Western Sydney rail

To understand the potential significance of the uproar over Commonwealth land deals near Western Sydney Airport – such as the purchase of land worth less than $3m for more than $30m – it is necessary to recall that key Commonwealth-State infrastructure issues revolve around Sydney Metro.[[19]](#endnote-19)

At present, the most outlandishly stupid infrastructure idea in Australia involves preventing the under-construction Western Sydney Airport being readily accessed by public transport - in order to instal a Sydney Metro in far flung suburbs.[[20]](#endnote-20)

The idea eschews a long-established plan of extending a pre-existing rail line a short distance from Leppington to the new airport - which would have allowed direct trains from most of Sydney.

Instead there is to be an independent, stand-alone Sydney Metro from a much more distant suburban St Marys, 50 km from the CBD, at perhaps five times the financial cost. Many of the millions of residents in Western Sydney will need to change trains at least three times to get to the new airport by rail – most likely unbeknown to them at the moment. The situation is so peculiar and spendthrift as to raise questions about secret purposes.[[21]](#endnote-21)

Yet such purposes may not be of NSW Government decision makers alone. The Commonwealth is paying half, $5.25bn for the first stage alone, of this lunatic scheme.[[22]](#endnote-22)

The Commonwealth’s contribution was announced in June 2020, three months before even a flimsy promotional pamphlet became available. Almost of course, an assessment - or even business case - is yet to be sighted. Infrastructure Australia is ‘awaiting information’.[[23]](#endnote-23)

The Commonwealth contribution for the entire project, likely to total well over $11.0bn, is on the back of a March 2018 study report jointly authored by Transport for NSW and the Federal Department of Infrastructure, Regional Development and Cities.[[24]](#endnote-24)

The study was likely rigged to achieve a pre-ordained result, for example by excluding seating from the criteria for public transport choice.[[25]](#endnote-25)

The Commonwealth Minister lamely reiterated the study’s preposterous reason for preventing connection of the new airport to Sydney’s rail network: single deck trains cannot run on tracks used by double deck trains. This copied the incomparable incompetence and/or lie used by NSW earlier.[[26]](#endnote-26)

A post on Mr Menadue’s site on the matter concluded:

*‘As it is almost impossible to believe any report could be so incompetent, there probably are undisclosed reasons for the recommendations.’*[[27]](#endnote-27)

### 3.2 Potential criminality

It is worth noting the possibility of criminal behaviour by parties working for the NSW and Federal Governments in these matters.

Section 135 of the Commonwealth Criminal Code creates an offence of dishonestly misleading, or withholding information from, the Commonwealth with the intention of making a gain, causing a loss or influencing an official.[[28]](#endnote-28)

On criminality in infrastructure advising, an October 2019 post at Mr Menadue’s Pearls and Irritations noted the *‘…apparent supposition: beneficiaries – State Governments ……can do no wrong’.* That is, there appears to be an assumption it is impossible for advisers and Ministers to engage in criminal acts and omissions in infrastructure decisions. The post said that assumptionis a misunderstanding of Coke’s old dictum: the king can do no wrong. It drew attention to possible criminality in the case of the Western Sydney rail study.*[[29]](#endnote-29)*

### 3.3 Same place, same time, same organisation

In that context, it may be of interest to observe the study report and Minister’s farcical comments were made at roughly the time the same Federal portfolio spent $30m to buy land near Leppington worth only $3m, in mid-2018.

The land purchase has been referred to the Australian Federal Police, i.e. for criminal investigation, by the Australian National Audit Office.[[30]](#endnote-30)

Same area, same Department-author and same time for an incredibly incompetent report and a possibly criminal purchase of land - coincidence? Hopefully nothing more, given the enormous project expenditures and consequences.

Even more so, as I had written to the Prime Minister and Minister Fletcher earlier that year pointing to grave problems with the study. So disturbing was the Minister’s reply, I again wrote to him August 2018 warning:

*‘You should:*

1. *commence an investigation into what lies behind the advice given to your Government about this matter;*
2. *withdraw Commonwealth support for Metro and Western Sydney rail until an independent public inquiry has examined and reported on Sydney rail matters.’[[31]](#endnote-31)*

More recently, there have been reports of NSW paying similar rates for land near Leppington. That land might eventually may be used for an extension of the rail line from Leppington. However, if so, there is a curious twist to that as well: trains on such an extension would stop several km short of the airport, at a Sydney Metro station.[[32]](#endnote-32)

### 3.4 More mysteries

The Western Sydney Airport rail situation appears even more mysterious when compared with rail to CBD-Kingsford Smith Airport.

Unlike for the Western Sydney Airport, the intention for there is to persist with a double deck fleet. This is despite the route being far more suited to a metro than St Marys-Western Sydney Airport.

The Kingsford Smith line is also far more suited to, and a better option for, conversion to metro than the Sydenham-Bankstown line segment which is nearby. The avoidance of Kingsford Smith is another apparently inexplicable decision on Sydney Metro.[[33]](#endnote-33)

For completeness, it might be noted the Premier, as Transport Minister in 2012, publicly opposed a Western Sydney Airport when initiating Sydney Metro. Her grand transport scheme is predicated on there not being such an airport.

Also, for completeness, the Federal Infrastructure Department has authored other advice that is so outrageously stupid as to be mysterious. One example is proposing a Sydney-Brisbane high-speed rail route that avoids major centres like the Gold Coast and Newcastle.

Another example arises from the Department’s part funding of NSW based study for faster rail to Newcastle. That study completed in 2019, remains unpublished perhaps because it would embarrass the NSW Government by demonstrating Sydney Metro prevents many options for rail improvements in Sydney.[[34]](#endnote-34)

Yet another example of mysterious advice for the Commonwealth and NSW is freight policy which is dishonestly misrepresented and, in seeking Government pork-barrel involvement in supply chains, creates an environment conducive to corruption.[[35]](#endnote-35)

## 4. Hand on heart

### 4.1 Relationship reveal

Other matters that ‘hopefully’ are merely coincident with the Sydney Metro Sydenham-Bankstown conversion and St Marys-Badgerys Creek line (above) are some activities of the Premier’s one-time beau.

