

REPORT OF PROCEEDINGS BEFORE

**JOINT SELECT COMMITTEE ON THE CROSS CITY
TUNNEL**

INQUIRY INTO THE CROSS CITY TUNNEL

At Sydney on Friday 3 February 2006

The Committee met at 9.00 a.m.

PRESENT

Reverend the Hon. Fred Nile (Chair)

Legislative Council

The Hon. A. R. Fazio
The Hon. G. S. Pearce
Ms L. Rhiannon
The Hon. Dr A. Chesterfield-Evans

Legislative Assembly

Mr M. J. Brown
Mr A. J. Constance
Mr P. E. McLeay

CORRECTED TRANSCRIPT

CHAIR: Welcome to the sixth public hearing of the Joint Select Committee on the Cross City Tunnel inquiry. At the hearing on Wednesday 1 February I made detailed statements in relation to commercial in confidence issues and the sub judice convention. I do not propose to repeat those words at today's hearing. Copies of those comments are available on the table near the entrance to this room if you wish to be reminded.

The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing broadcasting of proceedings are available from the table at the door.

In accordance with the Legislative Council guidelines for the broadcast of proceedings, a member of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, the media must take responsibility for what they publish or what interpretation is placed on anything that is said before the Committee.

Witnesses, members and their staff are advised that any messages should be delivered through the attendants on duty or the Committee clerks. I advise that under the standing orders of the Legislative Council, any documents presented to the Committee that have not yet been tabled in Parliament may not, except with the permission of the Committee, be disclosed or published by any member of such Committee or by any other person.

The Committee prefers to conduct its hearings in public. However, the Committee may decide to hear certain evidence in private if there is a need to do so. If such a case arises, I will ask the public and the media to leave the room for a short period.

We are aware that people hold strong and diverging views concerning the cross-city tunnel. I wish to emphasise that although this is a public hearing it is not an open forum for comment from the floor. Only questions from the Committee and the evidence of the witnesses are recorded in the transcript; uninvited interruptions are not recorded and may make it more difficult for witnesses to express their views fully. Finally, would everyone please turn off their mobile phones for the duration of the hearing and not switch them on at any point during the hearing because it affects the equipment in this room.

CRAIG JOHN KNOWLES, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee?

Mr KNOWLES: I was invited here as the former Minister for Infrastructure, Planning and Natural Resources.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Mr KNOWLES: I am.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee please indicate that fact and the Committee will consider your request. Would you like to start by making a short statement?

Mr KNOWLES: I would. Thank you, Mr Chairman. It is a brief statement. First of all, thank you for the opportunity. By way of general introduction, I note in the *Hansard* record of the Internet of this inquiry that evidence has been given already by a number of witnesses about the financial and environmental assessment procedures that led up to, and occurred during, the consideration of the cross-city tunnel. Whilst I was not the consent authority in either of the first or second EISs, including the supplementary EISs, for the cross-city tunnel and, therefore, had no involvement in the environmental assessment or consequent approvals for the cross-city tunnel, it is clear to me, based on other similar projects and the evidence given, that the procedures adopted for the environmental assessment for the cross-city tunnel generally were the same as other similar road projects and other

CORRECTED TRANSCRIPT

part 5 matters under the EP and A Act: that is, simply, that it is my view, based on the evidence given, that the environmental assessment was carried out in accordance with the provisions of the EP and A Act.

In fact, it would seem to me, based on Mr Forward's evidence, and, indeed, the evidence of countless others before this inquiry, that the RTA attempted to go beyond what was the strict necessary statutory requirements in order to extend the range of consultations and exhibitions regarding this proposal. There are one or two things, which, I think, are equally apparent, which I would like to put on the record. First, based on the evidence given, at the time this project was proposed and, indeed, throughout the assessment process and the assessment period there was considerable support for a transport solution that would remove the motor vehicles from the CBD, seek to improve urban amenity, and increase opportunity for public transport use and efficiency. The long tunnel option, as I think it is commonly known, was widely supported as being capable of achieving those results. I note that there has been a lot of evidence, which I do not propose to canvass again, by the Premier and others giving detailed accounts of the various media coverage, the consultations, et cetera, in that regard.

The second point is an important one, and it was made, I think, by both Mr Forward and others, but principally by Mr Forward in his evidence as I have read it, that unless what I will call the freed-up new capacity of CBD road space was quickly reinforced for public transport use then it would be inevitable that private motor vehicles quickly would fill it up again and you would end up causing more congestion, not less and, of course, go counter to the principal objective of the tunnel proposal. That, based on the evidence given here, clearly has been the experience in previous projects. The third point is an obvious one, but worth making, and that is in that making such changes there always will be controversy. The truth really is, only time will tell whether there is a net public benefit or not. Based on the evidence—I do not propose to put myself forward here as an expert, but based on the evidence by those who do—the time needed to test this project properly is somewhere between 18 months to 2½ years. But even then at the different rates of ramp-up, as the experts seem to call them, which are experienced historically on other road project will create a risk profile, which the Government has made clear should not be a risk borne by the taxpayer.

As Nick Greiner said in his evidence very recently, and I quote Greiner from page 41 of the transcript, "Whatever happens, the private sector has taken the patronage of risk so the public has a piece of infrastructure and whether it is used sufficiently or not, that risk is taken by the providers of the equity and, indeed, by the providers of the debt." That clearly is also the Government policy position. I think it is incumbent on this inquiry, if I may, to suggest to you that if you believe it should be different to that principal then you should say so explicitly in your final report. My personal view is that this project inevitably will be of considerable future value in continuing to ensure that the Sydney CBD remains a viable, functioning employment and business hub that it has worked very hard to become—Australia's only true global city. Keeping it that way is essential for the economy of this nation.

Like the Eastern Distributor before it and, indeed, other toll projects, the cross-city tunnel is controversial. It has disrupted local traffic patterns. It has created opportunities to score political points, and I would just suggest, particularly in light of some of today's media that I am hearing on the radio coming in, inevitably there will be ongoing changes as the numbers change and as the people who are in charge of these things are learning more about how the network will work more efficiently with a major new piece of infrastructure in the centre of our city. Nonetheless, it is equally undeniable that the removal of somewhere between 20,000 to 30,000 vehicles a day from the CBD reduces congestion from city streets already, that there is a consequent liberation of much-needed road space that can and should be dedicated for public transport use and there is now a real opportunity to improve places and spaces around the city, and they are all in the public interest.

Finally, if I might say, because I know it will be an issue here—it has been, from what I have been reading—with regard to the issue of the ventilation stacks and the allegations of leaked documents, I wanted to just say this, if I may. There was an issue about the final location of the stack, which was clearly anticipated in the conditions of consent issued by Andrew Refshauge, as Minister. As I read it, in very simple terms, or to paraphrase condition 248 of the consent of the approval, there was a requirement for consultation between the parties about the possible alternative locations of the stack from its planned location to within a proposed to-be-constructed building. Consultations and

CORRECTED TRANSCRIPT

meetings obviously took place in compliance with that condition, and the stack was built eventually as a stand-alone structure at the planned location.

I have read Mr Haddad's transcripts off the Internet to this inquiry, Director General of the Department of Planning. Mr Haddad's evidence covers, in my view, the issue adequately, and I would endorse his remarks as my best recollection of those events, other than to add that I am also unaware, and not aware, of any leaked documents. However, as this issue has now been referred to the ICAC, as I understand, as always, and based on considerable experience with that organisation, I respect and defer to their role. I am confident, of course, of their ability to deal with the allegations of leaked documents, and propose to say no more about that part of that issue here.

CHAIR: As a planning Minister for a significant portion of the past decade, what are your observations on the benefits and costs of private sector involvement in the provision of major infrastructure?

Mr KNOWLES: Every major infrastructure project and whether or not the private sector should or should not be involved in it should always be tested individually and on its merits. There is no one-size-fits-all consideration here, in my view. Sometimes it is best for the private sector to be involved; at other times it is not appropriate. It depends on the circumstances—not just the financial considerations but the social and other considerations that may flow from any given proposal or infrastructure project. In the case of toll roads or road infrastructure, the principle of user pays has been applied for some considerable time—decades, I would suggest, internationally—and it is correct, in my view, to afford Nick Greiner the status as the Premier leading a government that introduced user pays into this State, principally initially through water board charges but very quickly rolled into other forms of infrastructure such as tollways.

They can be spectacularly successful, but equally they can be spectacularly disastrous. The airport rail link of course is the case in point that everyone likes to trumpet. That was a failure for a variety of reasons, and it comes down in part, with the great benefit of hindsight that everybody is able to afford these projects, to in many ways, in simple terms, the apportionment of risk. Nick Greiner spent a considerable amount of time in his testimony to this Committee talking about where risks should fall, as have other officials of the Government, Treasury and RTA. I would commend those sections of these transcripts to you because they should go to some of your recommendations with respect to how you may report. The apportionment of risk is an essential part of the relationship between government agencies and the private sector when these various negotiating teams work on any given project.

If you apportion the risk wrongly you find all roads lead back to the taxpayer; if you get it right you are providing much-needed infrastructure, as Greiner says, usually well in advance of the ability of the Government to provide it off a debt-funding type model—his estimate is somewhere between 15 and 20 years earlier; I do not know whether that is accurate; that is his assertion. Of course you also create an environment that stimulates a great deal of diversity in your economy, as opposed to a monotone economy stimulating jobs and investment in roads. If Sydney and Australia aspire, in my view, to be the global centre of this nation, then those sorts of interrelationships have to be reinforced and not tramelled or sullied by ill-informed content of commentary. My strong view is that there is a place for private sector participation in the provision of infrastructure of public services.

The weight of effort, in my view, as we learn project by project how to continue to improve these things, is to make sure that the risk equation is properly addressed and continually honed to protect the taxpayer. I think in the cross-city tunnel case, from everything I have been able to glean largely through the evidence given to this Committee, that as Greiner says if this does not work it will not be the taxpayer picking up the tab, it will be the shareholders. But again I stress: I think, based on the evidence given to you, it is still a little early to be calling it as a success or a failure.

CHAIR: Whose role do you believe it is to strategically plan for the transport and infrastructure planning needs of the State?

Mr KNOWLES: I think it is the communities entirely, led by their governments and by some of the key groups that make up the strategic planning community. This cannot be done in isolation. Have a look at what is happening with the cross-city tunnel. Where is the public interest test

CORRECTED TRANSCRIPT

here? What should be the weighting of the concerns legitimate of parochial community interests versus the need to underscore the viability of a great city such as Sydney in the national interest? Unless you have a dialogue that envelops all of those views, it is always a difficult proposition to get the best result. Ultimately, strategic planning should, in my view, rest with the lead agencies but always bringing in the external knowledge of those organisations that make up, if you like, the family of strategic planning institutions, the academic institutions, all of those sorts of organisations. Frankly, that is pretty much as it happens now. There is no seamless black and white process where you can go and open a cupboard in somebody's office and find the plan. The plan is an iterative process. It will change. It will change as the dynamics and demographics of our city change, and so it should.

CHAIR: Do you agree with Dr David Richmond and his review that the no-cost-to-government policy objective resulted in less emphasis on other policy objectives in the case of the cross-city tunnel?

Mr KNOWLES: That is often a criticism levelled by people who have the luxury of not having to make the final decision. I hasten to add that I have an enormous amount of respect for David Richmond; I regard him as a professional colleague and somebody who has done enormously great things for this State, especially his management of the Olympic Games for Australia. Nonetheless, sit around a budget table where you are being squeezed by the Commonwealth Government at every turn and in every portfolio, sit around a budget table where the list of requisitions on the budget are seemingly infinite, sit around a budget table knowing that you have finite resources, and sit around a budget table following a High Court decision that has removed about half of your revenue streams from tobacco and petrol franchises and restricted you pretty much solely to property tax and gambling taxes, and the constraints become real. And in a real world you have to put some rules on Ministers who are spendthrift, who by proper desire want to have more for their portfolios and in the end you have to look at alternatives.

As a member who represented a Western Sydney seat for the last 15 years, I was always scabbling for my fair share. Every local member does. If you are the Treasurer faced with all of that, I do not care which government or political party is in power. Unless you believe in fairies at the bottom of the garden you have to have some pretty tight fiscal rules around the management of your budgets, and a no-cost-to-government proposition in an environment where you are proposing a discreet form of infrastructure, where the users are a very finite and defineable group of the community, where there is evidence internationally that the private sector is able to undertake these projects—and with the proper contracting arrangements the apportionment of risk can be properly managed—it is a reasonable and proper policy position to take for a government to adopt a no-cost-to-government approach. The alternative is, in sharing risk and getting it wrong, you end up with things like the airport rail link.

Mr ANDREW CONSTANCE: Can you outline to the Committee any consultancies that you are undertaking and who those consultancies are for?

The Hon. AMANDA FAZIO: Point of order: My point of order is simply that this question has no relationship at all to the terms of reference that we are here for today. We have limited time to question the witness and I believe that the question should be relevant to the terms of reference, and I would ask that you rule that way.

Mr ANDREW CONSTANCE: Further to that point of order—

Mr KNOWLES: Mr Chairman, I can help. I would encourage the member to read last Saturday's *Sydney Morning Herald* where that matter was discussed, and I can assure this Committee—

Mr ANDREW CONSTANCE: This Committee does not rely on media reports. Can you outline who you are working for?

Mr KNOWLES: I can assure this Committee that I have no formal or informal relationships with any matter before this inquiry.

CORRECTED TRANSCRIPT

Mr ANDREW CONSTANCE: I listened to your opening statement, in which you made reference to the ventilation stacks. How do you respond to Minister Scully's assertion in this letter that you are corrupt?

Mr KNOWLES: I have addressed that in my opening remarks, but I will just add that, in having great faith in the ability of ICAC to test any assertions or allegations, I have been through that mill a couple of times. In parallel with going through that mill, I have also been subjected to accusations, like that sort of grubby comment, from other parliamentary inquiries. In every case the parliamentary inquiries have proved to be a worthless exercise and a time wasting and politically motivated exercise with comments like that. In every case ICAC has not only vindicated my position but commended me for my role in the various undertakings that I have been investigated by, and I am very comfortable with this matter as well being investigated.

Mr ANDREW CONSTANCE: So you are calling Minister Scully a liar, are you?

Mr KNOWLES: Minister Scully can speak for himself, but I have now put my position on the record.

Mr ANDREW CONSTANCE: It is very clear in this letter. He states clearly—and you are the only Cabinet Minister at the time who he wrote to—that, "I must record my disappointment and concern at the fact that extracts from the draft Cabinet minute on this issue have been cited by members of the Cross City Motorway Consortium". So the assertion is that you leaked Cabinet information to the consortium and are therefore corrupt—from Minister Scully, not from your political opponents, from one of your own.

Mr KNOWLES: With respect, again, I have addressed that specific allegation. I am not aware of any leaked documents. I did not leak any documents, and I am very happy for ICAC to investigate that matter, and I am very confident of their ability to deal with the issue.

CHAIR: Could you move on to some further questions?

Mr ANDREW CONSTANCE: We heard from Professor Richmond yesterday that there is no value for money to the users of this project. What is your response to that, given that you were the Minister for infrastructure at the time?

Mr KNOWLES: I have not seen Mr Richmond's comments.

Mr ANDREW CONSTANCE: Have you read his report?

Mr KNOWLES: No.

Mr PAUL McLEAY: His report did not say that anyway.

Mr KNOWLES: The trouble with people like you, with respect, is that you paraphrase people—

Mr ANDREW CONSTANCE: Don't get coy!

Mr KNOWLES: I have never been coy in my life. You do not get the record right. I have read the published *Hansard* where I have quoted evidence given to this inquiry I am able to validate it here. I repeat: I am not aware of what Dr Richmond said. I would though happily—

Mr ANDREW CONSTANCE: Would you not have an interest in the consultancies you are carrying out?

CHAIR: Let the witness finish his answer.

Mr KNOWLES: I would happily read what Dr Richmond said and provide a comment on it, but I will not take the word of a member of Her Majesty's Opposition who has a vested interest in having political point scoring exercises dealt with in this Committee.

CORRECTED TRANSCRIPT

CHAIR: Mr Knowles can take that on notice. Do you want an answer to it?

Mr ANDREW CONSTANCE: Yes.

CHAIR: Will you take that question on notice, if you have time to read Dr Richmond's comment?

Mr KNOWLES: Sure.

The Hon. GREG PEARCE: You mentioned that Mr Scully can speak for himself. However, you are aware that he has refused to appear before the committee.

Mr KNOWLES: I endorse Mr Scully's right to not appear before this committee. The forms of this Parliament are very well understood and go back many years. The Opposition, and indeed the Independents, have the opportunity of question time to question Ministers without notice. Of course, there are also other forms of questioning the Executive through estimates committee processes. That is a decision that Ministers have made, including myself and members of coalition governments, for years and years.

The Hon. GREG PEARCE: That is normally the case. Have you had any discussions with Mr Della Bosca about your appearance here?

Mr KNOWLES: No.

The Hon. GREG PEARCE: Are you aware that in setting up this committee Mr Della Bosca gave an undertaking to the Chair that Ministers would in fact appear?

