



The Hon. Andrew Constance MP
Minister for Transport and Roads
Leader of the House

Mr David Blunt
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NSW Legislative Council
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Dear Mr Blunt

Please find attached the NSW Government response to the Public Accountability Committee's inquiry into the impact of the CBD and South East Light Rail Project.

Yours sincerely

The Hon. Andrew Constance MP
Minister for Transport and Roads
Leader of the House

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**Transport
for NSW**

NSW Government response

**Inquiry into the impact of the CBD and South East
Light Rail Project**

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1 Recommendation 1

That the NSW Government formally request the Auditor-General to undertake a review into the effectiveness of Public Private Partnership contracts for significant state infrastructure projects, in light of contractual issues that have arisen in relation to the CBD and South East Light Rail project.

NSW Government response

The Government's view is that there is no need to undertake a review into the effectiveness of Public Private Partnership contracts.

The Government is always learning and refining processes, based on experiences from the past and current projects.

There are lessons from the Sydney Light Rail project that have been learnt by the Government, and these have been applied to Parramatta Light Rail and will be applied to other projects in future.

2 Recommendation 2

That the NSW Government ensure that a full investigation is undertaken into the mishandling of human remains on 29 October 2018 in Chalmers Street, Surry Hills, by workers from Acciona Infrastructure Australia.

NSW Government response

Upon receipt of information regarding the discovery of human remains on 29 October 2018, the Department of Planning and Environment immediately commenced an investigation into the matter.

As a part of the investigation, the Department of Planning and Environment inspected the excavation and has reviewed the contractor's (Acciona Infrastructure Australia) incident report.

The Department ensured that appropriate mechanisms and processes were in place before further investigations were undertaken and construction recommenced in the area.

Any established breach of the conditions of approval will be assessed against the Department's Compliance Policy and appropriate enforcement taken.

3 Recommendation 3

That, once the CBD and South East Light Rail service becomes operational, Transport for NSW:

- closely monitor patronage on the service, to ensure it can respond effectively to future demand
- publish, on at least a quarterly basis, patronage data.

NSW Government response

Transport for NSW monitors patronage changes and performance across all modes of public transport. When any new service is introduced, patronage is closely monitored, and this will be done for the CBD and South East Light Rail and the reconfiguration of the south east bus network.

Transport for NSW publishes monthly Opal patronage data on its website as part of its open data hub. The data represents Opal tap on and tap off trips across all modes. Once operational, the CBD and South East Light Rail data will be included as part of this regular reporting.

4 Recommendation 4

That Transport for NSW publicly release the outcomes of modelling in relation to journey times between Randwick/Kingsford and the Sydney CBD, upon finalisation of the designs for each junction along the CBD and South East Light Rail route.

NSW Government response

End-state traffic modelling, including headway and journey time analysis, is continuing.

Traffic movements change over time, making it necessary to undertake detailed traffic modelling closer to light rail operations beginning, to ensure the latest network demands are considered.

Traffic modelling is an iterative process, taking into consideration network demands across various transport modes to ensure we balance the needs of the new light rail and other road users, including bus customers.

The Government notes this recommendation has been made in relation to questions raised over journey times. This modelling will feed into the service planning. Public information for services will be made available prior to the start of service, so the community will have full visibility of the most up to date journey times across the line.

5 Recommendation 5

That Transport for NSW investigate the need for, with a view to giving favourable consideration, an additional stop at Wimbo Park in Surry Hills, once the CBD and South East Light Rail project has been finalised.

NSW Government response

In the initial planning, a light rail stop at Wimbo Park was not justified due to its proximity to the Surry Hills stop, around 400m away and the catchment area of potential customers.

Future proofing work for a stop at Wimbo Park has been undertaken and will enable construction of a second Surry Hills stop through less invasive works should demand change over time.

Once the light rail is operational, Transport for NSW will monitor Opal data and customer feedback to help us make further improvements.