On 12 October, at the NSW Independent Commission Against Corruption, Ms Berejiklian revealed a hitherto secret personal relationship between herself and Mr Daryl Maguire from 2014/15 and 2018 (?). During this time, she moved up the ranks from Transport Minister, to Treasurer to Premier.

Mr Maguire was a Liberal party member of NSW Parliament between 1999 and 2018 i.e. a member of the Government between 2011 and 2018. In 2017, Mr Maguire was reappointed by Premier Berejiklian to a Parliamentary Secretary position. In mid-2018, Mr Maguire avoided (further) referral to the Corruption Commission via the Government voting against such a resolution in the Legislative Assembly.

According to Channel 7’s timeline, shortly after the Assembly vote and making admissions in the Corruption Commission in mid-2018, Mr Maguire resigned from the Government. He then resigned from Parliament, with Ms Berejiklian saying she was “pleased” and “relieved”. Privately she remained in contact with him. On 3 September 2020, she broke off all contact and agreed to support a Corruption Commission inquiry into his business dealings.[[36]](#endnote-36)

### 4.2 Mr Maguire and the Corruption Commission

The Corruption Commission already had an interest in Mr Maguire’s dealings. This arose from an investigation into property development deals etc. between 2013-2016 in a former local government area – Canterbury. Most of the stations on the Sydenham-Bankstown line are located in that area.

Associated with that investigation are claims Mr Maguire assisted a property developer who wanted a train station, somewhere in the Canterbury Bankstown area, moved. Mr Maguire could not recall whether he organised a meeting with Transport Minister Constance. He said to his knowledge policies or decisions were not changed as a result of this help.[[37]](#endnote-37)

### 4.3 Coincidences?

Such matters were not mentioned in the Committee report on the Sydenham-Bankstown Sydney Metro conversion in April 2020 or the Government response of 8 October.

Another investigation into Mr Maguire’s activities concerns whether he used public office to improperly gain benefit in the period 2012-18, via property development near the Western Sydney Airport. The properties in question may not include the Federal Department’s newly acquired $30m site. However, the Australian Federal Police and the NSW Corruption Commission have been in contact to consider any links between Mr Maguire and the deal.[[38]](#endnote-38)

While perhaps not a subject of current investigations, the ABC claims there was a 2016 meeting between the Premier, Mr Maguire and the Wagga Mayor and Council General manager about a road interchange. The interchange was ‘vehemently’ opposed by the office of the Roads Minister. It was part of a business park i.e. a freight facility. The relationship between the Premier and Mr Maguire was unknown to others at the meeting. While *‘no funding was agreed on the day… the project eventually received tens of millions in State and Federal funds’.*[[39]](#endnote-39)

To summarise, potential interactions between Corruption Commission investigations, Mr Maguire’s business dealings and transport include the Wagga area business park and Sydney Metro.

## 5. Never do anything wrong

### 5.1 Perfection and prescience

Premier Berejiklian’s admissions to the Corruption Commission about her relationship with Mr Maguire led to her latest ‘hand on heart’ – ‘*I’ve done nothing wrong*’ – pronouncement.

It was followed by tangential ‘she’s been done wrong’ type interviews between the Premier and sympathetic tabloids and shock-jocks.[[40]](#endnote-40)

A later report expanded the ‘nothing wrong’ pronouncement into prescience perfection and a book-end to the pre-election promise that NSW can have it all:

*“The people of this state know I have done nothing wrong. I never have and I never will” a defiant NSW Premier Gladys Berejiklian said this week.[[41]](#endnote-41)*

This ‘never done wrong’ claim, at least, apparently reflected a desire to diminish adverse inferences that might be drawn from her not declaring the relationship with Mr Maguire.

For example, inferences that might be drawn in retrospect from her not (obviously) declaring the relationship while the Legislative Assembly in mid-2018 considered referring Mr Maguire to the Corruption Commission. The ‘never done wrong’ claim may relate to her views at that time that Members of Parliament should put anything of concern to the Commission.

### 5.2 NSW codes

NSW has codes imposing obligations on Parliamentarians and Ministers. One code says Members of Parliament:

*‘…shall take reasonable steps to draw attention to any conflicts between their private interests and the public interest in any proceeding of the House or its Committees.’[[42]](#endnote-42)*

Ministers are subject to a further Code of Conduct which includes a duty to disclose a conflict of interest in which*:*

*‘a Minister is taken to have a conflict of interest …. if: (a) any of the possible decisions or actions (including a decision to take no action) could reasonably be expected to confer a private benefit on the Minister or a family member of the Minister…’.[[43]](#endnote-43)*

For those purposes, a ‘family member’ includes the Minister’s spouse or de facto partner or person with whom the Minister is in an intimate personal relationship.

Media speculation focussed on the latter, Ministerial, code and whether Ms Berejiklian’s relationship was of sufficient intimacy to fall within it. That code’s mention of ‘intimate’ and ‘relationship’ is more amenable to clickbait and gossip. That may explain the media segue into whether her evidence at the Corruption Commission gave the same impression of intimacy some took from the later tabloids etc. ‘been done wrong’ storyline.[[44]](#endnote-44)

That fascination with relationship matters overlooked that the disclosure duty in the Ministerial code is to, not by, the Premier:

1. *A Minister must promptly give notice to the Premier of any conflict of interest that arises in relation to any matter.*[[45]](#endnote-45)

### 5.3 Very careful wording

If such an argument were to be deployed, it may be a case choosing words ‘very carefully’.

A precedent of careful word choice may be Ms Berejiklian claim there was no legislated restriction on containers at Newcastle port while knowing of a secret arrangement to that effect. In that context, she claimed the term ‘not aware’ related to reluctance to disclose rather than lack of knowledge – reluctance due to ‘commercial in confidence’ arrangement which the Government had entered into without the knowledge of Parliament.[[46]](#endnote-46)

Notwithstanding this, such a ‘never done wrong’ argument also should account for the difference between acts/omissions that are illegal and those more broadly wrong.[[47]](#endnote-47)

A better understanding of Coke’s dictum is that leaders should display exemplary behaviour – perhaps to always do everything that is right and not merely never do anything wrong.