Mr KNOWLES: No, other than I think I heard something on a radio news broadcast that Mr Nile had some undertakings. That is my only knowledge of that matter.

The Hon. GREG PEARCE: Since leaving the Parliament I am most impressed with your having now, as the former Premier did, expressed appreciation for Mr Greiner's contribution to government and to the State. I appreciate that many of the comments in your opening statement and other statements reflect that. You mentioned that if a government did not consider the no-cost-to-government policy that it believed in fairies at the bottom of the garden. Are you aware that Mr Iemma has adopted that as a policy?

Mr KNOWLES: I am sorry?

The Hon. GREG PEARCE: Are you aware that Mr Iemma has adopted Dr Richmond's report as government policy in relation to infrastructure projects; that is, it will not use the no-cost-to-government approach?

Mr KNOWLES: Are you seriously suggesting, in the context of the earlier question, that this Government or any future government will not involve the private sector in the provision of services?

The Hon. GREG PEARCE: No, that is not what I said. I said the Government has adopted Dr Richmond's recommendation that in future the no-cost-to-government approach would be used.

Mr KNOWLES: I think my comments were in relation to a question that had to do the options associated with the provision of these sorts of infrastructures, and my answer was in that context — very clearly so. Where there are —

The Hon. GREG PEARCE: Your answer —

Mr KNOWLES: I will go back to what I said. I do not have notes in front of me, but I am pretty certain I said that in the case where there are discrete projects that meet certain criteria it is

CORRECTED TRANSCRIPT

quite easily able to be construed that you should not have a cost to government. The issue falls to the risk allocation, and that is the prime consideration.

The Hon. GREG PEARCE: The infrastructure and planning functions were combined when you were in government in DIPNR. What are your views on the current arrangements where infrastructure planning has been effectively moved to the Premier's office and the Department of Planning has a very separate role?

Mr PAUL McLEAY: That is not the case.

Mr KNOWLES: The planning functions rest with the Minister for Planning. There is a statutory requirement that they do so. I am not sure I understand the question.

The Hon. GREG PEARCE: We heard a great deal from Dr Richmond —

Mr KNOWLES: Are you talking about the Richmond unit?

The Hon. GREG PEARCE: Yes.

Mr KNOWLES: That is not the planning function.

The Hon. GREG PEARCE: I did not say it was; I said it was the infrastructure function.

Mr KNOWLES: I think you did, and that is why I am confused. For the sake of clarity I think I know what you mean and what you are trying to get at. The planning functions remain with the Minister for Planning. In my view there was a proper decision to bring it together into a unit within the Premier's Department. If you like, a co-ordinating entity under Dr Richmond, as I understand it. I am going from what has been published; I do not have any inside knowledge, I simply read the newspapers. It was designed to ensure greater oversight of the delivery of the Government's capital works program over the variety of public sector agencies, within a budget. That is as I understand it, but I could stand corrected. Again I am going on what I read in the newspapers, I am not sure it applies to the GTE, but it is certainly within the inner budget, such as the health and education type of portfolios. Some of them are very light. I support that.

Indeed, I do not think the Premier would mind my saying, but in one of my briefings to him upon his transition to the premiership, I recommended the need to ensure that these sorts of considerations were part of his thinking so he could make some changes should he want them to occur. Why? You have heard evidence that organisations like the RTA are extremely skilled and have a long history of dealing with the private sector. They have the firepower, if you like, to match it with the private sector. Some other government agencies, either because of the frequency or lack of frequency, or the scale of the work they do in capital works, do not have the requisite skills. Bringing those skills to one point lifts the Government's capacity to deal with these things properly and to ensure that what happens in health, education, prisons or other parts of the government sector follows the same template and that risk equation is properly addressed. It also ensures that those dealing with government can have some consistency in their relationships. Members would have attended many functions with business leaders and industry groups whose representatives say, "If only you could get the Government to be consistent." That applies not only to this Government but also to any government anywhere because they are so big. The Richmond model is not new; it existed under Neville Wran and Barry Unsworth, and to a lesser extent under Nick Greiner — he established Wal Murray as the co-ordinator general and people will remember that — and Premier Iemma has brought David Richmond back in. I do not necessarily think that is a bad thing.

Mr ANDREW CONSTANCE: Given your cry of innocence this morning about the corruption that Carl Scully has alleged, why on earth did you not refer the matter to ICAC when it was brought to your attention back in the December 2003? You are pleading innocence here, why did you not refer it back at the time it was brought to your attention?

Mr KNOWLES: You misunderstand what I said. I am making it clear again, Mr Chairman. As I said in my opening remarks, I am very comfortable for the ICAC to deal with that specific matter. I am very confident about what it will determine.

CORRECTED TRANSCRIPT

Mr ANDREW CONSTANCE: Why did you not refer it back then?

Mr KNOWLES: I have answered the question, Mr Chairman.

Mr ANDREW CONSTANCE: No you have not.

Ms LEE RHIANNON: Can you explain what was happening at the end of 2003 and beginning of 2004 about the location of the stack? Many of the memorandums, letters and emails that have been made available to the Upper House show that there was a period when DIPNR, Sydney Harbour Foreshore Authority [SHFA] and the RTA were working together on a cabinet minute about the location of the stack. Then a point comes when RTA breaks ranks. Can you run us through what happened in that period and why?

Mr KNOWLES: I am looking at Sam Haddad's evidence to this committee because I said in my opening remarks that I thought it was fairly consistent with my recollection of events. Again, I preface my remarks by saying I will be careful about what I say here because I am conscious of an ICAC inquiry and I have confidence in its ability to handle these processes. Haddad states on page 38 of the uncorrected transcript of Wednesday, 7 December that he had no hesitation in saying that the discussions or the assessments were done in a very transparent manner between the departments and the RTA in relation to the normal process, and that no discussions took place and no contact was made with contractors or third parties that were negotiating anywhere. He also said that the officers involved in that would not have had access to any third party and the process was a technical one evaluating alternative locations, advantages and disadvantages, including, for that matter, not only technical and environmental benefits. I am trying to cut this short because he goes on. According to Haddad's evidence the report was made publicly available. On the basis of that report he made the decision about the final location of the stack and that was consistent with the requirement of the condition. As I mentioned in my opening remarks, that was condition 248, which Dr Refshauge in his consent for this project required those discussions. In my view, not that of the Minister responsible, it would have been wrong if discussions had not taken place.

Ms LEE RHIANNON: I am trying to ask you to remember —

CHAIR: Let the witness finish the sentence.

Ms LEE RHIANNON: I think he will be happy with this assistance. A point comes when you actually break ranks. The three bodies are working together and then only RTA prepares the cabinet minute about the location of the stack. What happened then?

Mr KNOWLES: You have a better memory than mine, and it seems to contradict what Haddad said. I am reading what Haddad said. He said that on the basis of that publicly available report he made the decision about the final location of the stack. I will just step outside this to explain something. In my view it would be highly unusual for that not to have occurred given that Haddad was the person overseeing performance of the consent issued by the former Minister. That sounds right to me. If it is wrong, I stand corrected. Equally, the process that he outlined feels about right. The fact that individual government agencies have disagreements about the content of conditions of consent should not be a surprise to anyone. Government agencies fight like Kilkenny cats, as I think all the committees and inquiries evidence that over many years. In fairness, that is what usually constitutes good, robust public policy.

Ms LEE RHIANNON: There is a letter from SHFA, from Rob Lang, that spells that out. It says that he understood that the RTA, DIPNR and SHFA were to make a joint cabinet submission and he was disappointed to be advised that the RTA had chosen not to circulate the draft paper to DIPNR or SHFA. So they went it alone. I am also interested in a meeting that took place on 19 November 2003. This is a handwritten note about a meeting that supposedly you attended on the evening of that day. I am trying to get to the bottom of it. I found out yesterday that Mr Les Wielinga actually writes up these notes. However, he said he did not attend the meeting. He spells out many comments that you have made about the RTA's position and specifically about the stack.

Mr KNOWLES: He was not at the meeting but he wrote up the minutes?

CORRECTED TRANSCRIPT

Ms LEE RHIANNON: That is what he told us yesterday. It is confusing; I certainly acknowledge that. He said he could not remember it. I imagine it is probably difficult for you to remember what you were doing on the evening of 19 November 2003. Will you take the question on notice and inform the committee whom you met with?

Mr KNOWLES: Yes, of course; I am happy to do that.

Ms LEE RHIANNON: Thank you.

Mr KNOWLES: To help, I was probably briefed about this matter; I would be surprised if I was not. SHFA was one of my portfolio agencies and DIPNR was the other one. The only thing that interests me is a fellow testifying that he took the minutes of a meeting he did not attend.

Ms LEE RHIANNON: He said he wrote them up the next day. I will read some of the comments that have been attributed to you so you have the opportunity to refute them or not.

Mr KNOWLES: Why not give me the piece of paper and I will look at it? I will check my diaries and try to help the committee.

Ms LEE RHIANNON: It would be useful while the committee is here; it is ongoing. If you cannot answer you can obviously take the questions on notice.

Mr KNOWLES: I do not mind; I am simply trying to save time.

Ms LEE RHIANNON: It states that Minister Knowles and Gerry Gleeson will vigorously fight RTA recommendation to leave it where it is.

Mr KNOWLES: I think it is fair for me to say that I was alerted to concerns raised by SHFA, apparently on behalf of the organisations like the chambers of commerce around Darling Harbour, about the location of the stack. I think that is a matter of public record. There was a specific, mandated, explicit condition in the consent that required dialogue to occur if the stack was to be moved. It had to occur by discussions, documented. It would concern me if dialogue and discussion did not occur. The fact that it did occur makes me comfortable that the conditions of consent were met.

Ms LEE RHIANNON: Precisely on that issue of the conditions of consent, this is another comment that has been attributed to you. It states that planning will approve "even if slightly worse impacts".

Mr KNOWLES: Your are attributing third-hand—

Ms LEE RHIANNON: I am not. All you have to do is say, "No, I never said that."

Mr KNOWLES: Lee, I learnt a long time ago never to answer your questions in that fashion.

CHAIR: Mr Knowles has agreed to take the question on notice.

Mr KNOWLES: For the record, if this is the level of questioning, where I am being asked to confirm or deny something that somebody wrote 2½ years ago, or something, who was not even at the meeting and I am supposed to confirm what was said—

The Hon. AMANDA FAZIO: And who cannot recall who told him.

Mr KNOWLES: And cannot recall who told him that, apparently—if that is the level of this inquiry, please.

Ms LEE RHIANNON: It is not the level of the inquiry. It is because your Ministers will not appear before the Committee and it is getting very difficult to get to the bottom of it. The other aspect

CORRECTED TRANSCRIPT

is that at this time Mr Scully was the Minister responsible for the RTA. It appears you have another battle on your hands with Mr Scully over a stack that you are describing as big and ugly. Do you remember calling the stack big and ugly?

Mr KNOWLES: I have told you what I would do with your request. I will check my diaries, should I find them in storage and all those sorts of things. I am more than happy to try to assist. I am not going to give any status to somebody's comments who was not at a meeting, who cannot remember who told him, who has recorded a note and then tried to give it weight in a parliamentary inquiry. That is why I keep saying, Mr Chairman, I would prefer to rely on ICAC. It regards evidence as important.

Ms LEE RHIANNON: A senior RTA officer who would be regularly reporting to Mr Scully makes comments about what you have said.

Mr KNOWLES: Come on, Lee!

Ms LEE RHIANNON: Are you trying to avoid it?

Mr KNOWLES: This is a conspiracy theory.

Ms LEE RHIANNON: It is not a conspiracy theory. We are trying to work out what has gone on.

Mr KNOWLES: You get Mr Wielinga back and ask him who told him and get that person in here and find out the details. Come on, a bit of evidence, a little bit of evidence would help here.

CHAIR: Mr Knowles has agreed to take the question on notice. Do not harangue the witness.

Mr KNOWLES: A little bit of evidence might help.

CHAIR: The witness has said he will take the question on notice, you give him the piece of paper and look at it. It is hearsay. The witness has some rights.

Mr KNOWLES: You ask me to come here to provide evidence to a very substantial important part of the parliamentary process and you are quoting to me stuff asserted by somebody who was not at the meeting and cannot remember who told him.

Ms LEE RHIANNON: When the Ministers from your party and your Premier refuse to come, it becomes very difficult.

Mr KNOWLES: Stop sooking and do not blame me. I am not there anymore.

Ms LEE RHIANNON: You are doing a good imitation of the sook.

CHAIR: Are there any questions from the Government?

Mr MATT BROWN: Time has expired.

CHAIR: Do have one specific question?

Mr MATT BROWN: I do have one.

CHAIR: Would you give your questions to Mr Knowles on notice?

Mr MATT BROWN: We will give them to Mr Knowles on notice, as time has run out.

CHAIR: Thank you, Mr Knowles, for appearing before our inquiry. We appreciate your attendance. If there any questions on notice, the members will forward them to you.

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Mr KNOWLES: More than happy to assist. Thank you for having me; it has been fun.

(The witness withdrew)

CORRECTED TRANSCRIPT

ANDREW JOHN REFSHAUGE, affirmed and examined:

CHAIR: Dr Refshauge, the Committee is very pleased with your attendance at our inquiry. In what capacity are you appearing before the Committee?

Dr REFSHAUGE: I have been asked to appear as the former Minister for Planning.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Dr REFSHAUGE: Yes, I am.

CHAIR: If you wish to give any evidence or documents in camera we are happy to consider your request.

Dr REFSHAUGE: Thank you. At the moment I cannot imagine that would be the case.

CHAIR: As a former Deputy Premier, Minister for Urban Affairs and Planning, and Minister for Planning, what was your involvement, if any, with the cross-city tunnel project?

Dr REFSHAUGE: If I may, I unfortunately did not hear the beginning of Mr Knowles's presentation. He may have gone over some of these things. I thought it may be useful for the Committee to hear just a very short précis.

CHAIR: Do have a statement?

Dr REFSHAUGE: Yes, a short statement. I do not want to take up too much time. First, it is important to recognise the primary objectives of the proposal. The proposal had objectives which were: to improve the environmental quality of the public space within the central business district [CBD]; to improve the ease of access and reliability of travel within the CBD; and also to improve the reliability and efficiency of transport between the east and the west of the CBD. In other words, it was to try to reduce the traffic that comes into the CBD. That was the intention of the project. If you look at the planning process at that time for a government proposal like that, the proponent, in this case the Roads and Traffic Authority [RTA], would seek a request from the Department of Planning Director-General for their planning requirements. That is before the environmental impact statement [EIS] would be prepared. In other words, the proponent would come to the Department of Planning and say, "This is what we are thinking of doing. What would be your requirements to be addressed in the EIS?"

Then the EIS would be prepared and published, and put out for consultation for a minimum of about a month. In this case I think it was specifically two months. As a result of that consultation the proponent would look at all of the submissions from the community, other government agencies and whoever, and they would prepare from that a preferred activity report—in other words, a potential change to the original EIS. At that time there were no legal requirements to make that public. But because it would be seen potentially as slightly different or significantly different than the original proposal, the Government had decided, not just for that project but previously, that those preferred activity reports should be made public. In that sense the public could see what the actual project was that was being assessed by the Department of Planning, having gone through the EIS process.

The Department of Planning would then assess that proposal as the full proposal. It did not stop in any way the community putting in their continued concerns, proposals, changes, whatever, to the Department of Planning. Often they would do that over a period of time. At the end of the time that the department needed to assess the project, it would then make recommendations to the Minister about the proposal. That would usually be either a rejection of the proposal or approval with conditions. In this case it was a recommendation to approve that proposal with conditions. The Minister, in that case me, would look at what was being recommended by the Department and would often seek explanation of all of the recommendations that were coming through, or the ones that did not seem to be obvious, to satisfy himself that it is meeting the planning requirements and the policies of the government of the time in a planning context, and then make a determination.

CORRECTED TRANSCRIPT

There is a requirement before the determination for the Minister to consult with the proponent Minister. In this case it would be the Minister for Roads who is responsible for the RTA. There is no requirement for the planning Minister to accept any of the responses from the roads Minister, but it is certainly a requirement to consult. I think, from memory, at that time there were no major disagreements about the proposal, and that was determined by me at that time. If, as in this case, after the proposal being put out for tender, the tenderer, one or many of them, comes back and says there may be a better proposal we could do, significantly different to what was put up, that would go through the same process again, as it did in this case with the supplementary EIS and the consultation and assessment by the department and their recommendations. That was effectively how this happened as well. I thought that might be useful just to see where there Minister for Planning fits in and the fact that it is a statutory responsibility to assess the proposal as a proposal within the context of the planning system at that time. It is not a matter of saying, "I need to look at a different proposal." This is the one that has to be looked at.

CHAIR: You outlined the three objectives for the cross-city tunnel. Do you believe those objectives have been met?

Dr REFSHAUGE: Not yet, no I do not. I think the third one certainly—

CHAIR: Or could be met?

Dr REFSHAUGE: Yes, I do. As with any proposal like this, particularly where very significant behavioural change has to occur as far as motorists go, there is a significant time while that change does slowly occur. We saw exactly the same with the Eastern Distributor. In fact, almost the same issues were raised about the Eastern Distributor at the time that it was initially opened. I suppose now most people would say that is a great boon and asset to the way in which the vehicular traffic can travel around Sydney.

