

## ANSWERS TO SUPPLEMENTARY QUESTIONS

Questions for Willoughby Environmental Protection Association

**1. You said in one of your answers that the Preferred Infrastructure Report that has been requested by DPIE should be exhibited. Can you explain in more detail why this is important, whether the matters requested to be addressed in the PIR are sufficient to address shortcomings in the EIS and, if not, what other matters should be addressed?**

### ANSWER:

By letter dated 14 May 2021 DPIE requested “further assessment and, in accordance with Section 5.17(6)(b) of the *Environmental Protection and Assessment Act 1979*, the preparation of a Preferred Infrastructure Report (PIR), in addition to a Response to Submissions Report, that further:

- a) assesses alternative locations, social and environmental impacts of the proposed construction ancillary facility located at Flat Rock Drive (BL2) and assesses the construction impacts to recreational users of Spit West Reserve (BL9)”

Firstly, it is not clear whether all alternative locations for the construction site currently proposed to be sited at Flat Rock Drive are to be considered or only the only other alternative that was considered as part of the EIS process, namely the baseball diamond site in Bicentennial Reserve, on the other side of Flat Rock Drive to the current proposed site.

Secondly, even if it is intended that all alternative locations be considered, this is only one of the matters that should be required to be addressed by the PIR. Other matters which should be addressed include:

- a. whether environmental risks can be reduced by building caverns to store spoil underground
- b. the impact of COVID 19 on traffic volumes
- c. public transport alternatives which take into account travel patterns relevant to the Northern Beaches LGA rather than travel patterns for Greater Sydney

Thirdly, the letter doesn't recognise that potential contaminants haven't been identified in the EIS, let alone tested for. Principally the potential contaminants which haven't been identified in relation to Flat Rock Gully are Chromium VI, PFAS chemicals, and dioxins. The first two are likely to have been generated by chrome plating likely to have taken place at the former Hallstrom refrigerator factory, which fails to be mentioned in the EIS despite it being mentioned in the local history used as a source in the EIS, as mentioned in WEPA's submission. Dioxins were likely generated by burning of waste, of which there is ample photographic evidence in sources such as Willoughby Council's collection of historic photos.

Fourthly, although soil samples are mentioned as having been taken at Flat Rock Gully, none of those samples appears to have been analysed.

Fifthly, Willoughby Council has made a notification under section 60 of the *Contaminated Land Management Act*.

In light of the third to fifth matters, all of which have been raised in WEPA's submission to the EIS with the exception of the likely presence of dioxins, the PIR should be required to take these and other potential contaminants into account and do an assessment of their presence and concentrations.

It is important that any PIR be publicly exhibited as it is submissions such as WEPA's, pointing out weaknesses in the EIS, that have revealed the need for the PIR in the first place. It is therefore only appropriate that the PIR be exhibited so that organisations such as WEPA and interested members of the public are given the opportunity to assess whether the PIR has properly addressed the shortcomings in the EIS.

**2. You suggested in your opening statement that alternative alignments for the Western Harbour Tunnel have not been given serious consideration because of the need for the surface to connect with the Beaches Link Tunnel. Can you elaborate on this?**

**ANSWER:**

The Beaches Link Tunnel and Western Harbour Tunnel were originally part of the one project. Once the alignment for the Beaches Link Tunnel had been determined alternative alignments for the Western Harbour Tunnel became limited.

**3. You have said in your opening statement that the impact of the B-line has not been taken into account as part of the planning process. What is your evidence for this?**

**ANSWER:**

The evidence is contained in response to GIPA request ref 20T-0140, dated 31 January 2020 in which the following appears:

"I have been informed by the Greater Sydney (GS) division that travel time data has been collected for all vehicles using the B-line corridor, however analysis of the raw data has not yet been completed, and therefore, no comparison of journey times or data to link congestion with the operation of the B-line bus services has been undertaken to date."

I believe that this GIPA decision was part of our submission to the Inquiry. If not I will supply it separately.

**4. What are your concerns about TfNSW not mentioning the Hallstrom refrigerator factory in the EIS in relation to Flat Rock Gully?**

**ANSWER:**

This is mentioned in answer to Question 1 in terms of impact i.e. failure to identify Chromium VI and PFAS chemicals as potential contaminants, but the failure to mention the factory when it is mentioned at length, and indexed, in the local history used as a source for the contamination section of the EIS, raises concerns that the author of the report knowingly ignored it because of the seriousness of the chemicals which, as an expert he or she would have been well aware of, and the implications for the project if those chemicals were identified.

In this regard, it is relevant to note that the author of the report (Jacobs) is a partner in the Sydney Program Alliance which is building the preliminary works for the Western Harbour Tunnel.

