

**PUBLIC ACCOUNTABILITY COMMITTEE
INQUIRY INTO THE IMPACT OF THE CBD AND SOUTH EAST LIGHT RAIL
PROJECT
HEARING – 5 NOVEMBER 2018
RESPONSES TO QUESTIONS TAKEN ON NOTICE**

Question 1	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: You provided them with a draft? They worked through the documents? That was earlier in February.</p> <p>Mr GROSS: —and they were commenting.</p> <p>The Hon. COURTNEY HOUSSOS: Are you able to provide on notice when exactly in February that was provided?</p> <p>Mr GROSS: On notice, we can definitely provide those dates. Yes, we can.</p>
Response	<p>The draft Adjustment Guidelines were first provided to Transport for NSW on 3 February 2015.</p>

Question 2	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: Who in Transport for NSW was it provided to? You can take it on notice.</p> <p>Mr ARMSTRONG: We can take it on notice.</p> <p>Mr GROSS: On notice, yes.</p>
Response	<p>The draft Adjustment Guidelines were provided to Stephen Lewcock of Transport for NSW and Michael Barnfield, also of Transport for NSW, was copied.</p>

Question 3	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: How many versions of the guidelines have been developed?</p> <p>Mr ARMSTRONG: I would need that on notice as well.</p>
Response	<p>As per our Opening Statement, the Adjustment Guidelines were developed by Ausgrid specifically for the CSELR Project in accordance with the requirements set out in the Deed of Adjustment Works to Network Assets between Ausgrid and Transport for NSW dated 5 February 2015 (the “Deed”).</p> <p>As per our response to Question 1, the initial draft of the Adjustment Guidelines was provided to Transport for NSW on 3 February 2015 (Version 1).</p> <p>After Transport for NSW provided their comments on the draft Adjustment Guidelines, Ausgrid provided Transport for NSW with a revised draft of the Adjustment Guidelines on 20 February 2015 (Version 2).</p> <p>After Transport for NSW provided Ausgrid with comments on Version 2, Ausgrid provided Transport for NSW with a further draft of the Adjustment Guidelines on 24 February 2015 (Version 3).</p> <p>Ausgrid provided Transport for NSW and Acciona with a further draft of the Adjustment Guidelines on 27 February 2015 (Version 4).</p> <p>While Ausgrid continued to discuss the Adjustment Guidelines with Transport for NSW and Acciona, the Adjustment Guidelines were ultimately finalised by Ausgrid without further input from Transport for NSW or Acciona.</p> <p>We also note that after Ausgrid provided Version 4 of the Adjustment Guidelines to Acciona on 27 February 2015, Ausgrid requested that Acciona provide feedback or comments.</p> <p>No formal feedback or comment on the Adjustment Guidelines was ever received from Acciona.</p> <p>The final version of the Adjustment Guidelines was provided to Transport for NSW on 1 May 2015 (Version 5).</p>

Question 4	
Hearing Transcript Reference	<p>The Hon. GREG DONNELLY: With respect to these guidelines, when did they commence being developed? When did Ausgrid commence developing the guidelines that hit the deck on 27 February?</p> <p>Mr ARMSTRONG: I will take that on notice.</p>
Response	<p>Ausgrid commenced its internal development of the draft Adjustment Guidelines in October 2014.</p>

Question 5	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: Did any bidder ever ask you a question about the utility treatments?</p> <p>Mr ARMSTRONG: That is a very hard question to answer. We will take that on notice.</p>
Response	<p>There were instances where the Bidders asked Ausgrid questions about the treatment of utilities in the workshops attended by Ausgrid.</p> <p>Questions were usually answered verbally. Where Ausgrid received questions from Bidders in writing, it would provide its answers to Transport for NSW.</p>

Question 6	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: You attended a series of workshops with a number of bidders through the contract process. Did Ausgrid ever provide presentations to those workshops?</p> <p>Mr ARMSTRONG: I will take that on notice. I am not sure I can answer that.</p> <p>The Hon. COURTNEY HOUSSOS: I would be interested to know whether you provided presentations or made any contributions at all to those.</p>
Response	<p>No, Ausgrid never presented at the workshops it attended with the Bidders and Transport for NSW prior to the award of the contract to ALTRAC.</p> <p>As per our response to Question 5, Ausgrid responded to questions asked by the Bidders in these workshops.</p> <p>Once the PPP Contract was awarded to ALTRAC, Ausgrid attended a number of workshops with Transport for NSW and ALTRAC as part of the collaborative process referred to in the Opening Statement.</p>