CHAIR: Would you comment on each of those objectives as to how they will be fulfilled?

Dr REFSHAUGE: The intention to reduce traffic in Sydney was, of course, highlighted by the EIS and many publications and proposals beforehand to restrict the capacity for traffic to come into Sydney on the east-west access. That was the way to reduce the traffic. If that causes in itself problems, part of the answer to that, of course, is to find an alternate route. The tunnel was seen as the alternate route. The intention was to reduce the traffic able to come into the city. That is why in all of the discussions from, I think, back in 1990 the city council and the State Government suggested a tunnel, because they wanted to look at the access to Sydney from the east. William Street was to be dramatically changed to reduce the traffic able to come down William Street, expand the footpath and provide better public transport options by the T-ways, which were effectively a partial busway. That would mean there would be better public transport options, it would reduce the capacity for cars to come in and it would provide a better public environment for William Street. That was the intention. I do not think the completion of the William Street changes and all the others have occurred yet, but I can see that those will be achieved.

CHAIR: What was your involvement with the cross-city tunnel? Did you have any direct role?

Dr REFSHAUGE: Yes, I did. I had a role to approve or not the original proposal following the EIS and a preferred activity report. I was the Minister at that time when the Department of Planning recommended to me to approve it with conditions, and I did so. Subsequently, there was this supplementary EIS. I was still the Minister at that time. Again, I did the same with that. I received the recommendations from the department to approve it with conditions, and I did that as well. There was also my responsibility as Minister for Planning in that I was the Minister responsible for the Sydney Harbour Foreshore Authority. As you were discussing a bit earlier, there was some discussion between the Sydney Harbour Foreshore Authority and other parts of government about the siting of this stack. I received their representations and, as you have heard before, part of my recommendation was to get the RTA and the Sydney Harbour Foreshore Authority together to see within a certain defined area they could find a better option for the stack. There had been a number of discussions about what could be. None of them had come to fruition at the time for me to approve the project. So

CORRECTED TRANSCRIPT

it seemed to me that it was reasonable to continue those discussions to see if a better resolution could be made.

CHAIR: When you approve the project, that would include matters relating to the road closures. Did you have concerns about the negative or positive impact of that condition?

Dr REFSHAUGE: The road closures—I think there are some terminology issues.

CHAIR: Changes?

Dr REFSHAUGE: The changes were specifically designed to reduce the capacity for cars to come into the city. That was the objective of the project. That fitted in with the Government's strategic plans of "Action for Air" and "Action for Transport", as well as the general planning position of the Government through the State environmental planning policies [SEPPs] and local environmental plans. In that sense it was fitting in with what had been, I suppose, government policy at that time for quite some time. Those changes were intended to cause that effect, to actually reduce the capacity for cars to come into the city from that east-west access.

CHAIR: To that extent, to force motorists to use the tunnel?

Dr REFSHAUGE: The project was to reduce the traffic coming in and to provide an alternative, all be it at a cost, a toll. The project was not designed to create a tunnel for the sake of a tunnel. The project was designed by the proponent to reduce the traffic coming into the city. As you can see, people would like that effect. If nobody-else came in and only they could, that would serve their interests obviously nicely. There were significant other parts of that. Part of improving the public use of public space was to provide better public transport options, better cycle options, better pedestrian options. They were significant parts of both the proposal and the conditions that would apply.

CHAIR: Obviously a number of ministries were involved with the cross-city tunnel. How did you relate their various roles? Were meetings of Ministers held to discuss problems with the cross-city tunnel? Were memoranda sent? How did you view the co-operation?

Dr REFSHAUGE: It would vary enormously. Obviously Cabinet had a significant interest and there would be times when it would be appropriate to discuss at Cabinet. A lot of times there would be technical issues to be discussed between government agencies, usually in a very co-operative and effective way. Planning, as an agency, whether it be State government or local government, has a responsibility to try to bring different groups of interest together and the department here has, I think, always had a reasonable reputation to be able to do that—particularly the present head of the department of planning, who was a major part of that team, Mr Sam Haddad.

CHAIR: As planning Minister for a significant portion of the past decade, what are your observations on the benefits and costs or private sector involvement in the provision of major infrastructure?

Dr REFSHAUGE: It varies enormously, absolutely enormously. There are some proposals that I think have been disastrous and others that have been quite successful. I think the disasters are pretty easy to see. I think the effective privatisation of Port Macquarie Base Hospital was a disaster. The airport rail link, although one would see it as a good idea to have a link between the airport and the city, the way in which it was done was significantly problematic and I think there are still repercussions. It was badly done. I think there are some excellent ones. One recently that I was a bit more directly involved with is the building of schools. I think there were nine schools in the original package and I understand another tranche has been recently announced. They have been very successful. Interestingly, an organisation like the Teachers Federation does not endorse it, but its members in those schools do endorse it very strongly. So, I think it varies enormously. It depends on the project. I think it also depends, from my perspective, on whether it is effectively having the infrastructure or having the management of a public services well. It becomes much more difficult, say, in health where you are actually running the medical-nursing services rather than just running the actual building.

CORRECTED TRANSCRIPT

The Hon. GREG PEARCE: You have been very useful in that you have very explicitly explained that the Government's policy was all about reducing traffic into the city. There has been a lot of confusion that in some way the tunnel was meant to be the total, if you like, of that policy. Whereas, what you have said explains why people are so cranky about the traffic measures. The Committee heard yesterday about 400 traffic signals having been altered, not directly as a result of the cross-city tunnel but as a result of the Government's policy to reduce the number of cars coming into the city.

Dr REFSHAUGE: It has not been just our Government, in the sense of Labor or the Carr Government; it has been previous governments as well. As you can see, it tends to be an issue that governments around the world face and tend to try to find answers to it. There are other answers, like what has happened in London or Singapore, where tolls have been imposed on motorists coming into the city, or the timing of those tolls—the time of the day that they come in. It is difficult to have seriously good access and movement around the city unless there is some form of restriction of traffic coming in.

The Hon. GREG PEARCE: and you think people understood that that was the policy?

Dr REFSHAUGE: I think so. I think most people always want that. From my experience as a member of Parliament I have never found people who have said to me, "I want more traffic in my street or the road I go on." They want less. In that sense they would prefer to have less traffic on the city. I believe human nature would think it is better if someone else is the one that does not come in, rather than themselves. But, yes, I think that is a general thing that most people would want. As it starts to directly affect them, obviously it is not as pleasant and I can quite sympathise with the people who have been disrupted as these changes have been implemented—although they were certainly well known. All the documentation clearly showed that there would be fewer lanes coming into the city, and that it may be even further restricted to T-ways or just for buses.

The Hon. GREG PEARCE: I think a lot of the confusion has been because people did not really understand that; I thought the project was simply about removing the cars that wanted to go from the east to the west or from the west to the east through the city, not removing cars that would otherwise go into the city.

Dr REFSHAUGE: No, that was part of the reduction. Obviously, cars come to the city from a whole range of portals. It would be only those going from east to west that would be affected. That was one way to reduce the amount of traffic on the city, particularly traffic that does not need to be there in the sense that it wants to go from one side to the other. Why would it want to be in the middle of the central business district [CBD] with all of those problems, if it does not have to? It was not in that sense to block every other portal and say, "You cannot come in from other areas." That is the more global way of doing it. As I say, it has been done in other cities. Singapore and London are classic examples we probably all know about.

The Hon. GREG PEARCE: Were you a member of the Budget Committee of Cabinet in February 2002 when this was submitted?

Dr REFSHAUGE: Yes. I was a member of the Budget Committee all the time I was a Minister.

The Hon. GREG PEARCE: You did not mention that when asked about your role in relation to the tunnel project.

Dr REFSHAUGE: No. I was called here as former planning Minister. I thought that was the issue I was being asked about.

The Hon. GREG PEARCE: Was a conflict of interest?

Dr REFSHAUGE: That sort of issue about the planning Minister has often been raised, particularly if they have another portfolio: Can you do two jobs at the same time? I do not think that is impossible to do. I think it is important to recognise that the planning Minister has a logistic, legal role as well. That should not be confused and it should not be compromised. In that sense, the

CORRECTED TRANSCRIPT

Cabinet cannot instruct, and did not instruct, the planning Minister or make a decision that the planning Minister would approve this proposal—never has, never did. Planning Ministers always would say, "No, you cannot do that. We cannot be bound by that." So that there is an independence that has been maintained. On the other hand, the planning Minister I think is or should be quite reasonably part of the more broader government decision about the strategy for the city and State. Those discussions can be very useful to have advice from the department of planning through the planning Minister in Cabinet.

The Hon. GREG PEARCE: I assume then that you endorsed the "no cost to government" approach?

Dr REFSHAUGE: it depends on the project.

The Hon. GREG PEARCE: For the cross-city tunnel?

Dr REFSHAUGE: I think it is fair to say that that option was probably more preferable than an option that would reduce our capacity to spend on other things. In other words, taking money from schools, hospitals or other road projects.

The Hon. GREG PEARCE: Say the answer is "yes"?

Dr REFSHAUGE: For that project, yes.

The Hon. GREG PEARCE: The Committee heard quite a bit of evidence yesterday that one of the problems with the cross-city tunnel project was that the RTA, if you like, pursue that "no cost to government" objective ahead of all of the objectives, and that that was one of the reasons that the tunnel became a problem. Would you agree with that?

Dr REFSHAUGE: I have no knowledge of what was presented yesterday, nor of the negotiations between the proponent and the contractor or tenderer.

The Hon. GREG PEARCE: Did you have any discussions with Mr Della Bosca about your appearance here?

Dr REFSHAUGE: Not that I remember.

The Hon. GREG PEARCE: No?

Dr REFSHAUGE: No.

Ms LEE RHIANNON: Could I ask that question again? It has only happen in the past few weeks. Surely you would be able to remember that?

Mr MATT BROWN: I think we just heard the answer.

Ms LEE RHIANNON: Well, no. The witness said he is not sure.

Dr REFSHAUGE: Since I have been called, no. Before that I may have had discussions with Mr Della Bosca about the inquiry. I cannot remember that. But that has been going for quite some months and in passing I may have said something about the inquiry, but I do not remember that.

Ms LEE RHIANNON: So, since you were called?

Dr REFSHAUGE: Since I was called, no. Absolutely not.

Mr ANDREW CONSTANCE: As Deputy Premier were you aware of the head of the Premier's Department inquiry and investigation into the location of the ventilation is to?

Dr REFSHAUGE: Sorry, whose inquiry into the location of the ventilation stack?

CORRECTED TRANSCRIPT

Mr ANDREW CONSTANCE: Dr Gellatly's inquiry into the ventilation stack, following the leak of Cabinet minute information.

Dr REFSHAUGE: I do not think he inquired into the ventilation stack. The ventilation stack was a proposal by the RTA about where it should be. There was concern about where it should be.

Mr ANDREW CONSTANCE: Let me rephrase the question. Why you aware of Dr Gellatly's investigation into the leaking of draft Cabinet minutes involving the ventilation stack.

Dr REFSHAUGE: No.

Mr MATT BROWN: I think there is an ICAC inquiry about that.

Mr ANDREW CONSTANCE: You were not aware of it?

Dr REFSHAUGE: Not at the time.

Mr ANDREW CONSTANCE: When did you become aware of it?

Dr REFSHAUGE: When it was in the media.

The Hon. GREG PEARCE: I will just take you back through the planning process. My understanding is—and Mr Knowles gave evidence along these lines—that May 2000 or thereabouts was the director-general's requirements.

Dr REFSHAUGE: I do have some notes that have been provided. The director-general's requirements were asked for in June 1999 and provided in July 1999.

The Hon. GREG PEARCE: When was the original environmental impact statement exhibited [EIS]?

Dr REFSHAUGE: On 2 August 2000 until 6 October 2000.

The Hon. GREG PEARCE: Just jumping ahead, then the preferred proponent was selected by the Budget Committee of Cabinet in February 2002.

Dr REFSHAUGE: I cannot remember the exact date, but, yes. It was a recommendation I think from the RTA.

The Hon. GREG PEARCE: It was a recommendation from the RTA, but it was for a non-conforming tender?

Dr REFSHAUGE: Yes.

The Hon. GREG PEARCE: It was for a tender, which included along the tunnel and a different tunnel and which required what was eventually a supplementary EIS?

Dr REFSHAUGE: Yes.

The Hon. GREG PEARCE: What is your view on accepting such a proposal? Why would you have agreed to it, given that the objective seemed to be that that proposal gave the Government, through the RTA, an upfront payment of \$100 million?

Dr REFSHAUGE: No. The acceptance was a change of where the entry and exit was on the east. One thing is that one hopes to get from looking at the private sector is alternative views to how the project might be delivered. We certainly found that, say, with schools when some of them decided to put child-care centres on the same site. That was a synergy that worked very well. We would not have been able to do that in the same way if the private proponent had not suggested. This is, in a way

CORRECTED TRANSCRIPT

hopeful, that you will find some more imaginative ways of doing things than we had thought about. That was a case for this and it seemed that the benefit from that was significantly worthwhile.

Also, I suppose we were highly mindful of the rail link that kept on blowing out in costs. We were very keen to make sure that there were no added costs that the Government would be up for that have not been highlighted. Part of the requirement for that was to see that they would be paid for by the proponent rather than by the taxpayer.

The Hon. GREG PEARCE: You aware of the Richmond review into roads?

Dr REFSHAUGE: Only by—

The Hon. GREG PEARCE: One of his conclusions—and you will have to take this as the case—was that one of the problems with cross-city tunnel project was that there was no further review by the Budget Committee of Cabinet of the project after the process of negotiations and a supplementary EIS. Do you have any views on that particular aspect?

Dr REFSHAUGE: I would like to see what he had to say before commenting on that.

The Hon. GREG PEARCE: Do you think there is a need for a major projects such as that to be looked at again by government, by the broader government, to check that is in the public interest and when such a long period of time passes and when the proposal changes quite significantly?

Dr REFSHAUGE: Is always good to look at things and bring fresh eyes to it, but you also do not want to hold up things for so long that nothing ever gets done. It is a balance. I would like to see what he had said. I understand the Government has endorsed it, so my guess is that is seen as a good thing.

Ms LEE RHIANNON: You said in your comments that the changes to the roads were well known. That was the expression you used. Do you really stand by that statement, considering that the CCM had an option to propose road changes for a few months after the opening of the tunnel and many of these are still being implemented? Many people do not know.

Dr REFSHAUGE: I think the changes to William Street were very well known—that is what I was particularly talking about—and there were a lot of submissions about around the Woolloomooloo area and some particularly by those involved around the Harbour Street exit.

Ms LEE RHIANNON: But the road changes stretch out to Woollahra and people did not know about them.

Dr REFSHAUGE: There were also road changes recommended by council in a number of areas and they were part of the EIS process as well. Whether every one was known, you would have to ask the people themselves but certainly it was well known there would be restrictions on access to the city via William Street, which was the main access.

Ms LEE RHIANNON: So your earlier statement about well known was too absolute?

Dr REFSHAUGE: I was talking about it in the context of William Street. But, sorry, there would have been others being promoted by councils and communities.

Ms LEE RHIANNON: But a lot were not known, that is the key point?

Dr REFSHAUGE: I am not saying that at all. I am saying the William Street ones were particularly well known, or publicised anyway.

Ms LEE RHIANNON: You said in your earlier comments that you supported this as a no-cost project. Is that language not deceptive? People pay taxes and then they are being hit with the toll, which is also a tax. To say it is no cost is spin put in a way to present something and put yourself in a good light, but there is a penalty there for the public who use it.

CORRECTED TRANSCRIPT

Dr REFSHAUGE: No, it is not used in any sense like that. It is no cost to government rather than no cost to anybody else. If it was a cost to government, there would be a requirement, I guess, for that funding to come from somewhere else. For it to come from somewhere else would require a number of options to be considered. That is where governments have got into trouble before with, say, the rail link, which ended up costing over \$600 million more than was planned for, and that causes a significant problem.

Ms LEE RHIANNON: Would you not agree that no cost to government is very much blurred around the edges, because we heard yesterday—and you would have heard some of it on the news—about the changes to the phasing of lights?

Dr REFSHAUGE: I do not see how that contributes one way or the other to no cost to government, the phasing of lights.

Ms LEE RHIANNON: Because it has been undertaken to change traffic flows to push more people into the tunnel. So, there are clearly areas where government activity has been undertaken at a cost to the people of New South Wales that is a benefit to CCM, and it has not been quantified?

Dr REFSHAUGE: Say the Government had built a road and made it a toll road—which is another option—and those changes occurred, would you be asking the same question?

Ms LEE RHIANNON: No, I am asking the question to you. The no cost to government is not truthful?

Dr REFSHAUGE: No, it is truthful. You quite rightly point out there is a cost to the community. There may be a cost to the construction company. There may be a cost of the operator, but the cost directly to the Government is not there. There is no direct cost to the Government. What cost do you think there is?