**5. Can you expand on your concerns about TfNSW allowing the commencing of work at a stage where testing has been done and the report is being "peer reviewed"?**

**ANSWER:**

This concern relates to the commencement of work at various preliminary work sites for the Western Harbour Tunnel/Warringah Freeway Upgrade.

The Conditions of Approval, on our interpretation of them, require an independent EPA accredited auditor to review the Detailed Site Inspection report (DSI), where there is disturbance and contamination is “complex”. From the photos we’ve seen of the work at Cammeray Golf Course it is clear that there has been disturbance. The most recent version of the DSI for Cammeray Golf Course also makes it clear that the site contains heterogenous fill which necessarily makes the contamination “complex”. Therefore, an independent EPA accredited auditor should have been required to review the report to assess whether it met the requirements set out under the *Contaminated Land Management Act* in relation to such a report, which the Conditions of Approval specifies as needing to be complied with in this respect.

WEPA did have the Cammeray Golf Course DSI reviewed by a retired EPA accredited auditor, Dr Bill Ryall, who found it inadequate in important respects as described in my answer to a question on notice.

The failure of the DPIE and TfNSW to have the DSI reviewed and approved by an EPA accredited auditor before work commenced seems to have allowed work to commence where there has been no adequate assessment of contamination risks. This is a matter of great concern.

**6. Can you expand on TfNSW not committing to testing for PFAS both generally, given that you state that the site was a major regional uncontrolled dump site, and specifically, that chrome plating probably took place at the refrigerator factory?**

**ANSWER:**

The failure to test for the presence of PFAS chemicals, a potential contaminant both because of the chrome plating likely to have taken place at the Hallstrom refrigerator factory and because of the site being a major regional uncontrolled dump site poses major environmental, health and cost risks for the project. Environmental risks because if PFAS isn’t tested for but is present the risks to the environment and human health are extreme. Cost risks because PFAS can be very costly to manage as demonstrated by the experience of the WestGate project in Melbourne - <https://www.theage.com.au/national/victoria/calls-for-contaminated-west-gate-tunnel-soil-to-be-treated-rather-than-dumped-in-landfill-20210625-p584a2.html>

The Stage 1 contamination assessment, done at the EIS stage to identify potential contaminants determines what will be tested for as part of the Stage 2 assessment which requires the preparation of a Detailed Site Inspection report where a site was identified in the EIS as being at high to moderate risk of being contaminated. In other words, the Stage 1 assessment determines what will be tested for after the project is approved and also whether a DSI will be prepared.

WEPA has argued in its submission that both Stage 1 and Stage 2 assessments should be done prior to major infrastructure projects being approved as part of a proper assessment of benefit/cost.

Even if that argument isn’t accepted, at a minimum, Stage 1 assessments should be carried out by persons who are independent rather than, as here, by organisations such as Jacobs who stand to benefit from a project proceeding and have an interest in downplaying potential risks. Such risks have been more than downplayed in relation to Flat Rock Gully, they have not even been identified and arguably, deliberately ignored.

**7. Can you expand on your concerns about the Northside Storage Tunnel not being assessed as part of the project?**

**ANSWER:**

This is not a subject which WEPA has referred to in its submission but WEPA is aware that the NSTunnel is a major piece of infrastructure operated by Sydney Water the route for which includes Tunks Park. WEPA doesn't have the information to answer this question further.

**a. What are the potential conflicts with this tunnel?**

WEPA isn't in a position to answer.

**8. Can you explain the drawdown impacts to Flat Rock Gully and the surrounding area?**

**ANSWER:**

WEPA has made some mention of this in its submission and is unable to offer more detail than what is contained there. In summary, however, tunnels can lower the water table and threaten vegetation dependent on it and this threat is only increased by the predicted impact of climate change leading to higher temperatures.

**9. What are your Climate and Sustainability Concerns around the project overall?**

**ANSWER:**

In its submissions, answers to questions, and these answers to supplementary questions, WEPA has raised many concerns in relation to environmental damage, risks to public health and to heritage and won't repeat those concerns in answer to this question.

But in relation to climate and sustainability specifically there is no escaping the simple fact that a motorway will encourage greater car usage with greater greenhouse emissions than an alternative public transport project would, for what independent traffic analysis suggests will be marginal and short-term relief.