Such an understanding may suggest the best action for a leader would be to disclose anything that may reasonably be seen to involve a potential conflict of duty and interest to other members of a decision-making body e.g. to the Executive Council, Governor or Parliament. That might also address the disclosure requirement placed on all Members of Parliament, which arguably makes up for an oversight in the Ministerial Code.[[48]](#endnote-48)

The Premier’s desire to rebut adverse inferences is likely to have been strengthened by potential interpretations of her evidence at the Corruption Commission to the effect that she did not want to know particulars of what Mr Maguire was up to re the Western Sydney Airport area. At issue was a phrase recorded in a 2017 telephone intercept “*I don’t need to know about that bit*”. She put the view the expression reflected boredom rather than turning a blind eye.[[49]](#endnote-49)

In summary, the ‘never done wrong’ argument is that neither the Premier’s maintaining the secrecy of the relationship, nor informing herself – and reporting to relevant authorities – of Mr Maguire’s activities, are wrong.

Some have suggested these actions/ omissions result from the character of an intensely private person. However, that goes to explanations rather than justifications.

### 5.4 A shredding

Another inquiry, by a Parliamentary Committee, raised questions about other non-disclosures - at least of people and the Government - under the Premier’s control. These related to revelations about her Government spending $250m on various projects for local Councils, mostly in Government held electorates, in the lead up to the last election.[[50]](#endnote-50)

Not all of the projects were initially requested by Councils, some being pro-offered by the Government. Around $142m was spent at the reputed behest of the Premier. Reputed because there is no apparent authorisation. The Government’s unwillingness/inability to produce documented approvals for the spending led to its Leader in the Upper House being suspended from Parliament. At the least, the suspension implies the Upper House considered the Government’s refusal to produce documents to be wrong.[[51]](#endnote-51)

The head of the Department administering the funds reportedly said he did not receive any written or signed brief on the projects, just emails from the Premier’s and Deputy Premier’s offices. Notes on her office’s advice to the Premier in the lead up to the email were shredded in possible contravention of several Acts.[[52]](#endnote-52)

A former Auditor General called on the Premier to resign over the note shredding. The defence to that call claimed the Premier did not approve any project and could not have made an approval. This was because power of approval rested with the Local Government portfolio. Yet the head of the relevant Department apparently had denied that.

The excuse seems: as the Premier could not have made an approval, the notes on advice were irrelevant, and the shredding is equally irrelevant. Yet, most media reports had the Premier making the approvals implying reporters’ belief the Premier’s explanation is wrong. It all could have been clarified immediately by production of electronic records.[[53]](#endnote-53)

There appear to be substantial jurisdiction and governance problems in any event.

Normally, a Department is not subject to direction or urging from anyone other than its Minister e.g. not by the Premier, Deputy or other Minister. Least of all by a Minister’s ‘office’, even the Premier’s office, as the authority of such an ‘office’ is unclear.[[54]](#endnote-54)

A practice of the Premier/Deputy, and especially their ‘offices’, providing direction to or urging a Department - by-passing the relevant Minister - involves a break down in internal Government systems.

Any such issues would be exacerbated by the Premier’s doubling-down. On October 29, a report in the Sydney Morning Herald contradicted her ‘didn’t approve’ claim, reducing the excuse to a supposed difference between deciding and approving:

*‘Premier Gladys Berejiklian said she was not responsible for the decision to hand out $141 million in grants, despite her office providing a list of projects she had approved to a public servant for payment.’*

The Herald noted the potential for a more serious charge if that was correct. It cited a submission to the Parliamentary inquiry by the Independent Commission Against Corruption Chief Commissioner which also touches on the issue of wrongs:

*"if the minister is not the appointed decision-maker, directing or urging a public servant to make a decision preferred by the minister" could be considered corrupt conduct”.*[[55]](#endnote-55)

Issues around ‘intimidation’ of a witness by a Government official – not from the Premier’s Department or office - were also raised in the Parliamentary inquiry into the grants to Councils. Then came allegations that the Premier’s Department and the Premier’s office attempted to ‘discourage’ witnesses from appearing at the inquiry – on the grounds they would have little of relevance to say. This included discouragement of the witness who eventually revealed the shredding of notes. Those allegations gave rise to claims of conspiracy. The Premier’s Department strongly denied its alleged involvement.[[56]](#endnote-56)

### 5.6 Conclusion

The point of this section is not to denigrate the Premier, gawk at relationships or offer views on the various investigations now under way.

Nor is it to doubt the Premier has been an outstanding Australian political leader in the pandemic, conducts herself in a dignified manner, has good communication skills and that mostly her message to the public is clear and straightforward.

However, at times her Government’s ‘careful’ language is difficult for me to understand. At times, the words have other than ordinary meanings and normal inferences from available facts contradict those meanings, and fact which should be in the public domain are not.

Unfortunately, some decisions on and explanations about major infrastructure have coincided with those times.

For example, the claim that at all times the Premier acted with honesty and integrity during the 2019 election campaign might be compared with what some might consider indications of a lack of honesty and integrity somewhere in her Government or public service. Cases in point include: the Premier/Ministers were not aware of a multi-billion-dollar cost blowout in Sydney Metro until after the election although the relevant report was completed five months prior; non-involvement of Ministers in decisions or influence of the distribution of at least $140m in public funds - mainly to Government electorates; a yet to be given reason for a likely 18 month plus delay in releasing a report from a world-renowned expert – a report commissioned because ‘we’ve waited too long’.

Were such excuses – for non-disclosure of salient facts - of unawareness and non-responsibility believed, they would suggest the Premier does not have adequate control over important parts of her Government.

Other illustrations of non-disclosure include: that at the start of this article; explanations of Sydney Metro including tunnel dimensions and CBD route; the Sydenham-Bankstown segment conversion. In infrastructure policy these can create hidden risks to basic conditions of life and access to opportunity for vast numbers of people and areas. They undermine democratic accountability. They cannot be dismissed as part of political hurly-burly or just ‘spin’.[[57]](#endnote-57)

Assurances from her Government that transport matters, and Sydney Metro, are right and proper are not good enough.