Ms LEE RHIANNON: I think with the RTA there is a whole range of activities that it has undertaken—

Dr REFSHAUGE: And they were paid for.

Ms LEE RHIANNON: Some were, but in some there were associated ancillary costs that are not being paid for.

Dr REFSHAUGE: Like what?

Ms LEE RHIANNON: Some of the road changes have been undertaken—

Dr REFSHAUGE: You really have to talk to the RTA about that. My understanding is that the vast majority of that has been paid for.

Ms LEE RHIANNON: I am just trying to establish that there is a blurring there.

Dr REFSHAUGE: No, I do not think there is a blurring at all. I am happy to try to work with you to find out where it may be, but I do not think that is an area that is.

Ms LEE RHIANNON: I am interested in how you saw DIPNR operating when you were in the job as planning Minister. Could you explain how DIPNR becomes aware of breaches of conditions?

Dr REFSHAUGE: I cannot, because it was DUAP and then the Department of Planning. DIPNR came after my time. But the planning system, whether it be a local council or State government, will be made aware of breaches of conditions in a number of ways. One is, on some conditions there are particular reporting mechanisms required, and they will report back. On others there would be other agencies that would be monitoring and they would either take action themselves if they thought they had responsibility or would come to the Department of Planning or whatever its name is now. Individuals would have a particular interest and they would bring it up. Some things

CORRECTED TRANSCRIPT

would be monitored specifically by reviews by other departments. So, there is a whole range of ways it would be done. Some of those you can find in the conditions.

Ms LEE RHIANNON: So effectively you are saying the planning body does not take an active role in monitoring and taking up and rectifying breaches of conditions?

Dr REFSHAUGE: Yes it does. I just explained the different ways it does.

Ms LEE RHIANNON: To go through those, you were saying there is a reporting mechanism, other agencies monitoring, so that is not the planning body?

Dr REFSHAUGE: But they come to planning if they feel planning can play a role in fixing it.

Ms LEE RHIANNON: Seriously, this is where we have this huge problem. We see time and again that the planning body does not monitor but in the case of the work with the RTA relies on the RTA confessing and reporting.

Dr REFSHAUGE: No, there is other monitoring going on. If you read through the conditions you will see there are a number of monitoring processes that have been put in place. I suggest you read the conditions.

Ms LEE RHIANNON: But it is interesting that even when you fleshed it out there only one was a reporting mechanism. The other two had nothing to do with the planning system and within planning all you are saying is reporting, not doing anything about it. Your answer does seem symptomatic of the problem we have with planning.

Dr REFSHAUGE: No. Like any proposal that breaches its conditions, the proposal can be stopped. The project can be ceased. Usually there are a lot better things to do to resolve them, depending on what the breach is and in what way the breach occurred. I remember as planning Minister a proponent was regularly breaching its conditions and I threatened to close the company down. They then changed. Others found minor breaches that took some time to resolve because technically they were difficult to resolve but they then found a way to do it eventually, and that was generally accepted by the community that was concerned about it. Others require immediate rectification because it was either being ignored or forgotten, and they have been fixed as well. So there are plenty of examples of how they get fixed. How you get the information varies depending on the sorts of things that are being looked at. To set up a further bureaucracy to oversee everything like you are suggesting—

Ms LEE RHIANNON: No, I was not suggesting that. Do not verbal me. All I want is the planning body to do its job.

Dr REFSHAUGE: If you want it to do its job—I say it is doing its job—further in the way you want it to do its job, that would be a much larger planning body. If you want to do that, you could argue the case but my guess is you would then have to find where that money comes from as well.

Mr MATT BROWN: In making your decision to approve the cross-city tunnel, what information did you have available to you?

Dr REFSHAUGE: I had obviously all the information with regard to planning policies, effectively what has become the metropolitan strategy. The precursor to that were the “Action for Air” and “Action for Transport”. All of the general planning processes that governments have used for quite sometime. I also had the information being provided by the department with regard to all of the issues required by the director general to be addressed in the EIS and by the responses to the EIS, and by the proponents’ changes to their proposal as a result of the consultation. All of the information was available. Not being an expert on particular issues you rely on the experts that were there. Say on air quality, it seemed to be a more important issue from the community’s point of view at the time, the Department of Health and its reliance on World Health Organization standards. I did not see it as part of my job to question those determinations.

CORRECTED TRANSCRIPT

Mr MATT BROWN: The Committee has been very interested in the extent of community consultation. Could you outline to us the extent of that consultation prior to the exhibition of the EIS for the cross-city tunnel, and do you think it was sufficient for a project of that scale?

Dr REFSHAUGE: From my memory, it was first talked about in about 1990 with the city of Sydney and the State Government suggesting a cross-city tunnel would be a useful thing to help reduce the traffic in the city, a better use of public land for access to the city. There were further discussions between then and 1999, a number of proposals put out. The city council itself put out a proposal for a cross-city tunnel. The State Government put out further suggestions for that in its action for transport documentation about where the Government saw transport was going and there was documentation about the cross-city tunnel.

I remember doing a press conference myself, talking about the benefits for William Street, with the reduction of traffic through there, the closure of lanes, the pedestrianisation of it, the ability to have a boulevard, and I remember seeing plenty of publications, *Sydney Morning Herald*, the *Daily Telegraph* and others, highlighting what would happen and the changes and benefits that would provide for the city regularly, even with mock-up pictures of what William Street might look like. It is very hard to say that was not publicly available when everybody, who get their information different ways, would know that. Particularly if you use that street you probably would have thought about it as well.

Also in the development of the EIS the director general's requirements required the community consultation in getting the EIS developed as well. That was part of the process as well. When the EIS was presented it was exhibited in a number of locations, almost 20 locations, and tens of thousands of copies of the summaries, which included the restriction of access to the city, were made public as well. I also remember seeing in one of the publications, and from reading the transcript of the lord mayor's presentation here, that she saw it as her job to inform her constituents, many of whom were in those areas—you know where her electorate is—and she was taking time out not necessarily as a supporter of government but to highlight what was happening and even suggesting where things could be improved.

Mr MATT BROWN: So, besides the Government's and the department's consultation processes, there were other groups such as local members and community groups, and the media also, informing the community?

Dr REFSHAUGE: Yes.

Mr MATT BROWN: We have had a fair bit of discussions so far about the ventilation stack. Were you aware of changes to the proposed air quality and tunnel ventilation system, and were you advised of the potential cost implications of those changes to the project design?

Dr REFSHAUGE: There were a number of changes. One was, of course, as part of the second EIS, to put in another tunnel to take the air from it. There had also been quite significant discussions about filtration in stacks. From the evidence we had—and we had sought information from overseas as well—there were no convincing arguments to filter the stacks with the filtration systems that were available at the time. I did believe that there was always the possibility for further improvements, and so part of my conditions was to make sure the stacks could be retrofitted if better technology came along. I thought that was a more sensible approach: rather than forcing something when there was no convincing evidence it would work, to allow other things, if they did come along, to be able to be installed.

CHAIR: When you looked at the cross-city tunnel contract, and it had apparently some conditions about road changes, road closures and so on that were to be met, did you have any thoughts that "perhaps if we don't fulfil those, we may then have a claim for compensation from the consortium"? Did the thought go through your mind that that was a dangerous thing to put into the contract?

Dr REFSHAUGE: I did not specifically look at the contract. There were requirements to make sure that the tunnel served the purpose of the Government's planning policies of trying to make

CORRECTED TRANSCRIPT

better use of the public land and the public space in the CBD, and therefore to reduce traffic access. That was the intention; that was the starting point of the proposal.

CHAIR: So you never considered those factors?

Dr REFSHAUGE: I did not see the actual contract. I did not see them, no.

CHAIR: We thank you very much for agreeing to appear before our inquiry. If any members have further questions on notice, would you be prepared to consider those?

Dr REFSHAUGE: I would be very happy to.

CHAIR: Thank you.

(The witness withdrew.)

(Short adjournment)

CORRECTED TRANSCRIPT

GREGORY STEWART, Manager, Public Infrastructure, Woollahra Municipal Council, sworn and examined, and

KERRI LAWSON HUXLEY, Councillor, Woollahra Municipal Council, affirmed and examined:

CHAIR: Mr Stewart, in what capacity are you appearing before the Committee?

Mr STEWART: As representative of the Woollahra Council.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Mr STEWART: I am.

CHAIR: Councillor Huxley, what is your occupation?

Ms HUXLEY: It is various: from mother, to community representative, to councillor, to political scientist, to student and master student, and so on.

CHAIR: In what capacity are you appearing before the Committee?

Ms HUXLEY: I am appearing as a local community leader, as a Woollahra councillor and as a local resident. I have been chair of the Paddington Traffic Working Party for five or six years now, I have been a Woollahra councillor for six years, and I have lived in the area for well over a decade.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Ms HUXLEY: I am.

CHAIR: If either of you at any stage wish to give evidence or table documents in camera, in closed session, the Committee would consider your request. Do either of you have an opening statement?

Mr STEWART: If possible, I would like to make a very brief statement, just a brief summary.

CHAIR: Proceed.

Mr STEWART: Council's submission basically is in response to parts 1B, 1E, 1F and 1G of the terms of reference, and it relates mainly to the community and public consultation processes. Council and Woollahra community's primary concern regarding the cross-city tunnel has been the significant traffic impacts on the municipality as a result of motorists to the south and south-east of the municipality having to traverse the municipality to and from the eastern portal of the cross-city tunnel and the impact that this additional traffic will have on residential amenity of the municipality. Council made two formal submissions to the cross-city tunnel in response to both the environmental impact statement and a supplementary environmental impact statement [SEIP] on the modified proposal. The comments, the concerns and suggestions that were expressed in these submissions appear to have been ignored generally or dismissed by the RTA without any further dialogue with council.

While council received acknowledgement of its submissions and advice, and advice that submissions would be addressed in the representations report to the Department of Urban Affairs and Planning, no further dialogue occurred with council on the contents of the submissions. Council requested that a community liaison group be formed to consider the impact of the cross-city tunnel on the municipality. Four community liaison groups were formed, but none for Woollahra Municipal Council. The RTA advised council that it was not to be represented on any of these community liaison groups, as they were established in relation to the construction impacts in the immediate area of the cross-city tunnel only. It was only after repeated requests from the council that the RTA finally agreed to prepare a traffic assessment report on the potential impact of the cross-city tunnel on the Paddington part of the municipality.

CORRECTED TRANSCRIPT

This traffic assessment report, which was prepared and took a long while to get, for Paddington was very, very carefully worded and was very heavily edited by the RTA. Apart from some minor traffic calming works to two streets in Paddington, no action has been proposed by the RTA to accommodate or manage the anticipated increase in traffic volumes throughout the municipality. Since the opening of the cross-city tunnel in August 2005, and especially during the toll-free period, the observations of the traffic flows through the municipality appear to reinforce council's concerns regarding the adverse traffic impacts on the municipality. The RTA has not addressed significant delays that are occurring through Rushcutters Bay or New South Head Road and also through Double Bay. The traffic congestion, as predicted by council, appeared immediately upon the opening of the tunnel, with extensive delays on the main feeder routes to and from the tunnel, and exiting Darling Point onto New South Head Road. In summary, council considers that the community and public consultation process for the cross-city tunnel project was not conducted in a meaningful way.

CHAIR: You must have been very disappointed, as a council, not to have received wholehearted co-operation from the RTA to be involved in that early stage?

Mr STEWART: In our submissions to the RTA we raised a number of options, which we thought could be implemented, which would mitigate the impact on the municipality. We also advised the RTA that we would be happy to work with them to address those issues.

CHAIR: And the RTA, in a sense, ignored your understanding of the community because that is where you are basically the experts, so to speak, in traffic flows and other issues.

Mr STEWART: We would have liked to have worked with the RTA to try to address some of those issues, yes.

CHAIR: What traffic calming measures have Woollahra Council planned for the Paddington area to try to rectify some of these problems?

Mr STEWART: Two traffic calming measures were installed, which were required as a condition of consent from the RTA. At the present stage we are undertaking traffic studies, or traffic monitoring, to determine what the traffic impact has been so that we can then look at and address those issues as we identify them exactly.

CHAIR: You are still monitoring the situation?

Mr STEWART: Yes, we have done traffic counts during the toll-free period and we are currently doing traffic counts now that school is back to try to assess the total impact that this will have and then try to determine what it is likely to be should the traffic volumes predicted be attained.

CHAIR: Did the council put in submissions to the EIS and the SEIS process?

Mr STEWART: The council made a submission in relation to the original EIS, and we also made a submission on the revised EIS for the modified cross-city tunnel proposal, yes.

CHAIR: Your view is that your submissions did not have much impact on the project?

Mr STEWART: Basically, the only result that we got out of our submission was these traffic calming measures in Paddington, the two that have been installed, which we believe are minor, and also an agreement to monitor the impact of the cross-city tunnel at year one and year three, and to determine then if anything needs to be done.

CHAIR: I assume that you are working also with community groups within your Woollahra council area. Are you getting submissions from them as well or have you been getting submissions?

Mr STEWART: We have had submissions from resident groups during the process, during the construction of the cross-city tunnel, and we have had some discussions. We have not had any submissions recently in relation to the cross-city tunnel impacts.

CORRECTED TRANSCRIPT

Mr ANDREW CONSTANCE: This is a question to either of you. Thank you for coming in today. Yesterday we heard about some 400 changes to traffic lights phasing throughout the area in the vicinity of the cross-city tunnel. Are you aware of any changes in the Woollahra municipal area in terms of traffic lights phasing, and were you consulted?

Mr STEWART: As far as I am aware we have not been informed officially of any changes to any traffic light patterns in the municipality of Woollahra, but observations indicate that there have been changes.

Mr ANDREW CONSTANCE: I know this will be anecdotal, but has that been to the advantage or disadvantage of traffic flow in the area?

Ms HUXLEY: Can I answer that, seeing that I live in probably one of the most affected areas and not far from one of the rat runs through Paddington?

CHAIR: We are happy for either of you to answer any of these questions.

Ms HUXLEY: I live not far from the rat run, as I have said. While I do not wish to contradict Mr Stewart in any way, because we have worked closely on this for the last five or six years through the working party, about 12 months prior to the opening of the tunnel there was a dramatic increase in the amount of traffic in this rat run. This was because of some of the street closures, the works in William Street and other areas where they were reconfiguring traffic management and there was an immediate increase that I detected. Wherever we travel at the moment you now have to queue to gain access to what once were normal residential streets. The cars were, as we predicted, streaming down through these fairly narrow heritage streets in Paddington in particular and Woollahra. They are now sourcing ways to try to escape the cross-city tunnel or they are being forced to get into it. I am not sure if this goes to the point of the question but—

Mr ANDREW CONSTANCE: No. It is all incredibly valuable evidence from you, but I am just keen to ascertain if there was any consultation from the RTA with the council about traffic light phasing at all.

Ms HUXLEY: In relation to the traffic light phasing, as chair of the Paddington traffic working party I would expect senior staff to contact me immediately. As far as I understand it, there has been no consultation. I would like to make a statement at some point. Are you happy for me to do that now?

CHAIR: Yes, thank you.

Ms HUXLEY: It is my view that the residents living within Kings Cross, Elizabeth Bay, Potts Point, Paddington, Darling Point and throughout the Woollahra municipality have been failed by this State Government, by our local MP who has dropped the ball on this whole thing—probably not the right wording, but we have seen very little of our local MP in this particular part of Bligh or Sydney.

The Hon. GREG PEARCE: Are you talking about Clover Moore?

Ms HUXLEY: Yes, I am talking about Clover Moore. Despite numerous letters or submissions Clover may have made to the State Government or to the submissions, that is all we have seen of our local representative. The general feeling is great dissatisfaction, that this should never have occurred. There has been a selective approach to who would get a voice in these submissions. As you have heard from Greg, and I will not add to the issues of the refusal to take into account by either Clover Moore as our State member or the State Government or the RTA and its agencies, none of them has listened in any meaningful way, as Greg has said, to any of the concerns we have had. One of the most serious concerns has been the lack of a local area traffic management plan, which we pushed for and pushed for. They refused to pay any heed to it whatsoever. They came up with this piecemeal little approach—one is a speed bump and there are two very narrow channelling exercises that have been put in as part of the conditions.

CORRECTED TRANSCRIPT

As for the community consultation program, on paper it looks quite reasonable. It refers to discussions with Woollahra council, with the Paddington traffic working party and with Woollahra traffic committee. It refers to residents community consultation. I am here to say that it has been appalling. It has been a matter of divide and rule of community concerns. They doorknocked some of the most affected streets within Paddington after ignoring the wider community and after ignoring very credible suggestions to find access routes into this tunnel elsewhere which were based on planning principles, not commercial outcomes. They have ignored all of that. They have paid lip service to us the entire way through, and we have been told exactly what we would have. It is not what we wanted as a local consent authority; it is what they would give us. The consultation process was extremely flawed.