6 Recommendation 6

That the NSW Government undertake a review of the exemptions provided to projects declared 'Critical State Significant Infrastructure'.

NSW Government response

A Critical State Significant Infrastructure declaration is applied only to infrastructure that is essential to the State.

A proposal declared as Critical State Significant Infrastructure must undergo the same level of public consultation and environmental impact assessment as a State Significant Infrastructure proposal.

A Critical State Significant Infrastructure declaration requires a Proponent comply with the conditions of approval. Any established breaches will be assessed in accordance with the Department of Planning and Environment's Compliance Policy, including the issuing of Penalty Notices and Prosecution where appropriate.

A 'Critical' declaration does not switch off other powers given to authorised officers of the NSW Environment Protection Authority (EPA) under the Protection of the Environment Operations Act 1997 (POEO Act), such as the ability to issue Penalty Notices and tools that can be used to regulate and enforce the POEO Act and Environmental Protection Licence conditions.

7 Recommendation 7

That Transport for NSW review whether the role of the Independent Environmental Representative for the project needs to be expanded or whether a separate independent entity needs to be established specifically to conduct noise monitoring during construction work undertaken out of hours.

NSW Government response

The role of the Independent Environmental Representative (ER) is principally governed by the infrastructure approval. Changes to the responsibilities of the role would require a modification of the infrastructure approval initiated by Transport for NSW and assessed by the Department of Planning and Environment.

Consistent with the responsibilities of the ER as defined in Condition B87 of the CBD and South East Light Rail planning approval (CSELR), the ER already has the authority to recommend that noise monitoring be undertaken during out of hours construction work, should the ER believe it is required to avoid or minimise an adverse environmental impact. The planning approval requires the ER to review construction noise impact statements and approve implementation of an out-of-hours work protocol.

Transport for NSW does not consider that expanding the role of the ER is necessary.

Steps have been taken to strengthen the management and regulation of noise and noise-related complaints for subsequent infrastructure approvals, including engagement of independent specialist advisors to oversee construction noise management and complaints. This role is separate to the ER.

The role also includes review of construction noise impact statements; out of hours works requests; construction noise and vibration impact statements and to recommend best practice measures to improve construction performance and amenity outcomes.

The planning approval for Parramatta Light Rail, for example, includes the additional requirement for an Independent Acoustic Advisor.

The role of the Independent Acoustic Advisor does not impact on the EPA's administration or enforcement of the conditions of its Environment Protection Licences.

8 Recommendation 8

That Transport for NSW review the effectiveness of its communication strategy for the CBD and South East Light Rail project, taking in to account concerns raised in this report, and report back to the Minister of Transport and Infrastructure (now Minister for Transport and Roads) on any improvements that can be implemented for future infrastructure projects across New South Wales.

NSW Government response

Under the Sydney Light Rail Project Deed entered into between Transport for NSW and the ALTRAC Light Rail Partnership (ALTRAC), communication in relation to alternative accommodation, Operational Noise and Vibration as well as management of complaints, is primarily the responsibility of ALTRAC.

Transport for NSW has had close oversight of project impacts and has engaged with and supported businesses and residents by providing a range of programs. This includes the small business support program, and an alternative accommodation scheme offered in addition to what is required of ALTRAC. Transport for NSW is also continuously monitoring and managing complaints or concerns, which have been escalated to it. Transport for NSW has done this through a dedicated team of stakeholder engagement managers, which was put in place before construction commenced.

Alternative accommodation provided by Transport for NSW is assessed on a case-by-case basis to complement what is already being offered to residents by ALTRAC, and includes a review of the intensity of proposed works in the respective zone as well sensitive receivers.

The offer of alternative accommodation is targeted based on the assessment of actual works to be undertaken in specific zones, using a forward works program. For this reason the program and associated communication does not extend to less invasive works.

Lessons learned from the CBD and South East Light Rail project will continue to be shared across new Transport for NSW projects.

