

**PUBLIC ACCOUNTABILITY COMMITTEE**

**INQUIRY INTO THE IMPACT OF THE CBD AND SOUTH EAST LIGHT RAIL PROJECT**

**Responses to Questions on Notice**

**Hearing – 20 August 2018**

**The Hon. GREG DONNELLY:** No, we will come back to that. In the last 12 months how can you establish what those variations were? Where can we go to see the variations that were made to the contract? Are they detailed somewhere in some document?

**Mr TROUGHTON:** I think they are commercial in confidence so I would have to take on notice where they can be found.

**The Hon. GREG DONNELLY:** So you think they are commercial in confidence or you are not sure?

**The CHAIR:** He is taking the question on notice.

**Mr TROUGHTON:** I will take the question on notice about whether they are available.

**Response:**

Modifications and claims on large infrastructure projects are anticipated and are business as usual. These matters are managed in accordance with the Sydney Light Rail Deed (SLR Project Deed).

Any commercial arrangements with ALTRAC Light Rail are managed with strictest confidentiality under the SLR Project Deed.

**The Hon. MATTHEW MASON-COX:** Would it be possible for you take on notice to clarify the expected completion dates, the delays and where they have existed on a zonal basis so the Committee can get a better understanding of where the larger delays are? That might assist the Committee in relation to the business and financial package as well, to correlate that.

**Ms PRENDERGAST:** I totally understand that. We have actually assessed the overstay period in our assessment for financial assistance, so it becomes one of the criteria we weight against.

**The Hon. MATTHEW MASON-COX:** That is great.

**Ms PRENDERGAST:** We can provide the original schedule. There was a revised schedule in January because we actually did not start a lot of the zones until later. For example, we did not move in and occupy Circular Quay until July last year.

**Response:**

We always knew this would be a complex and challenging project, particularly in the centre of the city, and would require ALTRAC and its contractor to look at each zone on a case by case basis. This is why ALTRAC commenced building in zones 5 and 6 between King and Park Street.

TfNSW published a construction schedule ahead of construction commencing to give businesses advance warning of proposed start dates.

An updated scheduled was published in January 2016 after a recalibration of the program, with some zones starting later than anticipated.

Zones continued to be occupied in line with construction activities underway, with ALTRAC progressively entering fee zones as construction activity ramped up. Major civil construction work was completed in three zones in December 2017 and they were reopened.

As expected, building light rail down one of the oldest streets in Australia's biggest city has presented some challenges, such as utilities and drainage. We've always acknowledged these challenges and the need to adjust the schedules of individual zones.

However, we are moving ahead and progress is being made.

ALTRAC has announced construction barriers along the light rail alignment will start being removed or reduced from November 2018 and civil construction will be substantially complete by the end of 2018.

We continue to work with ALTRAC to ensure the community is kept up to date as construction progresses and to ensure the project is completed as quickly as possible.

Please refer to Attachment B.

**The Hon. MATTHEW MASON-COX:** Okay. I just wanted to be sure. In relation to the 86 businesses that have been paid the \$9 million since August 2017, do you know how many of those businesses are still operating or whether any have closed as a result of what has happened?

**Mr BRAXTON-SMITH:** We will need to take that on notice. To our knowledge none of those businesses have ceased trading.

At the time of the hearing (20 August 2018), Transport was aware of six businesses of the 86 that received financial assistance under the SBFA program and have since closed.

Aero Café (2/580 George St, Sydney), Claypot Taverna (180 Anzac Pde, Kensington), Fruit Kiosk (Cnr George and Bond St, Sydney), Vini Wine Bar (3/118 Devonshire St, Surry Hills), 7 Eleven (585 George St) and Bah Mi K (G3/730-742 George St, Haymarket).

*Note: Businesses that have relocated, rebranded, exchanged ownership but are still operating, have not been included.*

**The Hon. MATTHEW MASON-COX:** I notice Ernst & Young have been appointed to look at each business on a case-by-case basis. A number of submissions have put to us that the criteria are unclear and that it seems to be a process that is cloaked in secrecy rather than one that is clear to people who might be applying. I understand that, of course, these things are done in confidence and that parties have to sign confidentiality agreements for good commercial reasons, but perhaps you could just run through the criteria and provide, if you have documents to that effect, them to the Committee. Could you give us an understanding about those sorts of cases where you have said no and the reasons why?

**Ms PRENDERGAST:** I will start. The criteria has been clear from the start. In all of the media announcements and discussions at forums from the day that we incepted this program we made it really clear in terms of the criteria. There have been changes to adapt—such as owner-occupiers of small businesses are now qualified. We have upped to the FTE—the employee rate—from 20 to 50. Tony will run through those details that you requested.