Notwithstanding that, I would like to make another comment in relation to the abnegation by this Government and the public agencies—the RTA, the STA and anyone else who has had any involvement with designing this tunnel. They have abandoned their moral responsibility as publicly elected and public consent authorities to the wider community. It is nothing short of a disgrace. They are there to protect the public interest, not abandon it for commercial interests. Sorry, I have had my say now. I have been wanting to say that for a long, long time. If it had been planned according to proper principles that were truly designed to deliver an infrastructure project which would have been of worth to this city, they would have heeded the work we have done and what successive community organisations have presented to them. I think it is shameful they have shown contempt for people.

CHAIR: During your presentation you gave the impression that you were not actually happy with the tunnel at all. Are you saying that you do not think it should have been built in the first place?

Ms HUXLEY: I think there is a perception that there may have been a need for this tunnel, but as I move throughout the inner city and eastern and south-eastern communities I am repeatedly being told about the difficulties of actually finding access to it and how it closes people out from reasonable traffic routes that they may normally take.

CHAIR: But the council has not expressed the view that it was opposed to the tunnel as such.

Ms HUXLEY: Only in the sense that we wanted our concerns taken on board and considered in a meaningful manner.

Mr ANDREW CONSTANCE: In terms of current street closures are there any particular roads that, from the council's perspective, could be changed which would assist in traffic management of the area?

Mr STEWART: To answer your question, the concern of the council is the fact that the additional traffic that is drawn across the municipality to get to the eastern portal, the existing infrastructure within the municipal council area simply cannot facilitate that. In our submission on the environment impact statement we made some suggestions as to how access could be obtained to the cross-city tunnel without that traffic traversing through the municipality, and that was for an entrance to be provided at drivers triangle, which is at the corner of Moore Park Road and South Dowling Street, so the traffic from the south or the south east, instead of coming across the municipality, could come along Moore Park Road and enter the northern end of the Eastern Distributor and then link through into the cross-city tunnel or alternatively link through with the harbour tunnel. That was the main suggestion which we thought would overcome the total concerns because that would stop the traffic from having to traverse the municipality and put the traffic to the south and the south east along Oxford Street and Moore Park Road, which are roads that could probably handle a bit more capacity.

Ms HUXLEY: Just to add to that, it is hard to quantify. While there have not necessarily been any road closures within Paddington, it is hard to quantify the amount of congestion that has built up over the past few months. It is actually hard to measure it, although we are doing traffic counts which will give us an indication of that. But in response to what you have said, it is hard to quantify it, other than to say anecdotally that everybody is complaining about the time it takes now to get across the city without using the tunnel and the congestion of just moving around their local area.

CORRECTED TRANSCRIPT

Mr ANDREW CONSTANCE: Is it possible for you to provide the Committee with a list of improvements that you would like to see, or is it too early, given that that work has not been completed?

Ms HUXLEY: If they are prepared to do it, we will reiterate some of the things we requested three years ago.

Mr ANDREW CONSTANCE: If you could provide the Committee with that information, that would be helpful.

The Hon. GREG PEARCE: My question is to Mr Stewart perhaps. Just looking at the submission—I think it was the first one—council said that New South Head Road carried 73,000 vehicles a day—I assume that is both directions—which was 13,000 a day more than its carrying capacity. How do you come to that conclusion?

Mr STEWART: I am not a traffic engineer but I understand that, having regard to the number of traffic, the traffic engineers have statistics to say what is a comfortable traffic capacity for the number of the lanes of traffic on the road, and it is calculated from that information. I think that information was provided by the RTA in previous reports.

The Hon. GREG PEARCE: And you were concerned that under the modified cross-city tunnel proposal I think it was forecast that by 2016 daily traffic volumes on New South Head Road would be 101,000 vehicles a day, which is 70 per cent over the current carrying capacity. Is that correct?

Mr STEWART: Yes. The 101,000 is information drafted from the EIS.

The Hon. GREG PEARCE: Can you tell us how you got that figure?

Mr STEWART: That 101,000 is, from memory, out of the EIS statement on traffic impact.

The Hon. GREG PEARCE: There are no other alternatives to New South Head Road, are there? It is the feeder into the tunnel.

Mr STEWART: New South Head Road is the feeder into the tunnel. The council's concern is that the main—sorry, the traffic that will be travelling west in a direct line in line with the tunnel is residents of this municipality, which would be residents who are currently using that current line. The additional traffic would come from the municipalities to the south and the south east, which would have to traverse across to the portal itself. How they get there is the issue of concern. The main contact point at the moment is Ocean Street, Woollahra, which is a residential street. Ocean Street has been a bone of contention about the amount of traffic on Ocean Street since the early 1970s when Syd Einfeld Drive was constructed and a lot of the traffic on Syd Einfeld Drive was directed straight down Ocean Street. So the amount of traffic on residential streets like Ocean Street has been a sore point with the council for a number of years, especially with the residents of Ocean Street. Ocean Street has got to the stage where it does not have a lot of capacity.

If the traffic still has a desire line to travel north to the cross-city tunnel and Ocean Street does not have the capacity to carry that, and the traffic wants to get to the eastern portal, the council's concern is that the traffic will find rat runs through other residential streets to try to get there. The intersection of New South Head Road and Ocean Street during morning and afternoon peaks is fairly close to being saturated, and that is primarily the concern. Whichever way we go we are caught. The fact is that if we do traffic calming in Paddington to stop rat running through Paddington, that forces more traffic through Ocean Street, which the residents of Ocean Street are concerned about—Ocean Street does not have the capacity. If we limit on Ocean Street they will find the rat runs through Paddington and through perhaps other streets at Bellevue Hill and Double Bay to get to that portal.

Ms HUXLEY: One underused road is Oxford Street. There has been very little attempt to try to address that as a feeder route into the city, which would require the agreement of Sydney City Council and the RTA, since it is a major road. But it does not have the capacity, I do not believe—and Greg may correct me—but we have not conducted traffic counts up there, I do not think. Oxford

CORRECTED TRANSCRIPT

Street seems to move very freely, whereas New South Head Road just becomes like a parking lot. It is at capacity; I think it was considered at capacity prior to the introduction of the tunnel. On the issue of access, the uselessness of this tunnel for people wanting to get from the east and the south eastern suburbs of Sydney just into the city where they may work is extremely difficult. I have been asked to make the point to the inquiry that people cannot do it with any ease at all. Those from our communities who try to get to the north side of the harbour are forced literally to drive into the city in many cases and then come back out again to then get access, which is sheer stupidity. In light of the problems with transport infrastructure and lack of an efficient people moving public system, it is very difficult and people from Darlinghurst, Potts Point, Elizabeth Bay—the ones literally on top of the tunnel—complain that they do not have access to it either without going to one end or the other. As I say, most of that is from people who have asked me to make those points, so if you have any more questions—

The Hon. GREG PEARCE: I will just finish. Something that has bemused me for a long time is why the tunnel and the traffic authorities believe that the extra traffic flows which could only come from the southern areas of Sydney, why people would divert themselves through rat runs and lights and Ocean Street and New South Head Road to get to a tunnel to pay \$3.56 to cut across the city. Why would you go through that process of getting stuck in the traffic on Ocean Street to get into the tunnel? You might as well just stay stuck in the traffic and divert your way across the southern part of the city. The figures at the moment show that commonsense says that that is what you will do.

Ms HUXLEY: I think we get worn down. It is kind of like a drip torture. The longer you sit there in traffic, the harder—sorry, you are just becoming increasingly—

[Interruption]

The Hon. GREG PEARCE: It is dumb and dumber over here.

CHAIR: Obviously, there a lot of traffic problems. Does Woollahra council have a traffic planner? If so, did the traffic planner consult with the RTA over the local area traffic management plan for Paddington?

Ms HUXLEY: Greg and I have both been deeply involved in it since I was elected six years ago. I was appointed chair of that committee and we have a statutory Woollahra traffic committee which is separate to that.

CHAIR: You are the chairman of that?

Ms HUXLEY: I am chair of the Paddington traffic working party, which has dealt with most of the concerns regarding the cross-city tunnel and most of the discussions with the RTA, the buses, the unions and so on. What was the point of the question?

CHAIR: Did you consult with the RTA over the local area traffic management plan for Paddington?

Ms HUXLEY: Yes, we did. They have a position on our committee. We have just about every necessary State government agency represented there and our local members of Parliament.

Mr MATT BROWN: That is good.

Ms HUXLEY: We are very consultative and very democratic and we try to be accountable.

Mr PAUL McLEAY: I want to clarify a comment you made earlier. Did you say that people have told you anecdotally that they are having trouble gaining access to the tunnel?

Ms HUXLEY: Yes, that is correct.

Mr PAUL McLEAY: If that is the case, how do you respond to claims that the tunnel was built as a funnel to funnel motorists in? Either it is hard to access or it is designed to ram motorists in.

CORRECTED TRANSCRIPT

Ms HUXLEY: Thanks, Paul, this is a very curious thing. I think we Sydneysiders are a pretty tough and determined bunch, as you will see from our refusal to actually use it at such a high cost. I do not think that many of us actually like to be told what we have to do, particularly when we see our Government not representing our interests. It is extremely difficult for people to have to even come through Paddington and Woollahra. Darling Point residents now complain to me that they actually drive across New South Head Road to come down through Paddington because New South Head Road and Mona Road and those other feeder roads into New South Head Road are so blocked, they are so difficult. The difficulty of access is also coming from people who may wish to get north of the harbour or west of the city who actually live above it. It almost rules them out unless they wish to take a particularly circuitous route back east to get it in at McLachlan or New South Head Road or if they are a little bit closer to the Darling Harbour site they have to go through a maze of streets to get in there too. It appears to be a conflict, but in fact it is not. There are frustrations. We all have different needs. Living just a block away from somebody-else can sometimes—

Mr MATT BROWN: So traffic is not funnelled through?

Ms HUXLEY: They are doing their best to funnel it through, yes, they are. As I say, this drip torture of having to sit in clogged streets will eventually wear people down. It is my view that the planning principles that should have been applied should have taken into account real planning and the actual usage of these roads by everybody that lives in the inner-city and south-east of the city so that a really meritorious, valuable infrastructure project could have been delivered.

Ms LEE RHIANNON: The other witness would like to respond.

Mr STEWART: I could add a bit to that. I was asked earlier in relation to the phasing of the traffic lights. My observations are that there have been some changes to the phasing of the traffic lights primarily to give preference to traffic on the main roads to try and get that traffic through to the cross-city tunnel as quickly as they possibly can. To allow additional travel time or vehicles to travel along the main roads, the phasing has been changed so that the traffic from the residential areas abutting have increased delays in actually accessing those main roads. It has been a matter of phasing. Whilst the phasing has been done to try to get the traffic to the cross-city tunnel, it has an impact on the residents being able to access those main roads through those lights.

Mr PAUL McLEAY: It means that the main roads are moving faster?

Mr STEWART: I am not sure whether the main roads are moving faster. The extra traffic that is coming in has an impact on that. In actual fact, the traffic on those main roads in some cases during the morning peak is actually moving slower. What they are trying to do is to move as many vehicles along that main road system that they possibly can. The question earlier about why would people travel across this route, it all basically comes down to what people are prepared to do. People would generally try to get from point A to point B as quickly, as comfortably and as cheaply as possible. It depends upon everyone's tolerance levels as to what they are prepared to pay, even their social situation, and what sorts of time they are prepared to spend in traffic or not in traffic. So that is what I can add to that question as well.

Mr PAUL McLEAY: Councillor Huxley, I noted earlier your damning criticism of local member Clover Moore.

Ms HUXLEY: Was it damning? Just frustration really.

Mr PAUL McLEAY: Are you or have you been a member of a political party?

Ms HUXLEY: I am. I am clearly a Liberal-endorsed Woollahra councillor, but my first commitment has always been to my local community. That tends to be my reputation. I sometimes take quite a different perspective from a variety of people.

Mr ANDREW CONSTANCE: She shares the same views of Clover Moore as the Labor Party does, in my observation.

The Hon. AMANDA FAZIO: We were not asking for your observation.

CORRECTED TRANSCRIPT

CHAIR: We do not want observations. The witness has the floor.

Ms HUXLEY: When I was first elected Clover and I used to work quite well on things. She does have representatives on some of our committees. But once she was elected to the mayoralty I received a call from her assistant saying I would be dealing with her now. I have only seen Clover since at the odd Christmas party. I have not seen her do anything other than write the occasional letter to a Minister or put a submission in. She has not had a very high public profile through this part of her electorate, sadly. I am not meaning to damn her, I am just disappointed. "Damning" was not my word.

Mr PAUL McLEAY: "Damning" was my word.

Ms HUXLEY: Thank you. You are a difficult bunch here. You are like council.

Mr PAUL McLEAY: Do either of you recall meetings about the Paddington local area traffic management zones [LATMs] and consultations in 2004 with council, briefings, council workshops, ongoing workshops with the Paddington Society, RTA staff doorknocking, community meetings and community information and that these designs were signed off by Woollahra council, given they were essentially designed by the community?

Ms HUXLEY: Greg can answer some of that and I can answer it from a different perspective, from an elector perspective. We really did not have much choice, as I said earlier in my statement, as to what we signed off on. It was made very clear to us through both of our statutory committees—the Woollahra traffic committee, which is a technical committee, and the Paddington traffic working party—that we are only an advisory group and that the technical and government agencies may not necessarily agree with us and they have to sign off on everything. We do not get a single thing on most of these roads unless they tell us we can have it, which is pretty sad because we are actually the voice of the community.

Mr PAUL McLEAY: What types of things did they respond to, particularly after your response to the EIS?

Ms HUXLEY: Greg probably has a different view to me. I would say very little. I do not believe the two conditions, I think they are 59 and 61, went anywhere near addressing many of the concerns that we as a consent authority had, particularly in relation to the original planning of it, and to create more opportunities for people to access it without creating this funnelling. It was quite apparent after the final study came out that what they were doing was funnelling it through the streets. They were not making any attempt to move it elsewhere. In response to a question that I had, which was "Why did you not look at that?", they said, "It is too hard to separate out the commercial interests."

Mr PAUL McLEAY: Would you say there were any potential benefits to your council of the traffic management measures that removed through traffic from local roads and put them onto the main roads?

Ms HUXLEY: Frankly, no. There is one speed hump, which caused enormous problems, and there is a slight narrowing of Brown Street. No, I do not believe they have had any significant outcomes whatsoever at this stage.

CHAIR: You have said a couple of times that your views were not accepted because of the commercial interests. What are the "commercial interests"?

Ms HUXLEY: That was a conversation we had in one of the working parties. I will not mention this other community leader's name but he was particularly passionate about the amount of traffic being forced ultimately to go down Ocean Street. He was really pushing, along with council, for the Government to investigate options for accessing the tunnel up on Driver Avenue. It came out of the conversation that we had around that.

CHAIR: What do you think "commercial interests" means? Who are the commercial interests?

CORRECTED TRANSCRIPT

Ms HUXLEY: There were different commercial interests owning the different traffic distribution avenues. One was managing the Eastern Distributor, the other was managing the cross-city tunnel. I think they wanted a clear differentiation.

CHAIR: I think you are making the point that the commercial interests involved how to maximise the amount of vehicles in the tunnel to increase the income for the consortium?

Ms HUXLEY: I suspect so.

Mr STEWART: Maybe I can expand on what you are saying. Under condition 59 of the approval, if I could read it to you:

Within 6 months of this approval the Proponent shall in consultation with the PTC, NSW Police, Emergency Services, relevant local Council(s) and community representatives, commence the preparation of the Local Area Traffic Management (LATM) measures for Paddington as defined in Appendix 7 of the Representations Report and shall include as amendment unless otherwise agreed by the relevant local Council(s) the following:

- (a) traffic calming on Brown Street/Neild Avenue between Macdonald and Lawson Streets; and,
- (b) traffic calming on Glenmore Road between New South Head Road and Cascade Street.

That condition we interpreted as they had to look at local area traffic management for the whole of the Paddington area. When we approached the RTA their answer to us was, "No, it only means that we have to do traffic management works on those two streets as specified", although the condition says "as a minimum". We wrote to DUAP to seek clarification on that condition. The answer came back that all they had to do was those two streets.

Mr PAUL McLEAY: Do you want more traffic calming and street closures in the Paddington area?

Ms HUXLEY: One of the things six years ago, there was a failure of a significant—option E it was called, our local member of Parliament was driving all those years ago that was canned because of the perceived impact on other streets outside the area. We formed this working party. Over the last six years we as a council—mind you, we have to approve everything through the State government agencies and with the technical officers' advice—have developed a strategy independent of the Government to this extent: We want to discourage, dissuade, ameliorate and introduce traffic calming to stop what was increasingly looking like a highway through the heart of Paddington. Over the last few years we have come up with the implementation of a 40 kilometres per hour zone throughout the entire area. We are addressing intersection changes at three of the major intersections and we are pedestrianising Paddington as much as we can so that people are safe.

Mr PAUL McLEAY: It sounds almost like the William Street boulevard.

Ms HUXLEY: No, no, no. It is nothing like that. We are not closing any streets. There will be no street closures.

Mr PAUL McLEAY: William Street is not closed either. It has slowed and has more pedestrians.

Ms HUXLEY: No, no, no. We are not closing any streets, none at all.

Mr PAUL McLEAY: You do not want any street closures?

Ms HUXLEY: No, we are not looking for street closures.