31 January 2020

Our ref: 20T-0140

Ms [REDACTED]

By email: [REDACTED]

Dear Ms Gold,

**Notice of decision on your access application under the Government Information (Public Access) Act 2009 (GIPA Act)**

**Applicant:** [REDACTED]  
**File reference:** 20T-0140  
**Decision maker:** [REDACTED]  
**Received date:** 6 December 2018  
**Due date:** 17 January 2020  
**Extended due date:** 3 February 2020  
**Date of decision:** 31 January 2020

**1 Your access application**

1.1 On 6 December 2018 Transport for NSW (TfNSW) received your access application under the GIPA Act for the following information:

Full	1. Information regarding the impact the B-line bus service has had on congestion along its route over the past 24 months.	1-2
Full	2. Information regarding journey times from Brookvale to Sydney CBD using the B-line over the past 24 months.	
Full	3. Information regarding changes in numbers of passengers carried during the morning and afternoon peaks to and from Sydney CBD using the B-line over the past 24 months.	
Full	4. Information regarding the type, volume, origin, destination, and time of freight traffic entering and leaving the Northern Beaches LGA over the past 24 months.'	

1.2 On 16 January 2020, we informed you that we were required to consult third parties in relation to your application. In accordance with section 57(2) of the GIPA Act, the timeframe for deciding your application was extended to 3 February 2020.

1.3 In your access application you indicated a preference for receiving correspondence by email at [REDACTED]

## 2 Searches for information

2.1 Under the GIPA Act, we must conduct reasonable searches to locate the government information for which you have applied.

2.2 The following areas of TfNSW have conducted searches:

- Customer Strategy and Technology (CST)
  - Public Affairs and Engagement
  - Transport Performance and Analytics
- Greater Sydney (GS)
  - Services
  - North West Precinct
  - Easing Sydney's Congestion Program Office
- Infrastructure and Place (IP)
  - Precincts & Infrastructure

2.3 CST, GS and IP were requested to conduct searches as they were identified as areas of TfNSW which would likely hold the information relevant to your application.

2.4 Information has been identified by CST and GS as falling within the scope of your application.

## 3 Decision

3.1 I am authorised by the Principal Officer, for the purposes of section 9(3) of the GIPA Act, to decide your access application.

3.2 I have decided:

- to provide access to the information under section 58(1)(a);
- that the information is not held under section 58(1)(b).

3.3 Please see below a summary of my decision:

Page Ref.	Information	Act Ref.	Access
1-2	<b>Item 2:</b> 19 months of average actual journey times <i>New record of information created under section 75 of the GIPA Act.</i>	s58(1)(a) s75	Full
3	<b>Item 3:</b> Changes in numbers of passengers carried during morning and afternoon peak times to/from Sydney CBD using the B-Line over the past 24 months. <i>New record of information created under section 75 of the GIPA Act.</i>	s58(1)(a) s75	Full
4	<b>Item 4:</b> Austroads Vehicle Classification	s58(1)(a)	Full

5-156	<p><b>Item 4:</b> Classified Vehicle Counts (Volumes) for various sites located within Northern Beaches LGA:</p> <ul style="list-style-type: none"> <li>• RNP54-A01 Auto Class Report</li> <li>• RNP54-A02 Auto Class Report</li> <li>• RNP54-A03 Auto Class Report</li> <li>• RNP54-A04 Auto Class Report</li> <li>• RNP54-A05 Auto Class Report</li> <li>• RNP54-A06 Auto Class Report</li> <li>• RNP54-A07 Auto Class Report</li> <li>• RNP54-A08 Auto Class Report</li> </ul>	s58(1)(a)	Full
157-270	<p><b>Item 4:</b> Classified Vehicle Counts (Volumes) for various sites located within Northern Beaches LGA:</p> <ul style="list-style-type: none"> <li>• RNP59-A01 Auto Class Report</li> <li>• RNP59-A02 Auto Class Report</li> <li>• RNP59-A03 Auto Class Report</li> <li>• RNP59-A04 Auto Class Report</li> <li>• RNP59-A05 Auto Class Report</li> <li>• RNP59-A06 Auto Class Report</li> </ul>	s58(1)(a)	Full
N/A	<p><b>Item 4:</b> Road Network Plan Reports</p> <ul style="list-style-type: none"> <li>• N4218 RNP 21 Studies ATC Report - Updated Version</li> <li>• N4218 RNP 40 Studies ATC Report - Updated Version 270818</li> </ul>	s58(1)(a)	Full

