

PUBLIC ACCOUNTABILITY COMMITTEE

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

Questions taken on notice during Mr Bede Noonan's appearance before the Inquiry

1. Question taken on notice:

Ms CATE FAEHRMANN: *Have you received any formal notification or correspondence from the Environment Protection Authority (EPA) for breaching any guidelines in relation to noise during the construction period?*

Mr NOONAN : *Not that I am personally aware of but I am happy to take that on notice and come back to you on that if you would like me to.*

Mr Noonan's response

There have been no penalty notices or fines received from the EPA in relation to noise. However, the following two breaches were recorded in relation to notification requirements:

- On 24 February 2017, the EPA issued Acciona Infrastructure Australia (**AIA**) with a formal warning for failing to provide appropriate notification to residents on Alison Road, Randwick about out of hours works on 24 to 25 January 2017.
- On 23 May 2018, the EPA issued AIA with an official caution for failing to notify affected receivers of works that occurred from 11pm to 5am at the Devonshire Street / Elizabeth Street intersection.

1A. Question taken on notice:

Extract from Mr Noonan's appearance: *"I would be very happy to come back to the Committee on the extent of our noise monitoring, especially in that particular area, because it is obviously very important for us to do that".*

Mr Noonan's response

Reflecting the requirements of the Conditions of Approval, Environment Protection Licence and the Construction Noise and Vibration Management Plan (approved by the Department of Planning and Environment), the noise monitoring process includes both attended monitoring (i.e. an Environmental Specialist is present during the monitoring event) and unattended monitoring (conducted by both D&C Environmental Advisors and independent noise consultants).

To date, there have been 697 attended noise monitoring events (conducted by D&C Environmental Advisors), and 27 unattended noise monitoring events. Of these, 53 attended noise monitoring events and 7 unattended events were undertaken in the vicinity of 76 Anzac Parade, Kensington.

2. Question taken on notice:

The Hon. MATTHEW MASON-COX: *There is evidence in relation to threats and diesel fumes entering into the premises of one apartment owner, as well as blocking of fire escapes and the like, which would be serious incidents. I wondered whether you had received information about those types of incidents during construction of the project.*

Mr NOONAN: *I cannot specifically talk to those incidents that were referred to yesterday. I am happy, if you would like me to, to respond directly within 21 days on those specific ones.*

The CHAIR: *Take that on notice.*

Mr NOONAN: *Yes.*

Mr Noonan's response

AIA has been directly engaging with this particular Kensington resident (**Andrew Jordan**) to address his concerns since February 2017, prior to establishing Zone 28.

AIA has recorded 235 engagements with Mr Jordan in the Community Relations database since 15 February 2017. Of these interactions, 122 are classified as Complaints (that typically involve multiple issues, repeated questions and answers, and multiple email exchanges).

More recently, Mr Jordan has requested that all responses to his complaints come via TfNSW.

AIA has endeavoured to provide Mr Jordan with regular updates about work, especially night time construction activity. AIA has offered to arrange meetings with project engineers to discuss construction methodology and permits to work so Mr Jordan has a better understanding of what to expect but he has declined this offer.

AIA has provided Mr Jordan with a set of noise cancelling headphones. When AIA offered alternative accommodation, Mr Jordan declined to take this up.

Fumes

Investigation to claim: We have no call record for 23 June 2017 – a date Mr Jordan has previously claimed the incident occurred. AIA records show at 12.12am on 25 June 2017, Mr Jordan complained about noise from the work site and also advised his concerns about fumes from the work site. Mr Jordan lives on the fourth storey of an apartment building.

The AIA on-call officer called and texted the site supervisor. At 12.58am, the site supervisor responded and advised the key activity was barrier movements. The supervisor was not aware of fumes being emitted from the generator that was powering the lights. In response to the complaint, the supervisor immediately switched off the generator and switched to using hand tools. AIA telephoned Mr Jordan after 10am on 25 June 2017 to provide an update, as per his request.

AIA is aware of the complaint and responded to this when the stakeholder reported it to the 24-hour Construction Response Line on 25 June 2017. AIA made immediate arrangements to turn off the generator and move it to a different location that night.