Mr PAUL McLEAY: But you want more significant traffic calming and slowing?

Ms HUXLEY: We have come up with a plan that has gone to public exhibition which is going to see the slowing of traffic. We are hoping to make it a safer pedestrian area, because more and more families are choosing to live in the inner-city. We are seeking to widen footpaths in some cases. The traffic will still flow happily through but in a much more sedate manner and with a different priority.

CORRECTED TRANSCRIPT

Mr STEWART: What we would like to do is to make sure that traffic flow in those residential areas is not increased through other external factors outside the residential area and that the traffic that does go through Paddington is properly managed and does not impact on the residential amenity of the area and does not impact on pedestrianisation through the Paddington area.

Mr PAUL McLEAY: Paddington does not exist in a vacuum. Where do the people who are travelling through go through your area?

Mr ANDREW CONSTANCE: They go on the roads.

Ms HUXLEY: There is Oxford Street, which is a pretty significant arterial road that could sustain more traffic. I would certainly be reluctant to have a look at Ocean Street. I am a proponent of better public transport infrastructure. I frequently just hop on a bus which, I am fortunate, runs via the end of my street. But I am one of the lucky ones, unlike Rose Bay and others who have had the Better Buses program come in which has actually stopped bus routes.

Ms LEE RHIANNON: We have contradictory evidence about the changes to bus services after the tunnel opened. Former Premier Carr was emphatic that bus services have improved enormously whereas others have questioned that. Have you had any experience in your area of the impact on buses?

Mr STEWART: The issue of the impact of the cross-city tunnel on bus services has not been raised with us at this stage. That is probably because it is still in the implementation and phase-in stage and also because of the fact that William Street is under construction. One of the issues I was going to raise is that in the cross-city tunnel project there was nothing looking at public transport and trying to improve public transport and to get people out of cars to minimise the numbers of cars on the road. Of course, it was not in the consortium's interests to reduce the number of cars going through the tunnel.

Ms HUXLEY: We have had public meetings about the loss of bus routes from the less accessible parts of the municipality.

Ms LEE RHIANNON: What period are you talking about?

Ms HUXLEY: Prior to the cross-city tunnel.

Ms LEE RHIANNON: Just prior to it?

Ms HUXLEY: Yes. The Better Bus program changed everything.

Ms LEE RHIANNON: Did you feel it was linked in any way or just coincidental?

Ms HUXLEY: I think it may be coincidental, because public transport has not been raised in any discussions we have had about the cross-city tunnel.

Mr PAUL McLEAY: In relation to consultation, did council's traffic representative, Mr John Stephens, attend two Kings Cross CLG meetings in April and May 2003? If you do not know the answer you can put the question on notice.

Mr STEWART: I cannot confirm that.

Mr PAUL McLEAY: If so, why did he not attend any meetings after that?

Ms HUXLEY: Sadly, we have lost one of our best traffic officers to somewhere else. That may explain it. I do not know if he was there; I know that we were not. As Mr Stewart said, we were not permitted to have a representative, particularly in the early stage. I would be interested to know the dates so we can confirm that.

CHAIR: You will take the question on notice?

CORRECTED TRANSCRIPT

Ms HUXLEY: Yes.

Mr PAUL McLEAY: My understanding is that Woollahra has claimed that it was not involved.

Ms HUXLEY: No, we were not.

Mr PAUL McLEAY: It was offered participation in the Kings Cross CLG and Mr Stephens attended meetings in April and May 2003, and then no other representative attended thereafter.

Mr STEWART: Can you clarify what the “CLG” is?

Mr PAUL McLEAY: The community liaison group, which was set up by the RTA.

Mr ANDREW CONSTANCE: There were about 50 of them.

Mr PAUL McLEAY: There were five committees to deal with implementation.

Ms HUXLEY: I do not know, but I would appreciate your giving me the dates and we will check the situation and provide feedback.

CHAIR: Did the council have any discussions with the community liaison groups? You seem unaware they existed.

Ms HUXLEY: I have never been invited.

CHAIR: In a sense, they were taking the place of the council —

Ms HUXLEY: In a sense, but —

CHAIR: They were negotiating with these groups for feedback.

Ms HUXLEY: I am sorry to interrupt you the way I do. It comes back to the fact that this consultation process was totally meaningless. We were ignored as a consent authority, as representatives of our community; we were not invited to participate in these committees. I would have thought that some of the elected representatives, who are the spokespeople for our communities —

Mr PAUL McLEAY: It is up to the council to send who they like.

Ms HUXLEY: I know. We did request that we were —

Mr ANDREW CONSTANCE: They were not.

Mr PAUL McLEAY: They were invited; they had a spot on it.

Ms HUXLEY: No, we were not invited. We did request the opportunity to engage. I am unaware of John Stephens attending those meetings. As I said, I would like those dates and we will get back to the committee.

CHAIR: You indicated that he left the council.

Ms HUXLEY: Yes, sadly he went to another council.

CHAIR: Do you know the date he left? Obviously he would not attend if he was no longer working for the council.

Ms HUXLEY: About a year ago.

CORRECTED TRANSCRIPT

CHAIR: Thank you very much for appearing before the inquiry and for the information you have conveyed to us.

Ms HUXLEY: Thank you for listening to us.

CHAIR: We are concerned that the residents of Woollahra have a happy environment.

Ms HUXLEY: We are not a special bunch.

(The witnesses withdrew)

CORRECTED TRANSCRIPT

(Short adjournment)

CHAIR: The Committee welcomes members of the Central Community Liaison Group. I need to draw your attention to a statement I read out earlier. Committee hearings are not intended to provide a forum for people to make adverse reflections upon others. The protection afforded to Committee witnesses under parliamentary privilege should not be abused during these hearings and I remind witnesses to ensure the matters raised are directly relevant to the Committee's terms of reference. If a witness makes serious allegations which the Committee believes reflect adversely upon a specific person, then, as a matter of procedural fairness, the Committee would be obliged to provide that person the opportunity to respond to the criticisms. This process may divert the Committee from its deliberations. As you may know we have a reporting date that is less than four weeks away—I will report to Parliament on 28 February—so it may impede the Committee's ability to meet this deadline.

The other point I wish to emphasise relates to comments from the audience. We are aware that people hold strong and divergent views regarding the cross-city tunnel. I wish to emphasise that, although this is a public hearing, it is not an open forum for comment from the floor. While the Committee welcomes members of the public here today, the primary purpose of these hearings is to provide individual witnesses with an opportunity to give their evidence on oath before the Committee. Only questions from the Committee and the evidence of witnesses are recorded on the transcript. Uninvited interruptions are not recorded and may make it more difficult for witnesses to fully express their views.

One of the main purposes of the hearing, of course, is to provide an opportunity for Committee members to ask questions. I note that some witnesses have been making long statements. The statements are intended to be a brief introductory comment by the witness before the questioning process commences. The intention is not to have four 15-minute statements, leaving no opportunity for questions. If the statements are in typewritten form the Committee will be happy for them to be tabled. They will then form part of the Committee material, appear on the web site and be made publicly available. I am not attempting to prevent material from being made public; it is merely a question of how to best use the time of the committee and of witnesses.

MARGARET EVE HAMILTON, Information Technology Sales,

PATRICIA MULLER, Hotelier, and

GUNDO ALPARD FRENDA, Geologist, affirmed and examined:

CHAIR: In what capacity does each of you appear before the committee?

Mrs HAMILTON: As an individual, but I represent the residents of the Diplomat Apartments, which is a complex of a mixture of units and townhouses directly opposite the Bourke Street cross-city tunnel works compound. I have been a member of the Community Liaison Group central region since its inception. I was also involved in community groups in the planning and design phase of the cross city tunnel.

Mrs MULLER: I was representing the community on the liaison consultation group.

Mr FRENDA: As the ESNA delegate to the Central Community Liaison Group.

CHAIR: Is each of you conversant with the terms of reference of this inquiry?

Mrs HAMILTON: Yes.

Mrs MULLER: Yes, I am.

Mr FRENDA: I am.

CORRECTED TRANSCRIPT

CHAIR: Does any of you wish to make a brief opening statement? If you have a typewritten statement it may be tabled and it will be included in the Committee's papers.

Mrs MULLER: My statement is not typed; it is handwritten. I do not think it is too long winded. I thought I might read it.

CHAIR: Very well. We will commence with you, Mrs Muller.

Mrs MULLER: My name is Trish Muller. My husband and I are the freehold owners of the East Sydney Hotel on the corner of Crown and Cathedral streets, Woolloomooloo. We have been there for 28 years in April and are well known as the, "pub with no poker machines". We were members of the original Woolloomooloo Chamber Of Commerce. I might add that I was the only member in favour of retaining the Finger Wharf and spent many years on the campaign as part of the committee Friends of the Finger Wharf. I have been the business representative on the management group of the McElhone Community Centre, provided a venue for regular local meetings—including the Friends of Bligh and an action group opposed to high-rise on the eye hospital site.

This decision goes against our commercial interests, but I find the constant threats to the character and amenity of Woolloomooloo require people to be actively on guard against selfish interest groups. I was approached to be part of the Community Liaison Group for the central section of the cross-city tunnel and thought that, through the hotel, I could help inform and take concerns of the local residents to the committee. Even long-term residents could not make sense of some of the leaflets about road closures, many of them a blur of arrows with intersections cut off the maps. The first meeting I attended was upstairs in the old Carrolls Hardware Store on the corner of Bourke and William streets, which was to be used as an information and display centre for the project. We were given a document that, from memory, laid out the objectives of the group. I remember saying, "This looks like a fait accompli. Are we here as window-dressing?" only to be assured that that was not the case.

Thereafter, we met every month at the Boulevard Hotel, where we were given a cup of tea or coffee and a sandwich and had a wad of papers put in front of us that I, for one, had never seen before. There were always a lot of consultants, RTA representatives, engineers, et cetera present who often made some sort of presentation. We would bring up points that concerned us and were often told they would get back to us or regularly heard they could not say as that was to do with the RTA. After many such meetings the frustration and antagonism built to the point where a professional mediator was employed to chair the meetings. Several people, including Malcolm Duncan and a lady lawyer from the Domain Apartments were told not to attend any of our group meetings. She, in particular, had been very vigilant about getting them to comply with work timetables and noise levels.

There were repeated requests to provide an overall traffic plan for the completed project but one was never provided. We asked how they could possibly undertake such a massive job without one. My conclusion: If they did not have one they were lying or stupid, or both. The response to correspondence from me, especially about the G-loop, Clover Moore held a well-attended meeting for locals in the hotel dining room and invited someone from the cross-city tunnel. I am sorry but I cannot recall his name. I cleaned off the menu blackboard and asked him to draw a clear map for us. We felt little the wiser as he was another expert at telling us almost nothing. My feeling, in conclusion, is that we on the liaison committees were in fact window-dressing so they could tick the box and say they had consulted the community. The cost of this charade must have been enormous.

In October 2004, Clover Moore convened a meeting at the Mary McDonald Centre in Woolloomooloo, which was very well attended, at the end of which three motions were put regarding traffic and road closures. I recall the first was in favour of the G-loop and nobody voted for it. There was a fairly even show of hands for the other two, after which I proposed a fourth amendment to leave all of the streets open until the tunnel was operational for a time and then decide what to do. Many there voted for this as a good idea, though it was not adopted and I believe it is not in the minutes.

In our neighbourhood we have endured years of disruption and noise, including the moving of heavy machinery in the middle of the night. Many parking spots were lost to facilitate these huge vehicles in residential streets. I wondered why they were not reinstated and now I know why. One of the cross-city tunnel engineers told me that our corner would be the worst affected and I believe this to

CORRECTED TRANSCRIPT

be so because of the extra traffic being forced along narrow Cathedral Street and into Crown Street. The worst noise is from the 311 bus and all the heavy vehicles from the council depot in Bourke Street, both of which start work in the very early hours of the morning. We have six guest rooms and I have had people check out because of the noise.

There is no bus stop in Cathedral Street because it is not wide enough and the drivers have to go through three extra sets of lights to get onto William Street at Crown Street, which is always a dangerous intersection. The corner of Bourke and William streets has commercial tenants and I cannot see the sense in not reopening this, at least for buses and trucks. As it is, the buses sit and belch diesel at the lights at my corner, and then change down several gears to go up the hill to William Street. I pay the city council for the pleasure of having footpath seating.

I resent the comments made here yesterday that I have only attended three meetings and am ill-informed. I have with me copies of some correspondence with the city council and Clover Moore regarding local issues, some social and others to do with the cross-city tunnel—for example, to lend support to the retention of the roundabout on the corner of Sir John Young Crescent and St Marys Road, since replaced with lights, and the reinstatement of a left turn at the same intersection into Yurong Parkway, inexplicably blocked. I also have return letters from Mr John Watkins, MP, about the 311 bus, and from Mr Joseph Tripodi, MP, regarding a spate of serious accidents on the corner of Cathedral and Palmer streets, directly in front of the cross-city tunnel central control building.

A neighbour has asked me to also inform you that photographs for possible structural compensation if necessary were not taken until six months after the commencement of work. May I also say I resent the impact on the village of Woolloomooloo by vested interests who wish to live in half an inner-city suburb with no through traffic. Do you know that between Darlinghurst Road, Kings Cross, and College Street there is only one Street not closed off at William Street, and that is Crown Street. In conclusion, there are great advantages to living so close to the city. One of the disadvantages is the traffic and I think it only fair that we all share it and not leave one area to suffer the burden.

CHAIR: Mrs Hamilton, do you have a brief statement you wish to make?

Mrs HAMILTON: Yes. I am a supporter of the cross-city tunnel on principle. It could have taken tens of thousands of cars, their emissions filtered out, and created a more pleasant boulevard in William Street. But no-one has ever been able to tell me why the Government did not insist on filtered stacks. Users are paying over \$7 for a round trip of just over four kilometres to use the tunnel and the project cost \$680 million, and yet no filtering was stipulated by the Government. Filtered stacks can remove a wheelie bin worth of pollutants from the atmosphere breathed in by Sydneysiders every day and result in cleaner city air. The CCT web site states:

The cross city tunnel will take more than 90,000 vehicles and their emissions off the streets of Sydney every day. Better air quality is one of the key objectives of the cross city tunnel.

That is just not true. All the emissions get pumped out unfiltered at Darling Harbour. In its charter the community liaison group has no real power, however it has been a good way to glean information and pass it back to the community. I have found BHBB, the construction company, always obliging, however the RTA has patently not had any respect for local residents. There have been calls for the reopening of streets, including the bottom of Palmer Street to access the bridge and the southern side of Bourke Street. Reopening the Palmer Street access to the harbour crossing would encourage traffic back onto local streets rather than using the spur of the cross-city tunnel for \$1.68. The RTA has admitted that if this were to open, traffic that needed to change lanes to get where it wanted to go—you have people coming out of the cross-city tunnel and people using the rat run and changing lanes to go to the city or the harbour crossings—does not have enough time to change lanes and therefore it would be an accident blackspot and therefore the reopening of that would not be a good idea.

The original project had a G-loop to access the Bourke Street entrance to the Eastern Distributor, where cars would travel down William Street, turn right into Crown Street, right into Cathedral Street, right into Bourke Street to enter the Eastern Distributor. This was miraculously changed into turning into Palmer Street to keep the amenity of Crown Street, although Crown Street was a major thoroughfare and Palmer Street was a quiet street when we moved in six years ago. Thankfully, this was eliminated and direct access was given to the Eastern Distributor from William

CORRECTED TRANSCRIPT

Street. However, recent calls to reopen the southern side of Bourke Street mean that the ridiculous G-loop would need to be reinstated.

The cross-city tunnel project was not only enabling a faster run through the city; it is also about the amenity of residents and pedestrians. In Woolloomooloo East Sydney we have the unfiltered stack of the Eastern Distributor, and even the EPA has admitted that Woolloomooloo is a pollution hotspot. However, the calls to reopen Bourke Street and the Palmer Street access to the bridge eliminate the possible benefits to local residents who have put up with 10 years of construction from the Eastern Distributor, closely followed by the cross-city tunnel. We live in the middle of the tunnel so we can get no benefit from it and are most affected by road closures, yet we see no value in encouraging through traffic through the tunnel and keeping the local traffic. People who object to the road closures are people who are really objecting to paying the toll or the few local residents who live in closed roads. In addition, the closure of Bourke Street meets condition of approval 238, which stipulates that street prostitution should not be displaced from William Street to nearby streets, and 288, which stipulates that Bourke Street will not become a rat run.

When my friends and colleagues who are not from the area roll their eyes at the cross-city tunnel I always ask them what it is they object to and they tell me that the routes they used to take are no longer available. For instance, when my colleague travels from Surry Hills to her home in Neutral Bay, she can no longer travel toll free down Crown Street and Sir John Young Crescent harbour crossing. I asked her if she would get on the Cleveland Street entrance to the Eastern Distributor if it was, say, free or \$1 or \$1.50 and be at the harbour crossing in five minutes. I am always met with a resounding yes. It is not the tunnels that people object to; it is the high tolls. People would much rather travel with no traffic lights swiftly to their destinations, but are being caught in the traffic because they see the tolls as too high. Perhaps if the \$100 million kickback from the developer was not paid to the Government, this would not have to be factored into the price of the toll. I go past William Street every morning and every evening, and the traffic is better now, not worse, than it was prior to the cross-city tunnel. It was always slow-moving yet one lane either side has been closed and 20,000 cars are now going underground, so that more than compensates.