**Mr BRAXTON-SMITH:** There is a Sydney light rail fact sheet, which is in the public domain. I will provide a copy afterwards, but it is quite clear there that the criteria are small businesses employing fewer than 50 full-time equivalent employees. The place of business is: situated along the alignment or in close proximity by construction activity, and—

**Response:**

Please refer to Attachment A.

**The Hon. GREG DONNELLY:** My question was: Once the work and construction has been completed on the five precincts, how long will the commissioning of the project take before it becomes fully operational? There are five precincts. I understand the answer you gave, but I am talking about how long it will take to commission the running of the light rail from go to whoa after the precincts are complete.

**Mr TROUGHTON:** As I said before, they do not wait until the construction is complete; they actually phase it through. As the construction completes they can get into each part and start testing once they have put the systems in place. There are lots of different parts of testing and commissioning. It is highly complex. I do not know the program and I did not prepare it for today because I came for Small Businesses, but I will take the question on notice and will try to detail the commissioning. To get this clear, would you like me to detail the length of commissioning once construction is complete until commissioning is complete?

**The Hon. GREG DONNELLY:** We will move on then.

**The CHAIR:** Did you take that question on notice?

**Mr TROUGHTON:** Yes, but I am trying to clarify what we are providing on notice.

**The Hon. GREG DONNELLY:** You seem to have misunderstood my question so I will move on.

**Response:**

Testing will be undertaken over 12 months, and includes static and dynamic testing to ensure the vehicles and systems in each section are functioning safely.

While civil construction progresses, testing and commissioning and installation of systems is ongoing.

Vehicle testing is already underway in Randwick and as civil construction nears completion, more areas along the alignment will be energised, enabling vehicle testing to expand.

**The Hon. COURTNEY HOUSSOS:** Have you advised him that compensation is required for small businesses?

**Ms HOBBS:** The relief and financial assistance that has been provided has been rental relief; it has not been compensation; it has been rental relief for overstay in the construction zone.

**The Hon. COURTNEY HOUSSOS:** Did you say to the Minister for Transport and Infrastructure that there needed to be rental relief?

**Ms HOBBS:** Yes, absolutely.

**The Hon. COURTNEY HOUSSOS:** When did you say that?

**Ms HOBBS:** Approximately a year ago.

**Ms PRENDERGAST:** Just prior to us developing this scheme.

**The Hon. COURTNEY HOUSSOS:** A year ago you said to the Minister for Transport and Infrastructure that there needed to be rental relief?

**Ms HOBBS:** Yes.

**The Hon. COURTNEY HOUSSOS:** How many days delayed was the project at that point?

**Ms HOBBS:** I would have to take that on notice. It depends on the zone. Again, all the zones came on at different times. The thing I would add to the answer to that question is that I do not believe that rental relief or assistance should be provided only by the Government. There is a range of stakeholders who can also contribute to provide relief when these projects come along. I believe landlords can offer rental relief. I believe councils can offer rate relief. The State Government has also offered rental relief around Circular Quay and at Central. I think if everybody comes together and there is a package—I believe in the work that we do with tenants and with landlords a landlord would much rather have a tenant in the premises and getting a rent be it discounted with somebody there rather than a vacant shop. It is simply not, as I see it, for the State having to come in to provide rental relief. I think there is a real case to be put for all the stakeholders to contribute to providing assistance

**Response:**

Please refer to Attachment B.

**Mr DAVID SHOEBRIDGE:** Mr Troughton, did you say that the liquidated damages claims relate to individual zones?

**Mr TROUGHTON:** There is a number of liquidated damages parts. The bit we were talking about before was regarding this—

**Mr DAVID SHOEBRIDGE:** The delay. I just want to know whether or not there is a single amount or does it relate to different zones? It is a simple question.

**Mr TROUGHTON:** There are a number of ways damages get apportioned under the contract. I was referring earlier around the fee zones. There are other ways damages get done.

**Mr DAVID SHOEBRIDGE:** Tell me about the fee zones, because that is my question.

**Mr TROUGHTON:** My answer previously stands. It is probably best if I take it on notice to provide details of the different forms of damages under the contract because I do not have a copy of the contract here.

**Mr DAVID SHOEBRIDGE:** You can take it on notice.

**Response:**

The Government entered into a Public Private Partnership (PPP) contract with the ALTRAC Light Rail Partnership (ALTRAC). ALTRAC is responsible for delivering the Sydney Light Rail project (Project), including financing of the project, the design and construction of the Light Rail works (through the D&C joint venture between Acciona and Alstom), the supply of the Light Rail vehicles (through Alstom), and the operation and maintenance of the light rail (through Transdev) for 15 years.