## 6. Public inquiry

### 6.1 Was the Sydenham-Bankstown Inquiry adequate?

Section 2 establishes the Sydenham-Bankstown Inquiry was adequate for what it recommended: discontinuance with the proposed conversion of that line segment.

It also demonstrated it was not adequate to deal with Government policy issues regarding Sydney Metro which stem from its inexplicable nature, public deception, Government misinformation and secrecy, and grave effects on the public. These issues, general to Sydney Metro, also arise in relation to the Sydney-Bankstown conversion.

### 6.2 Does a reputation for honesty and integrity overcome the questions

Following the revelations in the Corruption Commission, some of the Premier’s colleagues and Liberal Party dignitaries joined her defence, absolutely knowing her to be of long term ‘honesty’ and ‘integrity’ yet ignorant, until recently, of the personal relationship with Mr Maguire extending over at least three years.

Epithets for the Premier like ‘hard working’ are beside the point when viewing a world-scale debacle such as Sydney Metro. And the current idiocies of conversion of the Bankstown line and the St Marys-Western Sydney Airport Sydney Metro.

This is especially when expertise and public warnings – not to mention now a Parliamentary Inquiry - have been ignored, explanations are implausible, and there is a surfeit of Government misinformation.

### 6.3 And new information?

The new information has at least three co-incidences between investigations concerning the NSW and Commonwealth Governments and Sydney Metro. These are: property development in the Canterbury area; at least one station in the Bankstown area; activities around the Western Sydney airport site.

There is also the Government’s announcement of rejecting the Parliamentary Committee’s recommendation to stop the Sydenham-Bankstown conversion one working day prior to the Premier admitting a close personal relationship with a person who made adverse admissions in ongoing corruption investigations about property development in that area.

At the least, these support – and probably of themselves warrant – a public inquiry into Sydney Metro.

### 6.4 Conclusion

Mr John Menadue AO – former head of several Australian Departments, Ambassador to Japan, Chief Executive of Qantas etc - argued in mid-2018, for a public inquiry to answer the public evidence pointing towards Sydney Metro being a ‘Forty Billion Dollar Deception’.[[58]](#endnote-58)

In my view, a Royal Commission is overdue but inevitable. In addition to the need for a fundamental revision of Sydney transport plans in the light of reduced population and travel projections, the above means all Sydney Metro projects should be stopped immediately. The Commonwealth should suspend funding to all NSW infrastructure projects – pending the results of thorough investigations including into possible malfeasance.[[59]](#endnote-59)

J Austen

9 November 2020

1. This is a longer version of <https://johnmenadue.com/sydneys-metro-mania-is-policy-based-on-vanity/>.

   Hand on heart appears to be a call by the Premier to believe she has done nothing wrong, used when the facts may suggest otherwise: <https://www.theguardian.com/australia-news/live/2020/oct/16/icac-hearing-live-stream-inquiry-transcript-daryl-maguire-nsw-premier-gladys-berejiklian-future?page=with:block-5f88e8b78f0851521938aabb>.

   Some previous hand on heart moments include: not disclosing a $4.5bn-$5.5bn cost overrun until after an election; completion of the light rail project with almost it double its ‘original’ claimed cost; denial of a (legislative) restriction on Newcastle port: <https://johnmenadue.com/john-austen-sydney-metro-developments/>

   [↑](#endnote-ref-1)
2. E.g. <https://www.thejadebeagle.com/dogs-breakfast-for-all.html> [↑](#endnote-ref-2)
3. P.33 and following in [https://www.thejadebeagle.com/dogs-breakfast-for-all.html](https://www.thejadebeagle.com/dogs-breakfast-for-all.html%20)  [↑](#endnote-ref-3)
4. <https://johnmenadue.com/john-austen-sydney-metro-developments/> [↑](#endnote-ref-4)
5. <https://johnmenadue.com/john-austen-sydney-metro-developments/> [↑](#endnote-ref-5)
6. <https://www.parliament.nsw.gov.au/lcdocs/submissions/65643/0030%20Mr%20John%20Austen.pdf>

   <https://www.parliament.nsw.gov.au/lcdocs/submissions/66902/0030a%20Mr%20John%20Austen.pdf>

   <https://www.parliament.nsw.gov.au/lcdocs/submissions/67087/0030b%20Mr%20John%20Austen.pdf>

   And in the transcripts the general thrust can be seen by e.g:

   *Mr AUSTEN: Yes. If we are bit more precise—because I am just sort of commenting on this stuff— about what we mean by the word "line", then we can determine that we do not have a network tangle; we have a tangle of traffic on the network. We do not necessarily have to build lines to untangle that. We can move traffic around and things. Then we can analyse how the Sydenham-Bankstown conversion reduces capacity utilisation on the city circle. It does not increase the capacity of the city circle. When you go through those steps, you come to the conclusion that if you are actually interested in decreasing capacity utilisation the most—that is, making the most available capacity on the city circle or through Sydney on Sydney Trains—you would put metro—or convert to metro, if you are that way inclined—those lines that are the busiest, simply because you have the greatest reduction in capacity utilisation. So you would go the western line, you would go to the East Hills line, you would go the airport line. The very last one, because it is the least busy, is the Bankstown line. That is why I say that when I look at the stuff, I am not saying it is necessarily wrong; I am saying I do not believe what I have been told. The Hon. WES FANG: It is that statement that you have now made a number of times that really concerns me because it is almost as if, if Transport provides a response to a situation, your immediate response to that is to treat it with— ……. Do you have a set bias against the responses that are provided by Transport to the line? …*

   *Mr AUSTEN: No. What I say is that if someone comes to me and says, "I have a separated and integrated system", I would scratch my head. I would go, what are you talking about? I do not criticise everything in there but when I see stuff that is pivotal to the argument saying, "We decided to have an integrated metro as the way to go", and then Infrastructure assesses something that is standalone, I am scratching my head going, what is going on?*