In summary, the solution is not to reopen the rat run but to encourage cars to avoid city streets by making tolls fairer. Obviously they are subsidised by the Government now because it has this agreement with the developer, as in some other toll roads such as the M4. Let us make Sydney cleaner by putting filters in the tunnel stacks. Thank you for listening to a genuine resident who has firsthand local knowledge and no political affiliations .

CHAIR: Thank you. Mr Frenda?

Mr FRENDA: My opening statement is about as long as the first one but covers some of the matters raised in earlier sessions, which may be of interest to the Committee. Our local East Sydney Neighbourhood Association [ESNA] has supported the concept of the cross-city tunnel from its earliest inception. Because we live in the middle of it we were not likely to be able to use the tunnel but we saw great civic benefits from the conversion of William Street, a traffic-choked urban wasteland, into a world-class boulevard and a pedestrian gateway to our heritage suburb of East Sydney. During the environmental impact assessment process our association and our then South Sydney City Council asked that a local area improvement plan [LAIP] would be made a condition of consent. We made submissions in the EIS process, one on 21 August 2000 and the other on 27 August 2002. The summary stated:

The East Sydney Neighbourhood Association will support the construction of the cross-city tunnel if the Minister for Urban Affairs and Planning makes his approval conditional on the establishment of a local area improvement program for East Sydney designed to address and rectify our concerns.

Document tabled.

If we could not have a LAIP we at least asked for what is known as a LATM, a local area traffic management plan. We got neither. When the community liaison groups were formed, the first meeting being 15 January 2003, the project and proposed construction procedures had been approved and participants could have no input to how and where the cross-city tunnel was to be built. Community input to minimise construction impact was limited to condition of approval 45—which includes the mustering of dump trucks in residential streets—and condition 216, to do with lighting,

CORRECTED TRANSCRIPT

fencing, graffiti, crime and safety. Noise and dust complaints were made directly to a BHBB hotline. The main function of the CLG was to receive construction updates and progressively the proposed environmental construction methods [ECMs]. We had one visit underground.

Of the 292 conditions of approval that the New South Wales Minister for Planning imposed on the proponent, the proponent being the Roads and Traffic Authority, only three are designed to protect the adjacent residents from the negative impact of the project during operation. These are conditions 61, 238 and 288. Members may not already be familiar with text of these conditions. Therefore, I have included them as item 1 in the tabled documents. Basically condition 61 says that if traffic conditions are not as predicted one year after opening the tunnel, the RTA must do something about it. Condition 238 says that street sex shall not be moved from William Street, where it is legal, into adjacent streets, where it is not legal, and condition 288 says that Bourke Street shall not become a rat run.

The likelihood that Bourke Street would become a rat run resulted from the EIS-proposed and approved ban on a right-hand turn from William Street, north into Bourke Street to access the Eastern Distributor southbound and to make a toll free harbour crossing via Cowper Wharf Road. During peak hour such traffic would either have to travel along Bourke Street East Sydney to cross William Street at right angles or execute a G-loop through Woolloomooloo.

Unsurprisingly, the traffic assessment peer review—and that is in this document; the planning Minister's final response asked for a number of organisations for peer reviews of documents submitted by the RTA—identified a 95 per cent increase in traffic onto largely residential Liverpool Street Darlinghurst westbound to reach Bourke Street, and comments that this large increase has not been explained by the proponent, the RTA. I have prepared a plan showing the various traffic routes by destination that would converge on Bourke Street. It is item 2 in the tabled documents.

In imposing condition 288 the Minister for Planning was in full compliance with the national charter of integrated land use and transport planning that he and all other planning and transport Ministers endorsed later in 2003. A copy of the charter is included with the tabled documents as item 3. I refer members in particular to section 6 headed, “Creating Places and Living Areas Where Transport and Land Use Management Support the Achievement of Quality of Life Outcomes,” and particularly dot point 2, which is:

Places, centres and communities should be created as precincts where provision for vehicle traffic is subservient to the needs for quality and amenity.

ESNA members support the charter and believe that good traffic planning puts local traffic on local roads and through traffic on arterial roads. The New South Wales RTA road design and classification parameters support this view. This is item 4 in the tabled documents. Item 4 will show you the different types of roads that exist and how much traffic should be on them, ranging from arterial to local roads.

In order to comply with condition 288, the RTA prepared four options for managing traffic at the William Street/Bourke Street intersection. Input from the community in the surrounding area was widely sought by means of a brochure dropped to how souls by the RTA. Two public meetings were held. The latter, on 20 October 2003, was organised by council. It widely advertised, including a letterbox drop of more than 8000 leaflets, inviting recipients to attend the meeting. I have here a copy of that letter that went out. The meeting was attended by more than 100 people, and was fairly evenly divided in favouring options 2 and 3. Both options cut out the G-loop through Woolloomooloo and limited rat runs along Bourke Street, and hence satisfied condition 288, but only option 3 also satisfies condition 238. The proposal to do nothing was dismissed as unfeasible by the RTA due to limitations imposed by the approved the crease from 3-phase to 2-phase traffic light operations at the Bourke Street/William Street intersection during peak hour. Mr Chairman, if you like, I could give you more details later of how these phasings of lights work. I know traffic phasing has been in the news lately. Perhaps I will leave that for questions.

Option 3 was proposed by the RTA and approved by the Minister for Planning. It was implemented as the approved scheme when the cross-city tunnel opened on 28 August 2005, but with temporary materials. Despite traffic disruptions caused by upgrades on William Street and Darlinghurst Road, the scheme appears to be operating well. But it will, in any case, shortly undergo a

CORRECTED TRANSCRIPT

six-monthly review by the RTA. Traffic from the eastern suburbs now has direct access to William Street via the Kings Cross tunnel and can turn right at Bourke Street to access the Eastern Distributor, or at Palmer Street to make a toll-free harbour crossing.

An item came up earlier about the land bridge at Darlinghurst Road. The slow progress of work on the Darlinghurst Road land bridge referred to by others in a previous session was discussed at the last central CLG meeting on 18 January 2006. As with the rest of the William Street upgrade, the work is part of the EIS approved scheme and is being performed by BHBB, the builders of the cross-city tunnel, not by council. Work was delayed because an unmapped high-pressure gas main was found on the fire station corner, and on the other side the land bridge is not strong enough to take the standard smart poles. Redesign was required at both locations, and the work should be completed at the end of April—as, by the way, will the rest of the William Street upgrade. The fact that this is part of the approved EIS is evidenced in this document, when even shows a picture of it.

It must be said here that, contrary to statements made by others orally in their submissions, option 3 was not adopted by the RTA at the request of the Lord Mayor. I have tabled for the Committee's information as item 6 a letter from the Lord Mayor to the RTA's consultants listing issues to be investigated by the consultants. Preference is expressed by the city for only one item: to keep all existing pedestrian crossings across William Street, which is in direct contradiction to the feasibility of either options 2 or 3. Implementing either option 2 or option 3 requires the loss of one pedestrian crossing. If you opt for one, you can not have the other—and the Lord Mayor opted to keep all pedestrian crossings. Receipt of the letter is the only correspondence that ESNA has had with the Lord Mayor on the matter. Nor have we met with her. It appears that we have the same difficulty in meeting with her as do our opponents.

I would now like to speak briefly about the relentless if not obsessive campaign being waged by a small number of persons to have Bourke Street reopened as a rat run. They only became interested in the cross-city tunnel surface traffic arrangements when they discovered that it was planned to close Bourke Street. The campaign was initiated by the Darlinghurst Resident Action Group [DRAG], whose area of interest is West Darlinghurst, which has a common boundary with East Sydney but is separated from us by two arterial roads.

Ms LEE RHIANNON: Mr Chair, will we still have plenty of time for discussion? I am quite happy for the witness to have as much time as he likes, but his lengthy statement is eating into our question time. I just wanted to clarify that there will be plenty of time for questions.

CHAIR: We only have the time till 1 o'clock.

Ms LEE RHIANNON: I have a number of questions to ask, and I wanted to ensure that all members have time to ask questions.

CHAIR: How much longer will your statement be?

Mr FRENDA: It is not much longer. I am just getting to the good bits now! The problem is that I refer to items that I have handed out, and I have not made a separate submission.

CHAIR: You have referred to all of the six items that you have given us.

Mr ANDREW CONSTANCE: The Opposition will give their time to Ms Lee Rhiannon.

Ms LEE RHIANNON: Thank you very much.

Mr FRENDA: One of its then convenors is a prominent and influential member of The Greens Party and the other is a very active and the ambitious member in the left faction of the Labor Party. Given that the Bourke Street closure avoids the predicted 95 per cent increase in traffic along the largely residential Liverpool Street, which passes through the DRAG area of West Darlinghurst, and that the extra traffic in Darlinghurst Road appears to be minor—after all, Darlinghurst Road is an arterial road with no residents at street level—and that there are clear benefits from the closure both to the people of West Darlinghurst and East Sydney—we are perplexed as to the real motives of this campaign. In its earlier statements DRAG/2011 had made it clear that they viewed any moves to the

CORRECTED TRANSCRIPT

crease through traffic on East Sydney residential roads as a thinly veiled ploy to decrease illegal street prostitution. For example, the *Kings Cross Times* of 21 August 2004 reported:

The new closures are about traffic management, but neighbouring associations DRAG and 2011 say it's about choking off so-called kerb-crawlers so street workers will go elsewhere—maybe to your suburb.

More recently, in the *City News* of 28 January 2006, Councillor Harris, the endorsed Greens candidate for the State seat of Sydney, wrote:

The Greens will support street closures where areas are being degraded by traffic. What we don't support are street closures designed to improve the real estate values of a handful of individuals or to simply move traffic to adjacent suburbs.

The Greens also support a compassionate approach to sex workers. Studies have shown that 95% of street-based sex work is conducted by people who are addicted to heroin. We believe in bolstering spending on outreach services to target substance addiction and measures such as safe house brothels to keep sex workers safe, healthy and alive until their drug issues are addressed.

The approach of a small number of residents in East Sydney appears to be simply to move sex workers—like traffic—from their streets to that of their neighbours. As Greens candidate for the State seat of Sydney, I do not believe this is helpful nor fair and I could not support such an approach.

It is clear from the above that the Greens will oppose any traffic measures that in their opinion could have a negative impact on the viability of the illegal street sex industry in East Sydney. The Greens want illegal street sex to remain in East Sydney until a better solution is found. Thus, in order to aid and abet an illegal industry, the Greens are prepared to trash a whole suburb, to encourage traffic chaos and pollution in front of a large primary and secondary school, and to put the rights of the motor car before people, residential amenity and the environment. Shame on you, Greens! Is that what you really stand for?

It must be said here that ESNA also has a compassionate approach to sex workers. It sees these girls as victims of drug addiction and at the mercy of predatory kerb-crawlers. It was ESNA's idea almost five years ago to establish safe house brothels so the girls can work in front of them in safety. However, those brothels should not be in residential streets where street sex is illegal, but in non-residential streets like William Street, Oxford Street, Darlinghurst Road, portion of the Victorian Street, McLachlan Street, Nield Avenue and Bayswater Road where it is legal. It must also be said that safe House brothels may be a good idea, but after five years there is not a single safe house brothel operating anywhere. Nor has it been shown that clients would leave the safety and empowerment of their motorcar, find a parking space, park and walk to a safe house brothel. With reference to the Bourke Street closure, street sex workers along Bourke Street are still there, but no longer as a crime node at the former kerb-crawler entry point from William Street. Street sex has not moved underground, nor has it moved into an adjoining suburb.

There is a second faction, seemingly the Labor faction in the DRAG/2011, now rebranded as Action City East. This faction wants no more road closures at all and would, it appears, have some or all of the existing 112 road closures within seven kilometres of the GPO reopened. For example, I quote from a letter dated 18 January 2006 to Sydney City Council written by Action City East in opposition to a suggested pedestrian crossing on South Dowling Street:

Current traffic strategy is apparently to force vehicles off local roads onto RTA controlled arterial roads. This is not a strategy that we support. We believe all public roads should be accessible to the public and allowed to link with other public roads to provide a continuous public road network.

And, lest there be any doubt about the policy that all roads should be open to vehicular through traffic, I have this quote from the co-convenor of DRAG and now convenor of Action City East in the *Sydney Central* of 31 August 2005:

If we're serious about our future we'd have all roads open and a London-style congestion tax above ground ...

Both authors live in apartments well above street level and not in East Sydney. The opposition to any road closures in East Sydney has been discussed at various meetings of the Kings Cross branch of the Labor Party, and I understand that even the Federal member for Sydney is minuted as wanting Bourke Street reopened. I cannot believe that this is the policy of mainstream Labor. The common interest here between the Greens and left Labor are probably both of the following: to preserve the illegal

CORRECTED TRANSCRIPT

street sex industry in East Sydney in the name of "harm minimisation", and to politically undermine the Independent Lord Mayor of Sydney. DRAG and its affiliates have used their political network to capitalise on the public outrage and anger with surface traffic diversions and disruptions related to the cross-city tunnel, including road upgrades along William Street. Their petition entitled "End the Tunnel Funnel" has "Re-open Bourke Street" as its first item. Bourke Street runs north-south and has nothing to do with forcing people to use the East-West cross-city tunnel! How misleading is that? In fact, by separating Eastern Distributor traffic turning right at Bourke Street from toll-free harbour crossing traffic turning right at Palmer Street, the closure actually makes the latter easier.

There is now also an obvious polarisation between the traffic interests of people who live in space in high-rise apartments and want to drive their motorcar wherever they like, and those persons who live in street-level heritage terrace housing and have to suffer the consequences. Thus, not surprisingly, the owners corporation of the totally out of place, gated 43-level Horizon building opposes the Bourke Street closure. I recall a quotation in the media from a buyer in the Horizon when apartments went on sale some five or six years ago:

The great thing about living here is that you don't have to associate with the riff-raff in the surrounding streets.

In conclusion, I would like to point out that there are numerous advantages to the current traffic arrangements at the William Street/Bourke Street intersection—not merely to the people of East Sydney and Woolloomooloo. They are too numerous to list here, but I have included 26 of them as item 5 in the tabled document. Honourable members may notice that only one of the 26 makes reference to street prostitution.

The whole of the 0.4 square kilometre area of the historic village of East Sydney is a heritage conservation area and contains numerous heritage items. Many of its residential streets are fronted by two- to three-level Victorian terrace housing going back to the earliest days of the colony. Its street-level residents are under great social pressure from the proximity of the CBD and from the adjacent all-night venues of Oxford Street and Kings Cross. East Sydney is also surrounded by arterial roads and sits at the intersection of two toll roads. We also have a north-south end and east-west through route on local roads, one of those being the 389 bus route. To suggest that we want all local roads closed to through traffic is silly.

Surely, like so many similar places overseas, East Sydney should be treasured as an urban asset to the whole metropolitan area, not trashed by street crime, antisocial behaviour and unlimited dangerous and polluting through traffic. If we were just interested in real estate prices, we would forget heritage conservation and succumb to the ongoing commercial pressures for over-development. We need your help. Thank you, Mr Chairman and members of the Committee.

CHAIR: Thank you. You have obviously done a great deal of work on your submission. It has taken up most of our time. All witnesses who have lengthy submissions simply table those submissions and do not read them at the hearing.

Ms LEE RHIANNON: Mr Frenda, at the end of your contribution you commented on property values. Do all three of you agree that street closures will improve property values?

Mrs MULLER: I think it is very interesting that Mr Frenda made a big issue of the heritage value of the terrace houses in our neighbourhood, but it seems that Woolloomooloo terrace houses are not worth as much as the terrace houses on the other side of William Street. That is my perception.

Ms LEE RHIANNON: Where the street closures are?

Mrs MULLER: Yes. They seem quite happy to have Woolloomooloo take the bulk of the traffic as they have an overhead concrete railway and many other divisions to the suburb because of the Eastern Distributor and so on. Now, we are also stuck with heavy traffic and buses that used to simply go straight up Bourke Street and turn onto William Street, where there are commercial buildings, with very little disruption to the neighbourhood.

Ms LEE RHIANNON: Mr Frenda, could you tell us what your position is with ESNA?

CORRECTED TRANSCRIPT

Mr FRENDA: I have been a committee member for about eight years.

Ms LEE RHIANNON: How many properties in East Sydney, Darlinghurst and Paddington do you or your companies own?

Mr FRENDA: Mr Chairman, is that relevant?

Ms LEE RHIANNON: It is most definitely relevant.

Mr FRENDA: Then I will answer that, Ms Rhiannon.

Mr ANDREW CONSTANCE: Point of order—

Mr FRENDA: I am a geologist. I work on projects that take me overseas, and then I have spare time, and in my spare time I have renovated some property.

The Hon. AMANDA FAZIO: Excuse me, Mr Frenda—

Ms LEE RHIANNON: He is quite happy to answer it.