Question 7	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: You did not, as part of that advice, suggest that they go on an alternate route?</p> <p>Mr ARMSTRONG: To the best of my knowledge—I would like to take that on notice and check.</p> <p>Ms CATE FAEHRMANN: I think it has been reported actually that a couple of Ausgrid employees—seconded to Transport for NSW—may have suggested Castlereagh Street would have been a much better option. Do you recall that?</p> <p>Mr ARMSTRONG: They may well have and that is why I would like to take it on notice.</p> <p>Ms CATE FAEHRMANN: Can you recall that story?</p> <p>Mr ARMSTRONG: They may well have. That is why I would like to go and check that story. From an official perspective, from an executive perspective, they may have done that but certainly we did not say that from an executive perspective.</p>
Response	<p>Ausgrid was not asked to suggest an alternative route and as far as Ausgrid is aware, it did not suggest that Transport for NSW adopt an alternate route for the CSELR Project.</p> <p>Ausgrid also notes that no Ausgrid employees were seconded to Transport for NSW between 2013 and 2016.</p>

Question 8	
Hearing Transcript Reference	<p>The Hon. MATTHEW MASON-COX: When was the deed signed?</p> <p>Mr GROSS: The deed was signed 5 February 2015.</p> <p>The Hon. MATTHEW MASON-COX: It must have been well before then that you made the decision with Transport for NSW to provide adjustment guidelines. Can you clarify what date you came to that decision to provide those guidelines? Perhaps you can take that on notice.</p> <p>Mr GROSS: Could we take that on notice?</p>
Response	Please see our response to Question 4 .

Question 9	
Hearing Transcript Reference	<p>The Hon. MATTHEW MASON-COX: Could you also provide us with a copy of the MOU that was signed with Transport for NSW on 20 February 2014?</p> <p>Mr GROSS: Yes.</p> <p>The Hon. MATTHEW MASON-COX: Take that on notice.</p> <p>Mr GROSS: Yes.</p>
Response	To be provided separately.

Question 10	
Hearing Transcript Reference	<p>The Hon. MATTHEW MASON-COX: Transport for NSW goes on to say that these guidelines were withdrawn on 25 May 2015. Is that your understanding?</p> <p>The CHAIR: Were they ever withdrawn?</p> <p>The Hon. MATTHEW MASON-COX: Were they ever withdrawn?</p> <p>Mr ARMSTRONG: I would take that on notice. But to answer the question, if they had have, it would not have made any difference, because we had a collaborative, iterative process with ALTRAC-Acciona in terms of developing solutions for each of the locations where our pits and ducts were in George Street.</p>
Response	<p>As far as Ausgrid is aware, Ausgrid has no record of withdrawing the Adjustment Guidelines on 25 May 2015, or at any time.</p>

Question 11	
Hearing Transcript Reference	<p>The Hon. MATTHEW MASON-COX: It is important to clarify that. It goes on to say that, "Subsequently ALTRAC made a number of other claims in relation to the treatment of Ausgrid assets under the SLR project deed, and these claims have been accessed by Transport for NSW in accordance with the SLR project deed and are commercial-in-confidence." If you could take this on notice and clarify what those other claims were. It may well be what you have mentioned earlier, the separate track that meant that you had to enlarge the pits.</p> <p>Mr ARMSTRONG: The APS, the electrical underground system that meant that the pit lids could not remain within the tracks, and on that basis—</p> <p>The Hon. MATTHEW MASON-COX: It may well be that, but if you could clarify that, that would be useful so that we ensure we marry up the evidence from different parties.</p> <p>Mr GROSS: Could we have those specific references so that we know where we are going?</p> <p>The Hon. MATTHEW MASON-COX: We will send them to you and ask you to respond specifically to that.</p>
Response	<p>Ausgrid understands that the question relates to claims made by ALTRAC under a deed between ALTRAC and Transport for NSW relating to the CSELR Project (the SLR Project Deed).</p> <p>Ausgrid is not a party to the SLR Project Deed, has not received a complete copy of the SLR Project Deed and is therefore not in a position to comment on claims which may have been made under or in relation to the SLR Project Deed.</p>