Fire exits

With respect to Mr Jordan's claims that AIA blocked the fire exits to his apartment building on Anzac Parade, AIA responded to this complaint from him a number of times around November 2017. AIA crews took photographs of the set up on the footpath outside his building at the time to ensure AIA had evidence for future reference. Crews were careful to ensure the fire exit door, which is recessed into the building, was not blocked at any time.

Below is the responses AIA provided to Mr Jordan at the time (23 November 2017):

"I understand that you have raised concerns this week about the fire doors at 76 Anzac Parade. We wish to advise that your complaint was immediately investigated on Sunday night and the site supervisor confirmed the fire exit was not blocked at any time. The two sets of fire doors at 76 Anzac Parade are recessed as a safety feature to prevent access/egress from being impeded. I can confirm crews were excavating the footpath in front of the property for some Ausgrid works; trucks were parked on the roadway.

Maintaining access is a key requirement on this project – for property owners and for emergency services. During light rail construction our works will involve trenching past emergency access points along Anzac Parade and we use trafficable access ramps that can be immediately put in place to provide access and in the case of an emergency. These ramps are on site for crews to access as required. Further, the project teams meets regularly with representatives from Emergency Services to discuss our traffic plans and access arrangements. Emergency Services also review our Traffic Management Plans and participate in regular site walks along the alignment with the project team."

(Email from Marianne McCabe (AIA) to Andrew Jordan dated 23 November 2017 at 3.13pm).

And in a follow-up email the same day:

"...I would like to reiterate that maintaining access is a key requirement on this project and safety is a number one priority. The fire exit at your property was not blocked at any time."

(Email from Marianne McCabe (AIA) to Andrew Jordan dated 23 November 2017 at 5.10pm).

Access

Workers are careful to minimise impact on the community in all instances and AIA has maintained access to properties. Where vehicles have been required to temporarily park on footpaths or across driveways for short periods during night work, AIA has moved them if required, to maintain access.

Worker Behaviour

AIA received some complaints about worker behaviour from Mr Jordan, at the time he complained about access to fire exits to his apartment building. This complaint was investigated (November 2017) and it was discovered the resident had entered a work site with a video camera and crews immediately requested the resident to leave the site for safety reasons. To my knowledge, no one in the project team behaved inappropriately in this situation.

The team is very respectful of residents' concerns and those of the broader community.

Crews are regularly reminded about worker behaviour and to generally conduct themselves in an appropriate and respectful manner. Crews are asked to minimise disruption as much as possible, particularly when working in residential areas at night time. These reminders are delivered by way of an informal "Tool Box" meeting, which focus on safety topics related to the specific job, such as workplace hazards and safe work practices. Meetings are normally short in duration and are generally conducted at the job site prior to the commencement of a job or work shift.

3. **Question taken on notice:**

The Hon. MATTHEW MASON-COX: Would you be able to take on notice and provide the Committee with information about any serious incidents of the like I have mentioned?

Mr NOONAN: Yes.

The Hon. MATTHEW MASON-COX: Some are reportable incidents under occupational health and safety legislation?

Mr NOONAN: Yes.

The Hon. MATTHEW MASON-COX: So we can understand what information was passed through and what was done in relation to those issues?

Mr NOONAN: Specifically the ones brought up yesterday?

The Hon. MATTHEW MASON-COX: Specifically, but more generally too about any other incidents reported of that nature to understand the scope of the problem.

Mr NOONAN: Yes

Mr Noonan's response

If a serious incident is raised via the 1800 number it is passed onto our Safety Team to conduct a full and thorough investigation. This is normal practice for all incidents on the Sydney Light Rail project. If, during the course of that investigation, it became apparent the SafeWork NSW/safety regulator needed to be notified, they would be.

To date, there have no incidents of that nature recorded, and accordingly, there have been no notifications to SafeWork NSW in relation to a threat of violence by a worker to a member of public.