9 Recommendation 9

That Transport for NSW, in relation to claims for property damage:

- conduct an urgent review of all claims, which shall include recommendations for compensation for residents whose properties have been found to be adversely impacted by the CBD and South East Light Rail project
- provide an update to those property owners on the status of their claim as soon as possible
- work with the residents and contractors to resolve these issues as soon as possible.

NSW Government response

Transport for NSW has put a process in place for the CBD and South East Light Rail project so that complaints and unresolved stakeholder issues such as property damage can be escalated to Transport for NSW for review.

Should a stakeholder wish to escalate their case, the ALTRAC Light Rail Partnership (ALTRAC) and its contractor Acciona Infrastructure Australia (Acciona) are to inform the stakeholder of the dispute resolution process that Transport for NSW has put in place. ALTRAC and Acciona are the principal point of contact for complainants. Transport for NSW therefore relies on ALTRAC and Acciona to escalate any unresolved complaints.

If required, an independent mediator is engaged to seek to achieve a mutually acceptable outcome.

Transport for NSW has written to a number of residents whose concerns about damage to their property have been escalated to Transport for NSW.

Transport for NSW has engaged an independent assessor to review property damage matters that have been escalated. The independent assessor will review each case and will make a determination regarding the individual's claim.

Transport for NSW will continue to work with ALTRAC to manage property damage claims and with residents whose claims have been escalated to Transport for NSW.

10 Recommendation 10

That Transport for NSW distribute information to all property owners along the CBD and South East Light Rail route as to the process for claiming property damage, the timeframes for rectification, the escalation process and any other relevant material.

NSW Government response

Under the Sydney Light Rail Project Deed entered into between Transport for NSW and the ALTRAC Light Rail Partnership (ALTRAC), property damage resulting from the construction of the CBD and South East Light Rail is the responsibility of ALTRAC. ALTRAC is responsible for managing and resolving the property damage claim and, if the claim remains unresolved, for communicating the escalation process open to residents and businesses.

However, Transport for NSW has and will continue to contact stakeholders who have themselves escalated a property damage claim that has not been resolved by ALTRAC or its contractor, Acciona Infrastructure Australia.

Transport for NSW has contacted a number of residents regarding their unresolved property damage claims, and will continue to liaise directly with these residents.

Transport for NSW has provided to and reminded all residents along the route of the contact phone number they can call should they require information about the project or need to raise any issues.

Transport for NSW will continue to provide information and support to property owners via the project information line, community forums and doorknocking.

11 Recommendation 11

That Transport for NSW arrange, as a matter of urgency, for shields to be installed on the flood lights in the Randwick stabling yard, to ensure that the lights do not stream into homes located along Doncaster Avenue, Randwick.

NSW Government response

Transport for NSW and the ALTRAC Light Rail Partnership have met with Doncaster Avenue residents throughout the project.

In November 2018, Transport for NSW met with Doncaster Avenue residents about their concerns and both parties have agreed on resolutions or next steps for all issues.

Since this meeting, Transport for NSW has engaged a specialist consultant who has undertaken an independent assessment of lighting in the Randwick Stabling Yard and at premises along Doncaster Avenue. The consultant is reviewing the results of this assessment and will assess a number of mitigation measures, including but not limited to shields, to determine the most appropriate treatment to minimise light spillage.

Transport for NSW is in regular contact with the Doncaster Avenue residents and will continue to inform them of the review.

12 Recommendation 12

That Transport for NSW review its revegetation program, with the aim of increasing the number of trees to be replanted along the CBD and South East Light Rail route, ensuring that any trees are replanted as close to the site of removal as reasonably possible.