   And

   *Mr AUSTEN: There are a couple of things. First of all, when we talk about capacity—exactly what we are talking about—at the moment we are talking about trains per hour. From the western suburbs, trains per hour does not matter. What matters is the number of seats. But from a strategic perspective, again, it is the same question as: I have got this enormously expensive harbour crossing; where do I allocate that to for the next 100 years? Because "turn up and go" means there is only one line that it is going to. It is a very serious decision. It may be to Bankstown because you may want to develop Bankstown, but it is a very serious decision. It is not just about Bankstown. It is: where do I allocate the cross-harbour capacity? If it was interoperable, we would not have that question. There are pros and cons for interoperability but if it was interoperable you could allocate, say, that to the west straightaway. You cannot now because it is coming up at Sydenham and it cannot be used in another form or for another function. So if you are talking about expanding or connections or cross stuff, the strategic choice is: are you having a bunch of separated, isolated, different-gauge railways in Sydney or are you having a network? If you are going to unlock capacity, the logic goes: it is easier to unlock capacity if you focus on the network, rather than augmenting it through an isolated line, which is demonstrated by the conversation we are having. We would not be having this conversation if the harbour crossing was interoperable because we could just allocate it anywhere and we could develop Bankstown and put in the automatic signalling, and run single-deck trains on there—single-deck trains used to run through Sydney—but run metro-style trains, we could have driverless trains. All that type of stuff could happen if it was interoperable. There may be good reasons for it not being interoperable but, by making that choice, which is what economists focus on, we deny ourselves those opportunities. And it is those opportunities that need to be costed, not the financial cost. How are we shaping Sydney by not having interoperable infrastructure?*

   *The Hon. NATALIE WARD: What do you mean by "interoperable"? Is it that they cannot change over? There are different gauges or something?*

   *Mr AUSTEN: No, you can. You can run a single-deck or a double-deck train on it, to put it simply. So you have got a bigger tunnel.*

   *The Hon. NATALIE WARD: Are they all the same now? Or are they different gauges now?*

   *Mr AUSTEN: No, they were all the same until metro. So metro, reportedly, has smaller tunnels.*

   *The Hon. WES FANG: Are you sure?*

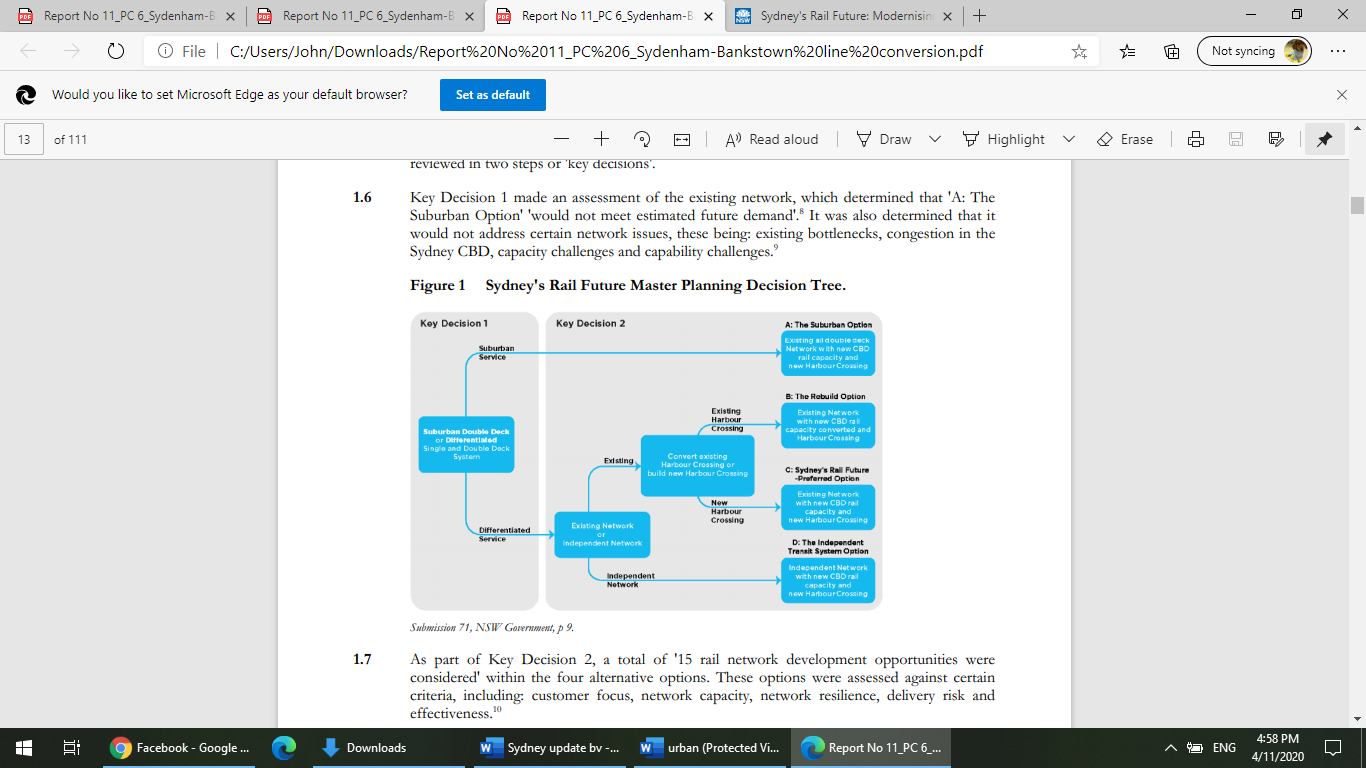
   <https://www.parliament.nsw.gov.au/lcdocs/transcripts/2251/CORRECTED%20-%20Transcript%20-%20PC%206%20-%20Sydenham-Bankstown%20Line%20Conversion%20-%207%20November%202019.pdf> [↑](#endnote-ref-6)
7. <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2551/Report%20No%2011_PC%206_Sydenham-Bankstown%20line%20conversion.pdf>

   <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2551/Government%20Response%20-%20Sydenham-Bankstown%20Inquiry%20-%20received%208%20October%202020.pdf> [↑](#endnote-ref-7)
8. See section 5 of <https://www.parliament.nsw.gov.au/lcdocs/submissions/67087/0030b%20Mr%20John%20Austen.pdf> [↑](#endnote-ref-8)
9. Government members: p14-15 <https://www.parliament.nsw.gov.au/lcdocs/transcripts/2251/CORRECTED%20-%20Transcript%20-%20PC%206%20-%20Sydenham-Bankstown%20Line%20Conversion%20-%207%20November%202019.pdf>