4. **Question taken on notice:**

The Hon. SHAYNE MALLARD: *Some of these buildings are quite old and damage could occur to them through construction vibration. I know you have a property team, but would you go to independent assessors? I say this because I was a councillor at South Sydney City Council when it built the Eastern Distributor to the airport. Property damage occurred to terrace houses from vibration. It took a year or two to be resolved, but it was an important issue to resolve. Dilapidation reports were done at the beginning of the process. Did you do any of that on the route before you started construction?*

Mr NOONAN: *Yes, there were dilapidation reports but, I am sure you would be aware, how far has that gone? And no doubt there will be people who believe their houses have been damaged, which may not have had dilapidation reports, or even if there were dilapidation reports they may not have gone to the extent of where the damage has now occurred. They should all be investigated thoroughly. My understanding is that they are, and that a proper process is gone through. The issue that I would like to come back to you on, because I am not certain in my mind, is if we feel that it is not caused by the project, what is the next step that can happen after that. I am not certain of that, and I would be happy to come back to you on that.*

The Hon. SHAYNE MALLARD: *I would suggest an independent assessment, which is what happened with the Eastern Distributor.*

The CHAIR: *You may take that question on notice.*

Mr Noonan's response

In accordance with the Minister of Planning & Environment Conditions of Approval, Schedule B clause B23, Dilapidation Surveys were offered to all owners of buildings along the alignment. Property owners who consented to the survey had them completed. A copy (with CD) was then posted out to each owner.

Our procedures require all damage claims to be initially responded to within 2 hours of receipt by the property team.

Inspections to gather the evidence for the root cause of damage are undertaken as soon as practicable. Where construction related damage has occurred, remedial works have been undertaken.

To date, the majority of claimed damage inspections has discovered evidence that the root cause has been:

- (1) pre-existing damage;
- (2) the lack of ordinary building maintenance; or
- (3) seasonal changes causing seasonal subsidence.

Vibration is often cited as a root cause, but to date no evidence has been discovered to support those claims. This is attributed to controlling the source of such vibrations at each machine in order to not exceed the specified vibration criteria.

5. **Question taken on notice:**

The Hon. SHAYNE MALLARD: *The Committee heard yesterday and during the early stages of the project that the plan was to construct a zone, impact the residents and the businesses for that time—I have forgotten the time mentioned, perhaps nine weeks—and then move on. We heard evidence yesterday—and we know ourselves from being in the city—that the whole route is a construction zone that has been there for years. Yesterday we heard from an optometrist, and our hearts went out to him. His business has been barricaded in for two years. Another corner shop owner on Devonshire Street had to go out to other work to help pay the rent on his shop. For years it has been boarded up. He was very unhappy, in tears, right next to where you are sitting. What went wrong with the proposal to complete zone by zone and minimise the impact across the city?*

Mr NOONAN: *The changes I referred to earlier—and perhaps it is easier if I at the start limit myself to George Street and the CBD out to Surry Hills. Whilst there have been impacts on other parts of the project, I think that is the main part with respect to ongoing for such a long period of time.*

The Hon. SHAYNE MALLARD: *Except for the optometrist, who is in Kingsford, and he had two years of serious impact upon his business and his mental health.*

Mr NOONAN: *Yes. I can answer that, it is a slightly different issue.*

The Hon. SHAYNE MALLARD: *You might take that question on notice.*

Mr Noonan's response

In relation to Mr Mallard's question, the completion of the work on a zone by zone approach ultimately was unsuccessful. There have been a range of factors preventing it from being implemented, including:

- Mapping of unknown utilities.
- Many utilities traverse through more than one fee zone and may require access to multiple fee zones.
- Treatment Plans and designs cannot be completed until verified services are known.
- The process of developing treatment plans and completion of the design and the approval process with each utility owner can, and has taken, an extended period of time.
- Treatment plans and utility adjustments cannot be commenced until approved designs are available and approved contractors are in place. In addition there needs to be agreed outages with the service provider and in many cases Traffic Management Plans (being the official document that is approved by the Transport Management Centre to allow a traffic change to occur) need to be developed and approved for that service work.
- Outages are subject to the resource constraints of the utility owners and any current Capital works program.
- Some of the work required to be conducted is only able to be performed by utility companies and service providers themselves, thus placing the project timetable in reliance of these Utility Service providers and their ability to meet the work requirements. For example, in Kingsford, there is an ongoing delay due to Ausgrid

not being able to bring down the overhead wires. Until Ausgrid completes this work, we are unable to progress our works.