NSW Government response

The CBD and South East Light Rail planning approval includes a number of conditions to reduce tree removal and compensate for vegetation impacts. These include:

- B47 which requires the proponent to minimise vegetation removal along the route and reinstate and supplement landscaping where vegetation has been removed;
- B48 which required engagement of an independent arborist to identify the impacts on trees and vegetation from construction and recommend measures to avoid or minimise damage or removal of trees and protect retained trees; and
- B52 to develop and implement a Revegetation Compensation Package to compensate for vegetation impacts within and adjacent to the corridor.

Transport for NSW is committed to maximising the number of trees planted along the CBD and South East Light Rail project route.

Revegetation has begun to plant significantly more trees than those removed for construction. This is occurring near where vegetation was impacted. Where this is not possible, other locations are determined by the responsible authority (Randwick City Council, City of Sydney and Centennial Park and Moore Park Trust) for replanting within the same Local Government Area.

More than 560 new trees have already been planted in Centennial Park, Moore Park (including six Moreton Bay Figs along Anzac Parade) and in Randwick.

The light rail revegetation program ensures two new trees are planted for every small tree removed, four for every medium tree, and eight for every large tree. Replacement trees will be of high quality stock with a minimum pot size of 200L as outlined in the revegetation strategy. These trees will generally be around 3-4 metres high at the time of planting.

As part of the revegetation program, more than 2000 new trees will be planted in City of Sydney and Randwick City Council areas with at least 900 of these planted along the light rail route and the others planted in consultation with Randwick City Council, City of Sydney and Centennial Park and Moore Park Trust, demonstrating a strong commitment to revegetation.

13 Recommendation 13

That the NSW Government ensure significant trees are adequately protected and that the design and development of state infrastructure prioritises their retention.

NSW Government response

A primary guiding principle in the assessment of major linear transport proposals by the Department of Planning and Environment is to minimise impacts on all aspects of the environment.

For major infrastructure projects, it is impossible to avoid all impacts as a balance is required to be achieved between the objectives of a project, engineering constraints and environmental outcomes.

The Department's assessment of subsequent infrastructure projects has continued to comprehensively consider the need for tree removal and to ensure that all possible alternatives are canvassed before trees are removed.

14 Recommendation 14

That the NSW Government revise the guidelines for the Small Business Assistance Program and implement this scheme for all other major infrastructure projects.

NSW Government response

The Small Business Assistance Program was established as part of the NSW Government's commitment to assist small businesses who believe their operations have been negatively impacted by light rail construction taking longer than initially expected.

Transport for NSW has closely monitored the effectiveness of the Small Business Assistance Program since its introduction in August 2017 and has made changes as necessary to extend support to more small businesses (see response to Recommendation 15). Transport for NSW is continuing to monitor the program.

The NSW Customer Service Commissioner has reviewed the processes and procedures in place to help support small businesses during the construction of major infrastructure projects across the State, and has provided feedback to Transport for NSW to take on-board for future projects.

15 Recommendation 15

That Transport for NSW and the Small Business Commissioner encourage and support businesses to apply for financial assistance under the Small Business Assistance Program, even in circumstances where businesses may not meet eligibility criteria.

NSW Government response

Since the Small Business Assistance Program was established in August 2017, the NSW Government has broadened the eligibility criteria to include owner occupiers (June 2018) and small businesses employing fewer than 50 full-time equivalent employees (May 2018), to ensure support is available to more small businesses.

Transport for NSW door knocked businesses along the alignment to advise of the changes when the program was established and when the criteria was broadened, and contacted previous applicants to encourage them to reapply.

Transport for NSW has and continues to encourage businesses to make contact with the program administrators to apply, noting that the program assesses businesses on a case-by-case basis. The program is supported by a probity advisor.

The NSW Small Business Commissioner and the NSW Small Business Commission have provided advice and support to small businesses along the CBD and South East Light Rail alignment, with engagement starting prior to construction. Throughout this project, the NSW Small Business Commissioner has met with many individual businesses, including those who have not met the eligibility criteria for the Small Business Assistance Program to examine support options, and will continue to do so.