Question 12	
Hearing Transcript Reference	<p>The Hon. WES FANG: Of the treatment plans that were submitted to you for approval, how many were rejected?</p> <p>Mr ARMSTRONG: I will take that on notice, but not very many.</p>
Response	<p>Ausgrid confirms that 4 of the 21 treatment plans that were submitted to Ausgrid for approval were rejected by Ausgrid.</p> <p>The process for approval or rejection of the treatment plans by Ausgrid was in accordance with the process set out in the Deed.</p> <p>Subsequent to amendments to the 4 treatment plans that were rejected, all 21 treatment plans were approved by Ausgrid by 21 May 2016.</p>

Question 13	
Hearing Transcript Reference	<p>The Hon. WES FANG: Once you had the treatment plans approved and you then moved to the detailed design work, they needed to be resubmitted. How often were the detailed designs rejected?</p> <p>Mr ARMSTRONG: I have not got the information at hand. We will be happy to come back to you on that, but they needed to comply with the network standards.</p>
Response	<p>Ausgrid confirms that of the 21 detailed design packages for the Adjustment Works that were submitted to Ausgrid for endorsement, 3 were initially rejected by Ausgrid.</p> <p>The process for endorsement or rejection of the detailed design packages by Ausgrid was in accordance with the process set out in the Deed.</p> <p>Subsequent to amendments to the 3 detailed design packages that were rejected, all 21 detailed design packages were progressively endorsed by 29 September 2017 in accordance with Acciona's construction program.</p>

Question 14	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: I am again going to refer to some questions on notice that have been provided and, as we have been informed, they have been published this morning. Because you have not had a chance to read them I will read it out for you. Transport for NSW was asked a specific question: When did Transport for NSW become aware that Ausgrid had new guidelines that were different to those set out in F8, the schedule of the contract? The response from Transport for NSW is "Transport for NSW received the draft document in this form at the same time as Acciona." Who is not telling the truth?</p> <p>Mr GROSS: We need to take it on notice.</p>
Response	<p>As noted in the response to Question 3, Transport for NSW first received a copy of the draft Adjustment Guidelines on 3 February 2015.</p> <p>Ausgrid was provided with Schedule F8 which was attached to the SLR Project Deed between Transport for NSW and ALTRAC on 30 March 2015.</p> <p>They are very different documents which serve different purposes.</p> <p>Schedule F8 is a 142 page document which provides technical information for all utilities which may be impacted by the CSELR Project (including Ausgrid assets). It also includes potential treatment proposals for each of those utilities – subject to development of future treatment plans and collaboration with utility owners.</p> <p>The Adjustment Guidelines are a 19 page concept level document setting out the applicable standards and protocols that are applicable to develop the treatment plans and undertake the necessary “adjustment works” for Ausgrid assets. The Network Standards listed in the guidelines were all publicly available on Ausgrid’s website and the protocols were included to assist with the development of treatment plans.</p>

Question 15	
Hearing Transcript Reference	<p>Mr ARMSTRONG: That is the official kick-off meeting.</p> <p>The Hon. COURTNEY HOUSSOS: Were either of you present at that meeting?</p> <p>Mr GROSS: I was not.</p> <p>Mr ARMSTRONG: I cannot recollect if I was there or not.</p> <p>The Hon. COURTNEY HOUSSOS: Can you provide that on notice?</p> <p>Mr ARMSTRONG: Sure.</p>
Response	<p>The Minutes of the meeting indicate that Trevor Armstrong was present at the official kick-off meeting between Transport for NSW, ALTRAC and Ausgrid on 27 February 2015 (Kick Off Meeting).</p> <p>Richard Gross was not present at this meeting.</p>

Question 16	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: I want to know whether anyone at Ausgrid knew that 27 February 2015 was the financial close of the deal. Both of you said that you were not aware.</p> <p>Mr ARMSTRONG: Correct. Trevor Armstrong was not aware, absolutely. But we will confirm whether any Ausgrid person was aware that that was financial close.</p> <p>Mr GROSS: We should say we will attempt to confirm.</p> <p>Mr ARMSTRONG: Yes, we will attempt to confirm.</p>
Response	<p>Based on our internal enquiries, Ausgrid is not aware of any notification provided to Ausgrid about financial close of the CSELR Project, either formally or informally.</p> <p>We also note that in the questions which Transport for NSW took on notice, Transport for NSW states that “<i>financial close under the SLR Project Deed was achieved on 25 February 2015</i>”.</p> <p>The Adjustment Guidelines were provided to Acciona on 27 February 2015, following the Kick Off Meeting held on the same day.</p>