- In addition, where works cross multiple fee zones, access to the intersections is limited by the restrictions of gaining access for 56 hour shut down weekends at irregular timing (requiring the approval of Sydney Coordination Office). In many cases work in the adjacent fee zones cannot proceed until the intersections are completed due to the impacts on the existing traffic network.
- Generally all utilities need to be completed prior to meaningful civil works being carried out.
- In many places the design of the civil works will not be able to be completed until the utilities works are known (e.g. Ausgrid pits where the new lids have also become part of the track slab, conflicting new utilities with existing utility assets, remediation and/or diversionary works to accommodate the trackform and OCS Pole installation).
- Some of the initial civil works, particularly the lead activities like drainage cannot have finalised designs completed until utilities designs are finalised.
- There has been a significant increase in the scope of work relating to the undergrounding of overhead assets, which has caused and continues to cause very significant delays across the entire project but especially in Surry Hills and the Randwick and Kingsford branches. In most cases this has precluded access to carry out other key works.
- During civil construction, staging requirements involving temporary traffic and pedestrian routes increased the time for civil construction in each zone. An example of this is in Zone K, where RMS did not agree with the lane widths defined in the D&C Contract. After extensive negotiations between RMS, TfNSW and Randwick City Council, a revised scope was agreed, which involved changes to many kerbs that originally were not intended to be altered. This had a significant effect on the work required in relation to staging, utilities, trees and poles, to name a few.
- The requirements to construct above underground structures were not known and required extended negotiations with other parties to determine the scope of work. Examples are Town Hall Station box and Market Street Arcade.
- Discovery of Heritage items also caused significant delays to work. Examples are: Fee Zone 12 (Multiple Building footings), Fee Zone 10 (convict hut), Fee Zones 1 and 2 (Multiple building footings), the Tank Stream where the plans provided by Sydney Water were not accurate, requiring a redesigned solution.
- Staging required to complete surface works caused delays in many areas.

Essentially all of these issues contributed to the fact that it was impossible to implement the original zone by zone strategy. In many cases the utilities scope alone could not be completed in the original time allocated for fee zone completion.

With regards to the optometrist in Kingsford, the Community Relations database shows 142 engagements with this stakeholder since 23 October 2013, prior to and during construction.

6. **Question taken on notice:**

The Hon. DANIEL MOOKHEY: *Regarding the request that came yesterday from people who appeared here for relatively reasonable upgrades to their premises to guard against noise, which costs roughly \$20,000 to be able to put more soundproofing in, is that a decision for you or is that a decision for Transport for NSW?*

Mr NOONAN: *I would have to take that question on notice. I do not know exactly.*

Mr Noonan's response

Soundproofing that exceeds the criteria is not a decision for AIA. The implementation of operational noise mitigation program is defined by the Minister for Planning & the Environment Conditions of Approval, Schedule B Clauses 10, 11, and 13, while the criteria for the mitigation is defined by Schedule B, Part C, Clauses C1, C1A, C2, and C3.

All owners of properties affected by operational noise along the alignment have been invited to participate in the operational noise mitigation program in accordance with the Architectural Treatment Management Plan.

To date AIA has completed acoustic work on 567 properties and this work is continuing.

Those property owners who wish to contest the criteria and/or the proposed operational noise treatment for their property may do so by escalating the matter with AIA, who will, if their claim exceeds the defined compliance, refer the matter to TfNSW for a determination or mediation.

7. **Question taken on notice:**

The Hon. DANIEL MOOKHEY: Moving onto Ausgrid's control now, you say you have worked on—I think in the last hearing we heard—104 pits, of which you have worked on 29 Ausgrid pits?

Mr NOONAN: No. We have worked on greater than 29 Ausgrid pits

The Hon. DANIEL MOOKHEY: Right. How many have you worked on?

Mr NOONAN: I am not sure if I have the exact number. I could not tell you. It is more than 29.

The Hon. DANIEL MOOKHEY: If you could take that on notice, that would be great.

Mr NOONAN: Yes, I can do that.

The Hon. DANIEL MOOKHEY: If it is more than 29—I think Transport for NSW told us, to be fair, at the last hearing that 29 Ausgrid pits had been upgraded as a part of the project.

Mr NOONAN: Okay

The Hon. DANIEL MOOKHEY: But you should feel free to tell us on notice. Right.

Mr NOONAN: I will take that on notice, yes.