- 3.4 The B-Line is part of a tailored transport solution making it simpler and more reliable to travel around the Northern Beaches and Lower North Shore, as well as to-and-from the Sydney CBD. To help traffic flow more easily and make bus services more reliable, work is being carried out to ease congestion on roads along the B-Line route such as creating new bus bays to help keep buses and traffic moving, tidal flow systems and extended turning lanes to maximise traffic flow in the peak direction.
- 3.5 This work is due for completion early 2020 when all of the parts of the B-Line come together. Reliability and time saving benefits, which will be progressively monitored and quantified, will be realised for the Northern Beaches and Lower North Shore once the full program of work has been completed.
- 3.6 In respect of **item 1** of your application, I have been informed by the Greater Sydney (GS) division that travel time data has been collected for all vehicles using the B-Line corridor, however analysis of the raw data has not yet been completed, and therefore, no comparison of journey times or data to link congestion with the operation of the B-line bus services has been undertaken to date. Based on this information and the searches that have been conducted in TfNSW, I have decided that this information is not held by TfNSW.
- 3.7 In response to **items 2 and 3** of your application, new records of information under section 75 of the GIPA Act have been created. I have decided to release this information to you in full.
- 3.8 In response to **item 4** of your application, information was provided by the GS division. The information provided concerns the type, volume, and time of freight traffic entering and leaving the Northern Beaches local government area (LGA). As there is no current method of analysis that allows TfNSW to determine the 'origin' and 'destination' of such vehicles, I have decided that no information is held by TfNSW responding to that particular aspect of item 4 of your request.

## **4 Reasons for Decision**

4.1 Under section 9(1) of the GIPA Act, you have a legally enforceable right to access the information you asked for, unless there is an overriding public interest against its disclosure.

4.2 Under section 5 of the GIPA Act, there is a presumption in favour of disclosing government information unless there is an overriding public interest against its disclosure.

### **Public interest test**

4.3 To decide whether or not there is an overriding public interest against disclosure of contained in the records identified in the Table at part 3.3 above, I applied the public interest test, which is set out in section 13 of the GIPA Act.

4.4 I applied the public interest test by:

- a. identifying any public interest considerations in favour of disclosure;
- b. identifying any relevant public interest considerations against disclosure;
- c. attributing weight to each consideration for and against disclosure; and
- d. deciding where the balance between them lies.

### **Public interest considerations in favour of disclosure**

4.5 Under section 12(1) of the GIPA Act, there is a general public interest in favour of disclosing government information. Section 12(2) of the GIPA Act sets out some examples of other public interest considerations in favour of disclosure. However, I am not limited to those considerations in deciding your application.

4.6 I find the following considerations in favour of disclosure are relevant to your application:

- Disclosure of the information could reasonably be expected to promote open discussion of public affairs, enhance Government accountability or contribute to positive and informed debate on issues of public importance.

### **Consultation**

4.7 The information you requested includes business information of a third party. Under section 54 of the GIPA Act, I was therefore required to consult with that entity before releasing the information.

4.8 There were no objections to the release of the information.

### **Public interest considerations against disclosure**

4.9 When applying the public interest test, the only public interest considerations against disclosure that I can take into account are those set out in the table to section 14 of the GIPA Act.

4.10 I have not identified any considerations against disclosure as being relevant to your application.

### **Balancing the public interest considerations**

4.11 I have considered the relevant public interest considerations in favour of and against disclosure of the information that you have requested.

4.12 Having weighed up the considerations, I have decided that there is no overriding public interest against disclosure of the information.

## **5 Access**

### **Form of access**

5.1 You will be provided with a copy of the information that has been identified for release.



## **6 Processing Charges**

- 6.1 Under section 64 of the GIPA Act, we may require you to pay processing charges, at a rate of \$30 per hour, for the time spent dealing with your access application. The application fee of \$30 counts as payment of one hour of the processing charges.
- 6.2 I have decided not to impose any additional processing charges for dealing with your application.

## **7 Disclosure Log**

- 7.1 If information that would be of interest to other members of the public is released in response to a formal access application, an agency must record certain details about the application in its 'disclosure log' (under sections 25 and 26 of the GIPA Act).
- 7.2 In the letter acknowledging receipt of your application, you were told about the disclosure log. You were also advised of your right to object to the inclusion of details about your access application in the disclosure log.
- 7.3 I note that you have not objected to such disclosure.
- 7.4 I have decided to include details about your access application in the disclosure log.

## **8 Review rights**

- 8.1 If you disagree with my decision, you may apply for this decision to be reviewed by seeking:
- an internal review by another officer of TfNSW, who is no less senior than me;
  - an external review by the NSW Information Commissioner; or
  - an external review by the NSW Civil and Administrative Tribunal (NCAT).
- 8.2 You have 20 working days from the date of this letter to apply for an internal review and 40 working days to apply for an external review by the NSW Information Commissioner or the NCAT.

## **9 Further information**

- 9.1 For your information and assistance, I have enclosed a fact sheet explaining your rights to have my decision reviewed.
- 9.2 Please do not hesitate to contact [redacted] by phone on [redacted] if you have any questions about this letter.

Yours sincerely,



Manager, Information Access