   Other members: p3

   https://www.parliament.nsw.gov.au/lcdocs/transcripts/2289/CORRECTED%20%20-%20Transcript%20-%20PC%206%20-%20Sydenham-Bankstown%20Line%20Conversion%20-%2010%20December%202019.pdf [↑](#endnote-ref-9)
10. Section 8 in <https://www.parliament.nsw.gov.au/lcdocs/submissions/67087/0030b%20Mr%20John%20Austen.pdf>

    Further, section 4 indicates the witness making those comments was not involved in the decision making. [↑](#endnote-ref-10)
11. <http://www.jgray.org/docs/Promotor_Fidei_lulu.pdf> [↑](#endnote-ref-11)
12. Committee report at section 1.6 recites a NSW Government submission, which draws from Sydney’s Rail Future 2012. It includes the following diagram:

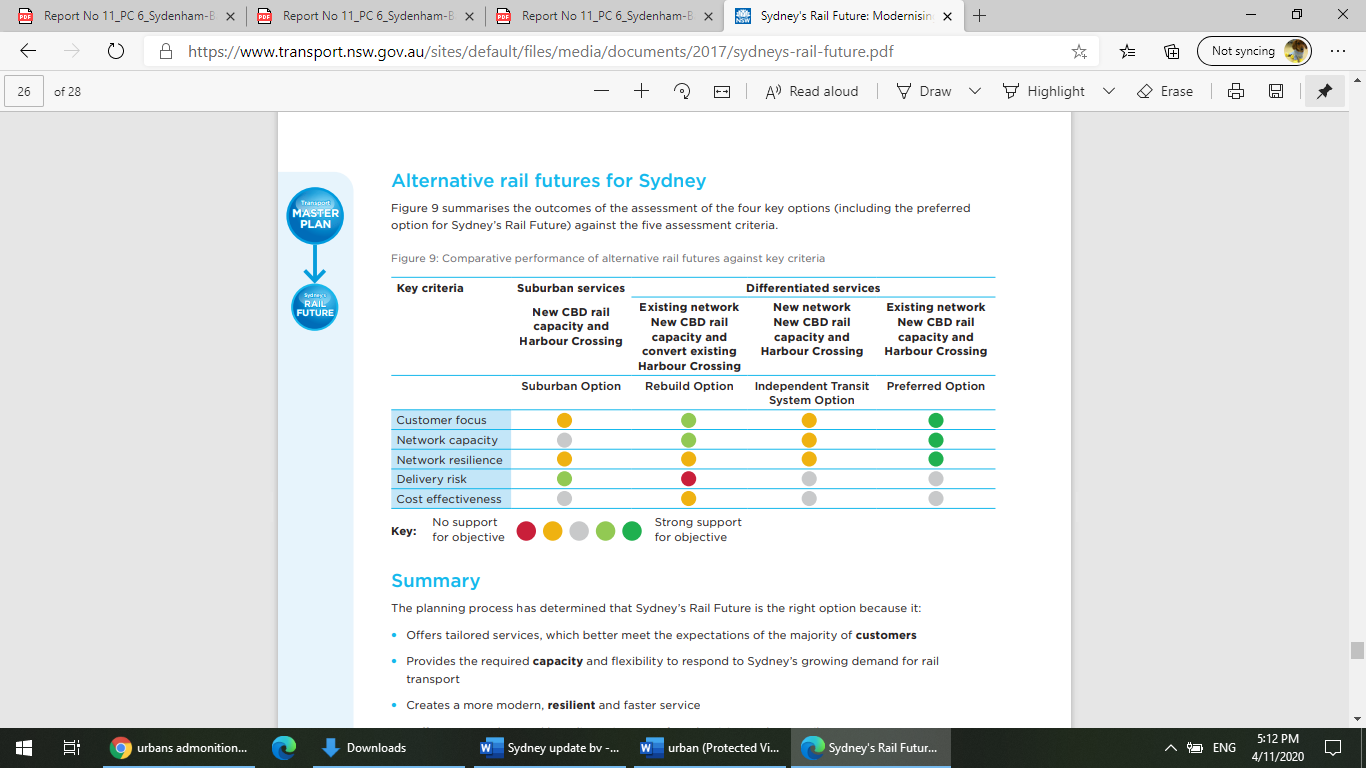
    

    The Figure is reproduced from Sydney’s Rail Future (p.23, Figure 8). Unfortunately, it is based on a lie. While Option A is ‘*Existing all double deck Network with new CBD rail capacity and new Harbour Crossing*’ there is no such thing as a ‘double deck Network’. The Network, in relation to infrastructure – e.g. new Harbour Crossing – is not the fleet that uses it. Single deck trains can, and do, use the existing Network.

    Further, the option actually adopted, contrary to what is presented in the diagram, is Option D – an independent transit (metro style) system.

    The Figure is deceptive suggesting there was a different process in decision making.

    The Figure also conflicts with two other parts of that document purporting to state reasons for Government – Figure 9 (below) and the quote cited in the text of this article.

     [↑](#endnote-ref-12)
13. [https://www.thejadebeagle.com/dogs-breakfast-for-all.html section 4](https://www.thejadebeagle.com/dogs-breakfast-for-all.html%20section%204).6 [↑](#endnote-ref-13)
14. Re public sector witness status and evidence see: <https://www.parliament.nsw.gov.au/lcdocs/submissions/67087/0030b%20Mr%20John%20Austen.pdf>

    And <https://www.parliament.nsw.gov.au/lcdocs/submissions/66902/0030a%20Mr%20John%20Austen.pdf> [↑](#endnote-ref-14)
15. E.g. <https://www.thejadebeagle.com/earth-to-canberra-2.html>, <https://johnmenadue.com/john-austen-infrastructure-advice-worse-than-expected/>