Mr Noonan's response

We have worked on a total of 170 Ausgrid pits, with the work broken down as follows:

- Full Pit Rebuild – 19
- Partial Rebuild – 14
- Roof Replacement – 13
- Adjustment of existing Hatches / Pits to FSL – 98
- New Sump Pit – 9
- Demolish / Abandon – 17

8. Question taken on notice:

Ms CATE FAEHRMAN: *Are the lights that we heard so much about yesterday in Ms Diana Argirellis's back room, and in the many residences along Doncaster Avenue, the lights that your company has constructed?*

Mr NOONAN: Yes

Ms CATE FAEHRMAN: *Firstly, why are they constructed a couple of metres above the biggest wall that you have there in terms of blocking the sound and the light? Why do you not do something simple, like some of the residents suggested to us yesterday, in terms of putting a shield halfway around the lights so the lights shine just into the stabling yard, not into the residents' backyards?*

Mr NOONAN: *I will come back to you on that because I have spoken to people this morning about the light issue. That is one that is like the noise—it is a permanent issue, rather than a construction issue—and I do not know if something has been investigated to see if there is a relatively simple fix for that. But it is the reality, as I am sure you can imagine, of a designer requirement, a lighting requirement within the yard, and also we have restrictions on, I think, lux levels outside of the yard. My understanding is that the lux levels to the residents is within our requirements under the contract. It does not change the fact that I can imagine there are still residents who have a higher light level than previously.*

Ms CATE FAEHRMANN: *They are suggesting it is like cricket ground floodlights into their kids' bedrooms and into their lounge rooms. You are saying to the Committee today that you are looking at the issue of those lights, looking at a simple solution—well, the right solution—such as a shield or some way to stop that light coming into those residents' yards*

Mr NOONAN: *Sorry—what I will commit to do is coming back within 21 days to understand the particular issue and understand whether there could be a solution.*

Ms CATE FAEHRMANN: *I think Acciona has had this information for some time. As I understand, the residents have been complaining about these lights for some time. Is this the first time that you are aware or senior management is aware of this serious issue for the residents?*

Mr NOONAN: *No, it is not the first time.*

Ms CATE FAEHRMANN: *But it is the first time you are committing to having a look at it and doing something about it. It has hit the media. You are at a committee hearing. Have you not looked at it previously?*

Mr NOONAN: *I cannot answer that. The project director reports up to me. I do not know whether the project team has looked into that issue. What I am committing to coming back to you is to tell you whether that is the case—whether we have or not.*

Ms CATE FAEHRMANN: *Not to say whether you will take action but just to say that you will look at it.*

Mr NOONAN: *Both.*

Ms CATE FAEHRMANN: *Thank you.*

The CHAIR: You will take that on notice—thank you very much.

Mr Noonan's response

The lighting design and the noise wall in the yard are defined by a number of factors:

- The Project Planning Approval defines the maximum height of structures (including the noise wall) near the boundary at the rear of the Doncaster properties. The noise wall is compliant with this requirement.
- The height of the poles and lights is determined by a combination of operational issues and Planning Requirements. Operationally the pole height is set by the height of the overhead wires plus support wires, electrical equipment clearances and safety clearances to the light fitting. The project applied and received approval from the Department of Planning and Environment (statutory body for the Planning Approval) to set the pole heights at the levels required by the operational issues.
- The lights themselves are designed in accordance with AS 4282-1997 Control of Obtrusive Effect of Outdoor Lighting. The lights along the Doncaster edge of the yard are located on the noise wall and are set below the top of the wall. Lights on the Overhead Catenary System Poles are set to shine away from the residents. Light levels at the sensitive receivers window are defined in this code and were used in the design and modelling of the lighting.
- Measurement of lighting levels at numerous Doncaster Ave residents was carried out to determine compliance with the Planning Approval. The results showed that the highest light levels at any receiver's window was approximately 2 Lux compared to the Planning Approval limit of 4 Lux.
- To install shields around the lights in the yard is possible but would be an extensive process. There are over 100 light fittings. Whether shields could be installed on each light and be clear of electrical clearance zones and overhead wires would need to be determined by detailed design and sight lines to the multiple lights from multiple residents would result in extensive shields. It would need to be determined whether such shields impacted on operational light levels for the stabling yard operations.
- In addition, any form of shield to extend the noise wall at the boundary may be effective but would need to extend many metres above the existing wall.

