

Hi Wendy,

Nice to speak with you earlier. Again, sincere apologies for the delay in getting back to you.

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Approval of the draft declaration

As discussed, section 6 of the *Strategic Infrastructure Corridors (Strategic and Recreational Use) Act 2016* (**the Act**) provides that the Minister may declare an area of land to be a strategic infrastructure corridor. Once declared, the Minister can appoint a manager for the corridor.

Importantly, section 9 of the Act provides that the Minister may only declare a strategic infrastructure corridor under s.6 **“if both Houses of Parliament have approved a draft of the declaration”**.

In the context of s.9, “approve” means:

- a draft declaration is formally approved by the House (i.e. there is a positive vote to accept the declaration); OR
- a draft declaration is laid before the House (i.e. a Minister formally tables it) and, after 5 sitting days, no one has given notice of a motion to disallow the declaration; OR
- a draft declaration is laid before the House and, within 5 sitting days, someone gives notice that they intend to move a motion to disallow the declaration, but later withdraws that notice (i.e. they decide not to try to disallow it); OR
- a draft declaration is laid before the House and, within 5 sitting days, someone gives notice that they intend to move a motion to disallow the declaration, and that motion is debated and voted down.

In the lower house, any opposition member could move a motion to disallow, which would force a debate and vote on the issue – however, as the government has a majority, it is unlikely that a motion to disallow would succeed in the lower house.

However, a draft declaration must be tabled in BOTH houses (House of Assembly and Legislative Council) and “approved” by both before the Minister can make a formal declaration. Therefore, there is an opportunity for the Legislative Council to pass a motion to disallow the draft declaration. You would need to ensure that Legislative Councillors were sufficiently aware of L&NERG’s concerns about the declaration to have an informed debate about the proposal.

Please note, the declaration itself does NOT nominate a manager for the corridor. That is a decision for the Minister after the declaration is made. So, some MPs may ask “why can’t we just approve the declaration, and decide later who gets to manage the corridor?” – the response is that the decision as to

who manages the corridor won't come back to parliament after the declaration is made. So, disallowing the draft declaration is the only opportunity they will have to guide the process.

Arguments for prioritising a railway project

Unfortunately, there is nothing explicit in the Act that requires priority to be given to projects that will use existing tracks. However, there are a number of things that support priority being given to such projects:

- The long title of the Act says that its purpose is **“to enable areas of land that have been used for the purposes of rail transport to be reserved for future strategic use (including use for the purposes of rail transport) and, in certain cases, to be used for designated recreational uses...”** The principal purpose being to reserve corridors for future strategic use suggests priority should be given to projects that would allow rail transport to be resumed most easily.
- That view is supported by comments by Rene Hidding in his second reading speech when introducing the Bill (attached in full): *“The government is committed to retaining all strategic rail corridors within the State. The development of recreational projects such as the North East Rail Trail will always be on the basis that the corridor is ‘Banked’ and can be reclaimed if required in the future.”*
- Section 99 of the Act allows the Minister to issue a railway track removal notice. However, the Minister can only do so if satisfied that:
 - a. it is not reasonably practicable, or would be unreasonably costly, for the designated recreational use to occur on land within the corridor, other than the land on which the railway track is situated; and
 - b. the removal of the railway track is reasonably necessary for the purposes of enabling the use, or the safe use, of the corridor for the designated recreational use in relation to the corridor.

In relation to the Federal Government's commitment to the project, the guidelines for grants are available at <https://www.finance.gov.au/sites/default/files/commonwealth-grants-rules-and-guidelines-July2014.pdf>. If there is anything in there that you think cannot be supported for a grant for the Dorset Council proposal, that may be worth raising with them.

Please don't hesitate to contact me to discuss any of this – I'll endeavour to not be so tardy next time!

Best regards,
Jess

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