    On the last matter, the cost blowout, it is hardly an excuse that it became known only in February 2020. The Government was advised of it in mid-2018. It was publicly revealed but only by the Sydney Morning Herald, and only after the 2019 State election. That election, fought partly on infrastructure grounds, is likely to have been influenced by the Government not telling the public what it knew. Despite this, the Premier claimed to have acted with honesty and integrity throughout the election campaign in a ‘hand on heart’ moment. <https://johnmenadue.com/john-austen-sydney-metro-developments/> [↑](#endnote-ref-15)
16. <https://www.thejadebeagle.com/urbans-admonition.html> [↑](#endnote-ref-16)
17. <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2551/Government%20Response%20-%20Sydenham-Bankstown%20Inquiry%20-%20received%208%20October%202020.pdf>. [↑](#endnote-ref-17)
18. <https://www.newcastleherald.com.au/story/6898914/not-good-labor-slams-berejiklian-over-insult-to-nsw-made-trains/> [↑](#endnote-ref-18)
19. <https://www.afr.com/politics/federal/criminal-investigation-launched-into-sydney-airport-land-deal-20201016-p565tu> [↑](#endnote-ref-19)
20. Plan outlined at <https://www.planningportal.nsw.gov.au/major-projects/project/35016> and <https://www.sydneymetro.info/westernsydneyairportline> [↑](#endnote-ref-20)
21. See e.g. <https://www.thejadebeagle.com/dogs-breakfast-for-all.html>

    and <https://www.thejadebeagle.com/western-sydney-rail-response.html> [↑](#endnote-ref-21)
22. <https://www.pm.gov.au/media/new-agreement-keeps-sydney-metro-western-sydney-airport-jobmaker-project-track> [↑](#endnote-ref-22)
23. <https://www.infrastructureaustralia.gov.au/project-evaluations?f%5B0%5D=location_tab_cua%3A1-> [↑](#endnote-ref-23)
24. <https://www.transport.nsw.gov.au/projects/current-projects/western-sydney-rail-needs-scoping-study> [↑](#endnote-ref-24)
25. <https://www.thejadebeagle.com/dogs-breakfast-for-three.html> [↑](#endnote-ref-25)
26. <https://johnmenadue.com/john-austen-sydneys-transport-mess-will-now-envelop-badgerys-creek-airport/> [↑](#endnote-ref-26)
27. <https://johnmenadue.com/john-austen-more-on-the-sydney-transport-mess-the-western-sydney-dud-deal/>  [↑](#endnote-ref-27)
28. <https://www.thejadebeagle.com/above-the-law-infrastructure-claims.html> [↑](#endnote-ref-28)
29. <https://johnmenadue.com/john-austen-infrastructure-claims-above-the-law/>.

    *‘But what …. Of dishonesty by State Governments, their officials, advisers and assorted urgers – in pursuit of Commonwealth funds for pet projects?*

    *While Commonwealth advisers presumably review claims about project benefits and costs, some critical issues which underpin proposals appear to remain unexplored.*

    *There are plenty of warning signs about the validity / veracity of infrastructure claims….*

    *The rail aspects of the Western Sydney ‘City Deal’ are based on such a ludicrous belief – single-deck and double-deck trains cannot use the same tracks – that a formal investigation is warranted.’*

    The view that Governments and officials could do no wrong and Coke’s 1615 dictum ‘the king can do no wrong’:

    *‘Coke had stated that the king should not enjoy immunity, because as the fountain of justice and as God’s representative, he was expected to uphold high standards of behaviour and provide a role model for others.’* [↑](#endnote-ref-29)
30. <https://www.abc.net.au/news/2020-10-16/federal-police-investigating-western-sydney-airport-land-sale/12776136> [↑](#endnote-ref-30)
31. <https://www.thejadebeagle.com/western-sydney-rail-response.html> [↑](#endnote-ref-31)
32. <https://www.theguardian.com/australia-news/2020/oct/29/nsw-paid-almost-as-much-as-commonwealth-for-land-near-western-sydney-airport> [↑](#endnote-ref-32)
33. Avoidance of Kingsford Smith: see e.g. <https://www.thejadebeagle.com/toucheth-not-the-monorail-metro-summary-business-case.html>

    and transcript <https://www.parliament.nsw.gov.au/lcdocs/transcripts/2251/CORRECTED%20-%20Transcript%20-%20PC%206%20-%20Sydenham-Bankstown%20Line%20Conversion%20-%207%20November%202019.pdf> [↑](#endnote-ref-33)
34. High speed rail, for example: Commonwealth:

    <https://www.thejadebeagle.com/high-speed-rail---a-note.html>

    <https://johnmenadue.com/john-austen-high-speed-rail-where-to-competing-with-airlines-or-cars/> <https://johnmenadue.com/john-austen-fast-rail-apologies-please-from-perpetrators/>

    Premier Berejiklian going ahead because ‘*we've waited too long’.*

    <https://www.abc.net.au/news/2018-12-04/fast-rail-given-green-light-by-berejiklian-without-commonwealth/10580658>; <https://www.thejadebeagle.com/rail-gun---the-hamilton-dawdler.html>

    No public information: A likely difficulty – and reason for failure of NSW and the Commonwealth to publish results - can be seen on relevant Federal Department map: constraints in the metropolitan area, due to Sydney Metro permanently negating most opportunities for interoperable capacity expansion:

    <https://investment.infrastructure.gov.au/files/budget-2020-21/NSW-Sydney_to_Newcastle_Faster_Rail-Planning.pdf>

    <https://investment.infrastructure.gov.au/files/national_rail_program/Faster-Rail-Plan.pdf> [↑](#endnote-ref-34)
35. Submissions from the author warned of environment-of-corruption risks of Commonwealth and NSW freight policy proposals that sought involvement in supply chains and localities beyond national significance:

    To the Commonwealth 2017: <https://www.thejadebeagle.com/freight-and-logistics.html>

    To NSW, March 2018 <https://www.thejadebeagle.com/freight-nsw.html>.