AIA has consulted the community about the lights at the Randwick Stabling Yard. We also regularly engage directly with Doncaster Avenue residents on a number of construction-related issues.

ALTRAC consulted on the pole heights above the noise wall at the Community Reference Group meeting in February 2017. A copy of the AIA presentation was sent to Doncaster Ave residents immediately following the CRG meeting. AIA arranged a follow-up meeting with residents to discuss this issue and answer any questions (6 April 2017). The reasons for the change in the height of the poles were explained at that meeting.

ALTRAC received subsequent planning approval for this modification: Approval was received from the Department of Planning and Environment on 11 July 2017.

AIA arranged for lighting designers to provide Doncaster Avenue residents with a technical briefing about lighting levels and technical specifications for lighting in the depot and light

spill. A technical briefing with two subject matter experts was presented to residents at the meeting on 27 September 2017.

Also, residents were taken on a tour through the Randwick Stabling Yard on 25 October 2017 to observe the light poles from inside the depot.

As agreed with the Doncaster Ave residents, lighting engineers have visited the Doncaster Ave residences to test the light levels on two occasions (27 March when first lights were energised, and 14 August 2018 when all lights inside the depot were energised). Levels were tested inside the depot, from the residential backyards and at property facades. The report confirms all testing shows compliance with lighting requirements at the depot. The maximum reading was 2 lux (compliance is below 4 lux).

The lighting report confirms all testing shows compliance with lighting requirements at the depot. The maximum reading was 2 lux (compliance is below 4 lux).

The lighting report has not yet been sent to residents. It is pending further discussion with TfNSW about timing of its release and a follow-up meeting to explain the report and for TfNSW to address other issues of concern.

9. **Question taken on notice:**

The Hon. SHAYNE MALLARD: *Yesterday the Committee heard evidence from Mark Coxon from Alstom. Is that your design and construct partner on the project?*

Mr NOONAN: *Yes, they are a partner in the design and construct joint venture, yes.*

The Hon. SHAYNE MALLARD: *He said there was a potential two-month risk in getting the branch line to the Kingsford operational. He said potentially there is a two-month delay and you said it is delayed until May 2020? Why are there two different dates for the delay?*

Mr NOONAN: *I cannot refer exactly to what he said because I do not have it in front of me and I do not recall it word for word.*

The Hon. SHAYNE MALLARD: *You might like to take that question on notice.*

Mr Noonan's response

I would like to clarify that there are not two different dates. AIA and Alstom, together as the D&C Contractor, issues monthly Delivery Phase Progress Reports (**DPPR**) to ALTRAC.

The D&C Contractor's July 2018 DPPR, which was submitted to ALTRAC on 9 August 2018, notified ALTRAC of a delay to the project's planned completion date, from 27 March 2020 to 29 May 2020. This is still the current forecast for completion for the D&C Contractor that has been officially notified, and which has been confirmed within the D&C Contractor's August 2018 and September 2018 DPPRs.

The reason of the notified delay was a cancellation by Ausgrid on 2 August 2018 of a power outage scheduled in Anzac Parade in Kensington which was required to perform key elements of work of the Light Rail Infrastructure. This power outage had been previously requested by the D&C Contractor on 20 June 2018 and agreed by Ausgrid subsequently.

Following the cancellation of the power outage, and upon request of new dates, the D&C Contractor updated its forecasted completion to reflect the new dates provided by Ausgrid.

10. **Question taken on notice:**

The Hon. SHAYNE MALLARD: *Has Transport for NSW rejected any works programs from your company for failing to mitigate delays?*

Mr NOONAN: *I would have to take that on notice.*

Mr Noonan's response

Transport for New South Wales has, in the past, not accepted updated Delivery Programs on the basis that, in its view, it did not reflect the true status of the works or provide an accurate forecast of the Date for Completion, and that the D&C Contractor was failing to take mitigation measures.

These assertions are rejected by the D&C Contractor. The Date for Completion contained in the Delivery Programs issued on a monthly basis reflects the quickest path to Completion (taking into account the delays that have occurred on the Project outside of the D&C Contractor's control) without the D&C Contractor incurring costs to accelerate the works, which it is contractually not obliged to do unless directed by ALTRAC.