The Government is not required to make its service payments to ALTRAC for Sydney Light Rail until the CBD and South East Light Rail (CSELR) is operational. ALTRAC is therefore incentivised to achieve completion and commence operations.

If ALTRAC breaches any of the Project Agreements, Transport for NSW may sue ALTRAC for (uncapped) damages.

In addition to a normal PPP arrangement, ALTRAC is liable for a daily fee for each day that its occupation of a zone exceeds an agreed base occupation period, which is capped.

If the D&C Contractor causes a delay to completion, ALTRAC can claim significant liquidated damages and financing delay costs from the D&C Contractor under the D&C Contract.



**Mr DAVID SHOEBRIDGE:** You acknowledged earlier that the greatest impact is in the construction phase. Because we know additional residents will come, why not build the station now and finish all the construction impacts rather than revisit this same kind of pain on residents four, five or 10 years down the track?

**Ms PRENDERGAST:** We have futureproofed it and the pain would not be significant because all the conduits and all the things that are necessary are in. It would be a far simpler build. But at the moment the patronage modelling does not show that there is enough to warrant a second stop.

**Mr DAVID SHOEBRIDGE:** Could you provide the patronage modelling to the Committee on notice?

**Ms PRENDERGAST:** We can provide the analysis that was done showing the patronage catchment.

**Response:**

A stop at Wimbo Park was not justified as it is approximately 400 metres from the Ward Park stop, which sufficiently caters for the expected number of customers within the catchment area.

Significant cost and time delays would also have been associated with changing the project scope to include a stop at Wimbo Park; however we have been able to incorporate future proofing at Wimbo Park.

The future proofing work at Wimbo Park will enable a stop to be built at a later date, if sufficient demand emerges.

Future proofing includes ensuring the track alignment is suitable, that all cables are accessible for future construction and the appropriate foundations are in place.

By doing this groundwork now, we can avoid major disruption to CSELR services if this stop is built in the future. It also ensures the future cost and impact of installing a stop would not be prohibitive.

**Mr DAVID SHOEBRIDGE:** Can you give any advice on notice about what residents would have to do or who they would have to persuade in order to get that crucial second stop in Surry Hills? I am happy for you to provide that on notice.

**Ms PRENDERGAST:** Absolutely, we will take that on notice.

**Response:**

The location and configuration of stops for the CBD and South East Light Rail were outlined in the Environmental Impact Statement (2013) and were consulted on. A comprehensive assessment process was applied which included assessment of the catchment area, environmental constraints, average distance between potential stop locations and potential patronage.

A second stop at Wimbo Park was not determined to be a part of the project scope of the CSELR.

Once the light rail is operational, Transport will monitor Opal data and customer feedback to help us make further improvements that meet the needs of the majority of our customers.

**The Hon. SHAYNE MALLARD:** Thank you for your submissions. They were very helpful and in my view demonstrated a thorough engagement process. Could one of you please table a list of the businesses that have received rental assistance and the amount each received?

**Mr BRAXTON-SMITH:** What we have is some statistical analysis here which we can provide to the Committee around the number of businesses per fee zone and how much they have received and also the number of businesses by category. For instance, I can tell you there were 34 cafes, restaurants and takeaway food services that have so far received assistance. Transport for NSW is very mindful of the fact that each of these businesses has provided us information on a confidential basis and undertakings were given to them for that to be maintained confidentially. We would prefer if the Committee insists on the information of individual businesses being revealed that it be dealt with in camera.

**The Hon. TREVOR KHAN:** I do. I insist. It does not mean that we would release it. That would be a matter for discussion.

**The Hon. SHAYNE MALLARD:** We would make it confidential.

**Mr BRAXTON-SMITH:** We can provide that to you separately but I do not have that information here with me today.

**Response:**

The list of businesses that have received financial assistance under the *Small Business Assistance Scheme* (SBAS) has been provided to the Committee under cover of letter dated 27 August 2018 from the Deputy Secretary, Customer Services Division, Transport for NSW.

**The Hon. MATTHEW MASON-COX:** Can you provide us with a few work examples of how you have worked out the financial compensation for a few businesses, without names so we can understand the process of how you work it out?

**The CHAIR:** Can you take that question on notice?

**Mr BRAXTON-SMITH:** Yes, certainly, we can take that on notice. We have a formula. We will provide that formula table to you.

**Response:**

Please refer to Attachment C.