    Further articles, also available at Mr Menadue’s widely read site, refer to freight policy involving:

    Dishonesty: <https://www.thejadebeagle.com/freight-chainsaw-1.html> June 2018

    Stupidity, stubbornness and pork barrelling <https://www.thejadebeagle.com/freight-chainsaw-2.html>

    Illegality and serving industry rather than the public <https://www.thejadebeagle.com/freight-chainsaw-3.html> [↑](#endnote-ref-35)
36. Ms Berejiklian was Transport Minister April 2011 to April 2015, Treasurer April 2015-January 2017, Premier January 2017-present: <https://www.parliament.nsw.gov.au/members/Pages/member-details.aspx?pk=21>

    Legislative Assembly vote:

    <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-102981/HANSARD-1323879322-102992>

    <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-102981/HANSARD-1323879322-102979>

    <https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1820781676-77069/link/94>

    Other:

    <https://www.newsbreak.com/news/2078058024092/gladys-berejiklian-called-to-give-evidence-at-corruption-commission-inquiry-into-former-mp>

    <https://7news.com.au/news/nsw/maguire-returns-to-icac-after-bombshell-c-1384910>

    <https://7news.com.au/politics/nsw/berejiklian-and-ex-mp-maguire-a-timeline-c-1382635> [↑](#endnote-ref-36)
37. <https://www.skynews.com.au/details/_6200737006001> [↑](#endnote-ref-37)
38. Operation Keppel: <https://www.icac.nsw.gov.au/media-centre/media-releases/2020-media-releases/public-inquiry-into-allegations-concerning-former-mp-daryl-maguire>

    <https://www.australianpropertyjournal.com.au/2020/10/20/valuer-wasnt-allowed-on-leppington-triangle-land-afp-probes-sale/>

    <https://www.abc.net.au/news/2020-10-20/afp-contact-nsw-icac-daryl-maguire-leppington-airport-land-deal/12788898> [↑](#endnote-ref-38)
39. <https://www.abc.net.au/news/2020-10-14/gladys-berejiklian-daryl-maguire-meeting-roads-project/12764732>

    <https://shared-drupal-s3fs.s3-ap-southeast-2.amazonaws.com/master-test/fapub_pdf/000-Wagga/Transport+and+Traffic+Plan.pdf>

    <https://mobile.abc.net.au/news/2009-12-22/icac-to-get-bomen-plan-report/1187190> [↑](#endnote-ref-39)
40. <https://www.michaelwest.com.au/memory-loss-masterclass-how-gladys-berejiklians-astute-performance-at-icac-may-save-her/>

    <https://www.theguardian.com/australia-news/2020/oct/22/the-shock-jock-and-the-premier-the-public-reframing-of-gladys-berejiklian>

    <https://www.abc.net.au/news/2020-10-16/gladys-berejiklian-future-in-balance-after-icac-hearings/12775218> [↑](#endnote-ref-40)
41. <https://www.afr.com/politics/federal/state-leaders-in-trouble-as-light-emerges-at-end-of-covid-19-tunnel-20201016-p565ng>

    Have it all pronouncement from the heights of Panthers in Western Sydney: <https://www.smh.com.au/national/nsw/nsw-can-have-it-all-if-berejiklian-s-economic-powerhouse-returns-20190310-p5134b.html> [↑](#endnote-ref-41)
42. <https://www.parliament.nsw.gov.au/members/Documents/Code%20of%20Conduct%20(adopted%205%20March%202020).pdf> [↑](#endnote-ref-42)
43. For completeness:  *and (b) the nature and extent of the interest is such that it could objectively have the potential to influence a Minister in relation to the decision or action*

    This is Part of the *Independent Commission Against Corruption Amendment (Ministerial Code of Conduct) Regulation 2014.*  <https://www.legislation.nsw.gov.au/view/pdf/asmade/sl-2014-546> [↑](#endnote-ref-43)
44. E.g. <https://www.abc.net.au/news/2020-10-13/nsw-gladys-berejiklian-close-personal-relationship-daryl-maguire/12761272>

    <https://www.news.com.au/national/nsw-act/politics/gladys-berejiklian-daryl-maguire-affair-why-nsw-premier-kept-her-job/news-story/c9010dbea35a8f4f7d58d9739d719722>

    <https://www.michaelwest.com.au/memory-loss-masterclass-how-gladys-berejiklians-astute-performance-at-icac-may-save-her/> [↑](#endnote-ref-44)
45. <https://www.legislation.nsw.gov.au/view/pdf/asmade/sl-2014-546> [↑](#endnote-ref-45)
46. Newcastle: BUDGET ESTIMATES 2016-2017, GENERAL PURPOSE STANDING COMMITTEE NO. 1,

    September 1 2016, *Examination of proposed expenditure for the portfolio area TREASURY AND INDUSTRIAL RELATIONS* [↑](#endnote-ref-46)
47. Some, including respected legal minds, consider there to be a difference between wrongs and illegalities. Some actions/omissions can be considered wrong yet not be a crime, contract breach, tort etc. Other actions might constitute criminal or legal infringements, yet not be considered wrong.

    *‘The general public’s views of “right” and “wrong” are on …. occasions at odds with lawful definitions of “legal” and “illegal.” While the latter express a state’s interests in sanctioning certain exchanges or behaviours (i.e., are an expression of power and an attempt to manufacture a specific type of social order), the former are social beliefs about the legitimacy of certain acts, which may or may not coincide with the legal definitions’.*

    <https://blog.oup.com/2018/01/legal-rights-morality-law/>

    There are further distinctions between intentional and unintentional wrongs and errors, negligence and criminality. Common-law criminality requires the act constituting the legal wrong as well as an intention to (at least) do that act, giving rise to a further difference between criminal and civil legal wrongs. Those taking such views are likely to see a difference between denial of illegality and a claim of never doing *anything* wrong – the latter encompassing the former. [↑](#endnote-ref-47)
48. E.g. <https://www.sbs.com.au/nitv/article/2019/05/10/morally-wrong-legally-right-law-experts-high-court-alien-case1> [↑](#endnote-ref-48)
49. <https://www.news.com.au/national/nsw-act/nsw-premier-gladys-berejiklian-reveals-relationship-with-disgraced-liberal-mp/news-story/61b26a5ffec2856d559511bf2672f33c>. [↑](#endnote-ref-49)
50. <https://www.parliament.nsw.gov.au/committees/inquiries/Pages/inquiry-details.aspx?pk=2606> [↑](#endnote-ref-50)
51. <https://www.beagleweekly.com.au/post/berejiklian-government-s-leader-of-the-legislative-council-don-harwin-suspended-from-upper-house> [↑](#endnote-ref-51)
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