Question 17	
Hearing Transcript Reference	<p>The Hon. GREG DONNELLY: I am grateful that you are taking us through this. Can I reverse back to 2014 where Ausgrid attended, I think from the testimony of Mr Armstrong, and Transport for NSW were there, two workshops where Acciona was looking at the proposed project? With respect to those two workshops, did Ausgrid make any presentations to Acciona or indeed anyone else that might have been at those workshops? Did you speak to the participants at the workshop?</p> <p>Mr ARMSTRONG: I think that question was asked earlier and I think I took that on notice in terms of presentations. We will come back to you on that.</p> <p>The Hon. GREG DONNELLY: When you do that can you confirm or otherwise that with respect to the presentation—to the extent the presentation did take place—either in front of the people who were present or some follow-up documentation you may have forwarded to them, that you provided them with an explanation of the infrastructure projects hierarchy that you have described to us this morning, namely, starting with the network standards running down to the adjustment guidelines, then the treatment plans and the detailed designs? Because what I would like to know is whether or not with respect to this project that Ausgrid explained to Acciona the nature of that hierarchy and what that hierarchy is.</p>
Response	<p>Please see our response to Question 6.</p> <p>Treatment Rules provided to Bidders by Transport for NSW (a copy of which was provided to Ausgrid on 13 June 2014) include a paragraph which is headed “Ausgrid Network Standards” and which provides that Ausgrid asset modifications are to be designed and constructed to comply with Ausgrid’s Network Standards.</p> <p>As previously mentioned in our response to Question 14, the Network Standards were always available on Ausgrid’s website.</p>

Question 18
Hearing Transcript Reference

Ms CATE FAEHRMANN: What was the scope of the changes, and if you cannot explain this now it would be very good to get this on notice because was it those changes that has led to allegations of gold plating? Were the changes so significant that complying with them was going to cost so much more money by Acciona? Is that the difficulty?

Mr ARMSTRONG: We have a different view. As I said earlier the pit sizes through the project—

Ms CATE FAEHRMANN: What are the changes in the network standards?

Mr ARMSTRONG: The pit size reduced in size. Our standard when the project started was larger than what it is today. We reduced the pit size.

Ms CATE FAEHRMANN: Other than pit size?

Mr ARMSTRONG: We also allowed in the pit a reduction of head height. Again, a reduction in the size of pit.

Ms CATE FAEHRMANN: Anything else that makes it more expensive, more difficult to comply that would lead to allegations of gold plating?

Mr ARMSTRONG: Happy to take it on notice but from our perspective, no.

Ms CATE FAEHRMANN: Nothing else. You have talked about the height, you have talked about the width; is there anything else in the network standards?

Mr GROSS: In our view there was not material changes to the standards but we will take it on notice and come back with what are the specific changes. But most of those changes, as Mr Armstrong was alluding to, were changes to accommodate the project and make it work and hit its timetable.

Ms CATE FAEHRMANN: So, nothing you can see that would make it more expensive for Acciona, the changes in the network standard?

Mr ARMSTRONG: No.

Mr GROSS: No. But, we will come back, we will take it on notice, but we do not think there is.

Response

The Network Standards are live documents and are reviewed and amended from time to time, as required or initiated by Ausgrid or relevant stakeholders.

Despite this, Ausgrid can confirm that the Network Standards were not materially changed between 2013 and 2016.

Ausgrid have reviewed the standard for pits (being NS172) from 2012 to 2015 and the standard for conduits (being NS130) from 2013 to 2015 and is of the view that no changes have been made to those standards which would have increased costs to ALTRAC or made the standard more difficult to comply with.

When Acciona submitted their detailed designs, they submitted compliance tables related to NS130 and NS172.

There have been occasions where Ausgrid has provided dispensations from the Network Standards to benefit ALTRAC.

Relevant stakeholders can request a dispensation from the Network Standards where that stakeholder is unable to comply with all of the requirements in the Network Standards.