Further, Transport for NSW with the NSW Small Business Commission has doorknocked over 500 small businesses along the alignment to discuss and highlight other initiatives run by the NSW Government such as the Business Connect Program.

16 Recommendation 16

That Transport for NSW continue to provide financial assistance under the Small Business Assistance Program until the CBD and South East Light Rail project is completed.

NSW Government response

Financial assistance under the Small Business Assistance Program is ongoing and will continue while major civil construction for the CBD and South East Light Rail is underway, prior to commencement of operational services.

As at May 2019, more than \$31 million in ex gratia payments has been offered to 154 small businesses. A number of businesses have received multiple payments through the program.

17 Recommendation 17

That Transport for NSW provide ongoing mental health support to affected business owners and their families, at no cost to the recipients, and clearly communicate to each business the process for accessing this support.

NSW Government response

The NSW Government takes the mental health and wellbeing of those impacted along the alignment very seriously.

Transport for NSW staff have undertaken training on mental health, including understanding people who are suffering health issues and how to support these people, including referrals to available services accessible through NSW Health.

Transport for NSW will continue to advise stakeholders that under Medicare, a GP can refer patients for 10 free consultations as part of a mental health plan. Further to this, in some circumstances, Transport for NSW has offered additional support, such as immediate access for stakeholders to the details of mental health services available through the Transport for NSW Employee Assistance Program.

Transport for NSW and NSW Health will work together to ascertain what further support can be provided to residents and business owners and their families during the CBD and South East Light Rail project, other current construction projects and for future projects.

See response to Recommendation 18 for the specialist mental health services provided by NSW Health.

18 Recommendation 18

That the NSW Government, in its planning for all future major infrastructure projects, develop effective strategies to address the potential mental health impacts that may be experienced by residents and business owners in the vicinity of construction work.

NSW Government response

Transport for NSW and NSW Health will work together to ascertain what further support can be provided to residents and business owners and their families during the construction of infrastructure projects.

NSW Health local health districts provide specialist mental health services to all people affected by mental illness and mental health problems. Services work closely with primary health care providers, community managed organisations and other government agencies.

In addition, NSW Health purchases psychosocial and other services from service partners including the nongovernment sector.

The 1800 011 511 Mental Health Line is a single state-wide telephone number, operating 24 hours a day, 7 days a week which connects callers to local mental health services. The line enables people worried about mental health issues to receive expert assistance from mental health professionals including on local service options.

Individuals can also access services from their general practitioner, including a mental health plan and extended primary care for counselling or a referral to a psychiatrist.

19 Recommendation 19

That Transport for NSW, in consultation with business owners, expand the Business Activation Program developed for the CBD and South East Light Rail project, focusing on marketing, communication and other initiatives to attract visitors.

NSW Government response

Transport for NSW is dedicated to delivering a strong business activation program throughout the construction of the CBD and South East Light Rail project.

As construction barriers are further reduced along the light rail route, Transport for NSW will continue to activate areas and look for marketing opportunities to enliven precincts along the alignment prior to the start of light rail services.

Transport for NSW recognises the importance of supporting and managing impacts on business before and during construction.

Incorporating feedback received from local businesses and learnings from other light rail projects including the CBD and South East Light Rail, the Parramatta Light Rail project has commenced business activation initiatives, set up a Business Reference Group and rolled out a free business advisory service in advance of major construction.

20 Recommendation 20

That the NSW Government commission and publish the outcomes of an independent review of the effectiveness of financial and non-financial support provided to businesses during the CBD and South East Light Rail project.

NSW Government response

Transport for NSW has provided and closely monitored the effectiveness of financial and non-financial support to businesses during the CBD and South East Light Rail project.

The NSW Customer Service Commissioner has reviewed the processes and procedures in place to help support small businesses during the construction of major infrastructure projects across the State, and has provided feedback to Transport for NSW to take on-board for future projects.