When a dispensation is requested, the issue is duly considered by Ausgrid on a case by case basis, and is approved only where it is appropriate and / or possible to do so. In some cases the applicable Network Standard has subsequently been updated by Ausgrid to capture future customer benefit.

	<p>This applies to Cardno. Where Cardno has an issue with a Network Standard, it may request a dispensation from that Network Standard.</p> <p>Ausgrid has agreed to numerous dispensations to the Network Standards in its efforts to assist the CSELR Project, provided that the reliability and the safety of the Ausgrid network would not be eroded as a result.</p> <p>For example, Ausgrid has provided Cardno with dispensations from the Network Standards to reduce the head height of Ausgrid pits from 2 metres to 1.5 metres, and to include a step in the floor so that Acciona did not have to demolish or relocate the heritage ovi-form sewer that runs down George Street.</p>
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Question 19	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: I have one more question. Mr Armstrong, you talked about a collaborative approach. In December 2014, ALTRAC and Acciona were announced as the successful tenderers. They were going to build the light rail. You met four times in February to develop these guidelines in a collaborative way and they were not part of the process. Did anyone from Ausgrid ever ask why they were not present? I am happy for you to take that on notice.</p> <p>Mr GROSS: Yes, I think it is wise we do.</p>
Response	<p>The Adjustment Guidelines reflect the fundamental and overarching requirement that any works undertaken which may affect an Ausgrid network asset must meet Ausgrid's Network Standards (including the Network Standard for obtaining dispensation from a Network Standard). As per our response to Question 14, Ausgrid's Network Standards, which form part of 'Ausgrid's Requirements' under the Deed were always available on Ausgrid's website during all relevant times.</p>

Question 20	
Hearing Transcript Reference	<p>The Hon. COURTNEY HOUSSOS: What changed between 23 February and 27 February? If you were not aware that it was the financial close, why was it that on 27 February you decided to "cc" them in on the email, but it did not happen on 23 February?</p> <p>Mr GROSS: We need to take that on notice, but it could have been that they were just finalising the guidelines.</p> <p>Mr ARMSTRONG: Yes.</p>
Response	<p>Please see our response to Question 16.</p> <p>Please note that the Adjustment Guidelines were provided to Acciona directly (i.e. they were not copied on the email).</p>

Definitions

ALTRAC	means the ALTRAC Light Rail consortium. Prior to October 2014, ALTRAC were known as CSC.
Adjustment Guidelines	means the guidelines to be prepared by Ausgrid pursuant to the Deed.
Adjustment Works	means the protection, relocation, replacement or modification of network assets including the modification of existing means of accessing network assets or the creation of new access ways or new network assets, which will or may be affected or required by the works undertaken by or on behalf of Transport for NSW in connection with the CSELR Project.
Bidders	means the consortia short listed for the CSELR Project.
Cardno	means Cardno (NSW/ACT) Pty Limited.
CSC	means Connecting Sydney Consortium. CSC consisted of Acciona Infrastructure Australia Pty Limited, Transdev Sydney Pty Ltd, Alstom Transport Australia Pty Limited and Capella Capital Pty Limited. CSC changed its name to ALTRAC when it became the preferred Bidder in October 2014.
CSELR Project	means CBD and Sydney East Light Rail Project.
Deed	means the Deed for Adjustment Works to Network Assets between Transport for NSW and Ausgrid dated 5 February 2015.
Kick Off Meeting	means 'Sydney Light Rail and ALTRAC Light Rail Partnership and Ausgrid Kick Off Meeting' held on 27 February 2015
MoU	means the Memorandum of Understanding between Ausgrid and Transport for NSW dated 20 February 2014.
PPP Contract	means the contract in relation to the CSELR Project entered into between Transport for NSW and ALTRAC.
Proposal Period	means the period in which the parties will or have engaged in the activities described in clause 5.2 of the Deed until the date of execution of the PPP Contract.
Treatment Guidelines	means the Transport for NSW treatment guidelines for Ausgrid assets which were issued to Bidders as part of the tender process and which were not endorsed by Ausgrid.
Treatment Rules	means the Transport for NSW treatment rules for Ausgrid assets which were issued to Bidders as part of the tender process and which were not endorsed by Ausgrid.
Treatment Plans	means the Treatment Plans for Ausgrid assets which Transport for NSW was required to procure that ALTRAC develop which meet Ausgrid's requirements pursuant to the Deed.