The Hon. AMANDA FAZIO: A colleague has raised a point of order.

Mr FRENDA: I think it is outrageous, quite frankly, but I will tell you.

Ms LEE RHIANNON: Thank you very much.

Mr FRENDA: About 25 years ago I bought a property in Liverpool Street, and I renovated it myself. I still have that property. About 15 years ago I bought another property in Burton Street, and I also renovated that property, with my own sweat and blood, and I still have that property. I have no other properties in East Sydney. I live at 248 Liverpool Street. That is my home. I have provided for my own retirement. I am 65 years of age, and I have no superannuation of any sort, and this is my income. I think it is outrageous that you ask me this.

Ms LEE RHIANNON: Thank you for providing that information.

Mr FRENDA: Have you any more questions like that, Ms Rhiannon?

Ms LEE RHIANNON: Yes. I would be pleased if you would listen to them. You said you have a property on Liverpool Street and a property on Burton Street.

Mr FRENDA: That is correct.

Ms LEE RHIANNON: Is the Liverpool Street property where you live, or do you live at another one?

Mr FRENDA: I have two investment properties. They are ordinary terrace houses.

Ms LEE RHIANNON: Two investments, and you live—

Mr ANDREW CONSTANCE: Point of order.

Ms LEE RHIANNON: I have material here that shows—

Mr ANDREW CONSTANCE: Point of order.

Ms LEE RHIANNON: —that you have six properties.

Mr ANDREW CONSTANCE: Point of order.

Mr FRENDA: I will not answer any more.

CORRECTED TRANSCRIPT

Ms LEE RHIANNON: So you are not denying—?

Mr FRENDA: I am—

Ms LEE RHIANNON: You are not denying that you have six properties in Darlinghurst, East Sydney and Paddington?

Mr FRENDA: I think that this line of questioning is outrageous.

Ms LEE RHIANNON: No—

Mr FRENDA: I have a couple of other properties in Paddington—

Ms LEE RHIANNON: —it is very relevant.

Mr FRENDA: —that I also renovated myself, but they are not in East Sydney and they have no relation to road closures in East Sydney.

Ms LEE RHIANNON: I said Paddington. The question to you was your properties in East Sydney, Darlinghurst and Paddington—

CHAIR: Ms Rhiannon, I think—

Mr FRENDA: Excuse me, Mr Chairman, do I have to put up with this?

CHAIR: You do not have to. I think you have made your point.

Ms LEE RHIANNON: No, but Mr Chair—

CHAIR: We will return to the Cross City Tunnel inquiry.

Ms LEE RHIANNON: It is extremely relevant.

Mr FRENDA: This has nothing to do with the cross-city tunnel.

Ms LEE RHIANNON: You have presented a long report here.

The Hon. AMANDA FAZIO: Point of order: You asked Ms Lee Rhiannon to return to a line of questions that are within the terms of reference for this inquiry and to stop asking Mr Frenda questions about his personal financial arrangements.

Mr FRENDA: This is outrageous!

The Hon. AMANDA FAZIO: Ms Lee Rhiannon is continuing to ask questions on that line. She is, in effect, flouting your direction and a ruling from the Chair. I would ask you to again direct her to ask the witness questions that are relevant to either the terms of reference or the submissions that they have made, and not to vilify personally people who have given up their time to come in here and give us evidence.

Ms LEE RHIANNON: To the point of order: Firstly, I understand there has been no previous ruling. This is the first point of order, so I think that that was—

CHAIR: No, I interrupted you and said to return to questions dealing with the cross-city tunnel.

Ms LEE RHIANNON: But the key issue here is relevance, and these questions are most definitely relevant because the motivation of Mr Frenda is relevant to what we are discussing. If there is any reason why he would present his arguments in a way that his arguments re closing streets in this

CORRECTED TRANSCRIPT

area is linked with his personal financial standing that is very relevant to the lengthy witness statement that we have been given.

The Hon. GREG PEARCE: To the point of order: Ms Lee Rhiannon is using this opportunity on a point of order to make her own point. It is quite outrageous.

CHAIR: You have made the point that the witness has some properties in that area. Can we move on?

Mr FRENDA: Could I just add something? If I were interested in maximising real estate income, real estate values I would not be fighting tooth and nail to preserve the heritage of East Sydney. I would succumb to the relevant questions—

Ms LEE RHIANNON: I think everybody knows that there is great value in many of the heritage properties.

CHAIR: The witness is replying to questions.

Mr FRENDA: I would succumb to ongoing—in my position as being on the committee for eight years we have protested numerously to overdevelopment, to the destruction of heritage housing, to the destruction of streetscape in our heritage-protected area of East Sydney. That is all I need to say.

CHAIR: We will not continue with further questions on that line.

Ms LEE RHIANNON: I am asking your advice now. I believe that the witness may have given incorrect information to the inquiry. What can I do about that, considering I have documents here that show six properties that he has in Paddington, East Sydney and Darlinghurst?

CHAIR: It is not relevant to the inquiry. Please desist.

Ms LEE RHIANNON: But if somebody gives incorrect information, surely, that is relevant.

CHAIR: We may be getting incorrect information from a lot of witnesses.

The Hon. AMANDA FAZIO: I draw your attention to the time. The time for this session of the inquiry has expired and I would ask you to adjourn as scheduled, as we have commitments during the break.

CHAIR: We thank witnesses for preparing and presenting their detailed material. We thank you for your attendance. I apologise for Ms Lee Rhiannon's implications.

Mr FRENDA: I accept your apology. I think it is outrageous.

(The witnesses withdrew.)

(Luncheon adjournment)

CORRECTED TRANSCRIPT

MONIQUE LOUISE ROSER, President, New South Wales Division, Planning Institute of Australia, and

KEN MORRISON, New South Wales Executive Director, Property Council of Australia, affirmed and examined, and

GARRY ROBERT BOWDITCH, Project Director, Infrastructure Partnerships Australia, and

DENNIS RUSSELL O'NEILL, Chief Executive Officer, Australian Council for Infrastructure Development, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee?

Ms ROSER: As the President of the New South Wales division of the Planning Institute of Australia.

Mr BOWDITCH: As the Project Director of Infrastructure Partnerships Australia.

Mr MORRISON: As the New South Wales Executive Director of the Property Council of Australia.

Mr O'NEILL: As the CEO of ACID.

CHAIR: Are you conversant with the terms of reference for this inquiry?

Ms ROSER: I am indeed.

Mr BOWDITCH: I am.

Mr MORRISON: I am.

Mr O'NEILL: I am.

CHAIR: Do any of the witnesses wish to make a brief opening statement?

Mr MORRISON: The Property Council represents property owners, investors, managers and developers. Some of those companies are also infrastructure providers. The Property Council has been a long-term supporter of the cross-city tunnel since its inception. We made submissions to the concept plan and the EIS. The basis of our support is that there is a clear planning need for a cross-city tunnel to reduce east west traffic in the CBD and to allow for a rejuvenation of William Street. We think it is entirely appropriate that the project should be tolled and should be delivered via a PPP. With regards to tolling, the community has demonstrated that it is prepared to pay to use faster roadways and it is appropriate for user pays funding mechanisms to be used in these instances. With regards to PPP delivery, the fact that it is being delivered through a PPP has clearly allowed the project to be delivered earlier than if the Government had financed it and allows the public sector to offset financing and delivery risk to the private sector. It is also true that the private sector is extremely efficient in the construction, delivery and financing of these types of projects.

The Property Council has been a strong and long-term supporter of greater debt funding of infrastructure for the State, so I think it is worthwhile making a couple of comments about that. A couple of years ago we commissioned the Allen Consulting Group to review different forms of infrastructure financing. They found quite strongly that debt funding was the most efficient form of financing infrastructure, with PPPs coming a close second. They also found that there was a \$5 billion capacity in New South Wales to increase our debt levels to fund infrastructure without impacting our credit rating or interest rates. However, infrastructure will be delivered through a mix of projects. The Property Council, while thinking that debt funding should be a greater component in a mix, believes that it is entirely appropriate that the cross-city tunnel be delivered through a PPP. Also, with regards to road changes, we believe it is in the public interest if the tunnel use is maximised. It would be

CORRECTED TRANSCRIPT

irresponsible if drivers were allowed to access through the CBD when a tunnel is in place to take that traffic away from the surface. The Richmond review recognised that for the cross-city tunnel alternate routes needed to be constrained to deliver on the planning objectives, and we would agree with that conclusion. In the PPP process, we would also support the Richmond review recommendation that the no-cost-to-government policy be abandoned, which has in fact occurred, and that major public works not necessarily be funded from the project.

Mr BOWDITCH: Infrastructure Partnerships Australia is a new industry association consisting of 70 companies and public sector organisations involved in the planning, construction and operation of infrastructure. Our purpose is to build genuine partnerships in the delivery of infrastructure between the public sector and the private sector. I thank the Committee for the opportunity to participate here today. I think there has been a clear demonstration from the past hearings that the Committee is indeed independent and has brought considerable credibility to the matter, and we very much appreciate that to the Chair and to the other Committee members.

I would like to make three observations as part of my opening comments which I think are pertinent to the Committee's deliberations. First, why has the private sector emerged as an important player in infrastructure? Second, to make some brief observations on traffic modelling which seem to go to the heart of some of the concerns both in government and in the bureaucracy about traffic modelling and also to comment on issues such as upfront payments and contract governance, if I may indulge the Committee.

First, I think the private sector has emerged as such an important player because the community in the past has always looked to the Government to provide its infrastructure, but this is indeed less so now. The reality is that governments are facing competing demands for social services, combined with changing attitudes to both public debt and also the running of budget deficits. This has indeed led to much tighter management of capital budgets. As a result there has been a willingness to move towards more innovative ways of providing infrastructure involving the private sector, and one such vehicle is indeed a public-private partnership. The purpose of PPPs has been to provide services and to take the burden off the taxpayer. The benefit to New South Wales for private sector involvement in infrastructure has produced world-class assets, and indeed it has produced a team of world-class project managers as well.

This has resulted in the early delivery of the cross-city tunnel, one aspect that is consistently demonstrated to cross other similar PPP-type projects here in Sydney. Unfortunately some of the public debate on public-private partnerships has been based on some very spurious economic arguments, which is a concern to us as an organisation. For instance, questions like why the private sector raises capital to build public infrastructure when the Government can borrow much more cheaply at what is commonly referred to as the risk-free borrowing rate—these sorts of questions come to mind. Let me say that it is a matter of fundamental economics, that the risk-free borrowing rate is not the end of the story in terms of the capital costs associated with government projects. All projects imply some form of risk concerning its planning, construction and operation, and the burden of that risk is carried by the owners of the project in the case of the private sector, and in the case of the public sector it is borne by the Government and ultimately the taxpayer.

So if a project in government should run foul the transparency for project risk and who is responsible for it can easily get lost in the complexity of public accounts, but rest assured that it is the taxpayer who will carry the final burden. The notion that there can be a free lunch is a belief based on ignorance and similarly that there is such a beast as a risk-free infrastructure project. The other side of the argument is that when project risk is identified and individuals are held to account, meticulous management of project risk occurs. I would argue that this is where PPPs have made a fundamental and important contribution to the superior provision of infrastructure in this State. It is essential that IPA succeeds in its mandate to improve the working and strategic relationships between the public and private sectors, simply because the task of providing infrastructure is so large and that no government can execute this task alone.

It is in that spirit that we appear today: one of improvement and seeking best practice. For example, over the past 5 years tollways worth \$3.3 billion have been initiated. Without private investment in these projects, they would have consumed the entire RTA capital budget for Sydney over the past 10 years. Public-private partnerships [PPPs] allow governments to do much more in

CORRECTED TRANSCRIPT

providing infrastructure and services rather than resorting to the old school of budget management, which means chopping back services and doing without. The massive wall of money that is sourced from Australians' superannuation funds is in need of quality projects for investment. Public-private partnerships can and should be a hand-in-glove relationship in ensuring that Australia and New South Wales are equipped with the right infrastructure to support our living standards going forward.

On the second point I would like to make some observations about traffic modelling. I would like to refer the Committee to a recent study undertaken by Standard and Poor's rating agency that examines 104 international toll roads, bridges and tunnels as case studies, most of which were project-financed concessions. The study has confirmed the existence of overforecasting asset use—or what is commonly referred to in the industry as optimism bias—that is, by comparing predictions of asset patronage before the project is complete with actual patronage in each of the first five years of operation. The table has been studied as part of my opening comments. The key points of the study are very interesting. On average, across all toll roads, bridges and tunnels, forecasts overestimate traffic in the first year by 20 to 30 per cent. This is a global study. There was no dramatic improvement in forecasting accuracy between years two to five. The bias was not caused by a failure by forecasters to consider the ramp-up during the very early periods of opening the facility. Despite allowing for ramp-up, the actual numbers were far less aggressive than assumed in predictions and take some years to be fulfilled.

The lesson coming from this is that the experience of the cross-city tunnel appears to be no worse or no better than the experience of new toll roads throughout the world. I would encourage members of the Committee to take a broader perspective on the cross-city tunnel and avoid any early judgment as to whether it is indeed underperforming. The simple point I am making is that the cross-city tunnel and its perceived underperformance relative to forecast is not an isolated experience. It is just simply too early to tell. Indeed, possible lessons of this analysis suggest that it is appropriate that the private sector bear the ultimate responsibility for its optimism on traffic volume and therefore the Government got it right to pass all the patronage risk to the concessionaire. On the other hand, the use of upfront payment to defray government costs of the project has the potential to exacerbate the problems of optimism bias. The capacity of a concessionaire to provide an upfront payment will rely on their ability to estimate traffic volume and revenue risk.

Clearly, governments need to be level-headed and have their own view of traffic volumes, both over the ramp-up period and over the life of the project, and ensure that that expertise exists in-house. This will help to judge the robustness of the concessionaire to withstand a broad range of financial scenarios without risk of defaulting. Finally, infrastructure—whether it is a road, bridge, tunnel, school or hospital—is much more than a series of physical assets scattered around the landscape. Infrastructure is not simply about reinforced concrete but the services that these assets deliver to their customers and stakeholders. It is essential that the cross-city tunnel continues to explore with its customers what value they seek from the tunnel as a service and that they find the right value proposition to attract and sustain patronage. It is fundamental. Equally, we must see the public-private partnership model as one that will evolve over time, and this inquiry should be a helpful step in that process. It is essential that we acknowledge that this is a learning experience for government, the consortia and its stakeholders and that IPA stands ready to assist in that learning process in the interests of continuous improvement in government services and the procurement of infrastructure.

CHAIR: The documents you have tabled include—

Mr BOWDITCH: My opening statement and the analysis from Standard and Poor's and also we would like to table our submission to the Public Accounts Committee which refers to our views on changes to government for the planning of infrastructure going forward.

CHAIR: Those documents have been tabled. Ms Roser, you have given us an opening statement.

Ms ROSER: I have given you an opening statement. I can briefly outline that.

CHAIR: Would you highlight some of the items in it?

CORRECTED TRANSCRIPT

Ms ROSER: The Planning Institute of Australia [PIA] is the peak professional body representing planners Australia. We are a not-for-profit association with over 4,500 members. Our members are drawn from a range of planning professions, including urban and regional planning, social planning, urban design, environmental planning, economic development planning, transport planning and planning law. The statement I have had distributed to you focuses on terms of reference (f) and (g) specifically. As to terms of reference (f), the PIA acknowledges the role of the New South Wales Government into entering into major public-private partnerships for the delivery of much-needed infrastructure that will benefit the community. We do not wish to comment specifically on that in terms of its advantages and disadvantages as a funding and delivery mechanism, as we believe others, particularly my colleagues here, are better placed to do so.

However, the institute has been increasingly concerned that there has been inadequate public consultation associated with PPPs and that the process of developing PPP contracts is not transparent and that the terms and conditions placed on PPP contracts are generally not disclosed to the public prior to those agreements being made. The institute's view is that public participation is a fundamental element of decision-making processes in a democratic society. Individuals and groups that are affected by administrative decisions have a legitimate expectation that their interests will be taken into account. The importance of highly effective public participation in relation to PPPs is highlighted by a number of factors including: public perception of a lack of transparency in decision-making, particularly in relation to contractual agreements; concern over the neutrality of governments and private companies in PPPs who stand to benefit; increasing community scepticism about PPPs, and that has been particularly in light of this example; the impact of vocal and strong minority interest groups, compared with that of what is known as the silent majority; and the tendency to simply rely on compliance with statutory processes as sufficient consultation.

In our view, the cross-city tunnel experience has demonstrated that robust public consultation is required not only for the planning approval phase, as is required by legislation, but also for the contract negotiation phase and the direct and indirect impacts of contract conditions need to be thoroughly and clearly understood in the decision-making process. The PIA's position is that in relation to the approvals phase, particularly those that will be funded through PPP mechanisms, projects should be subject to a rigorous, open and transparent approval process, particularly through the use of things like commissions of inquiry. That was something that was called for by a number of organisations in relation to this project and was not undertaken and we believe that has contributed to the level of community concern that is now being expressed.

The results of the imposition of some PPP contracts conditions, which I will discuss further, indicate that there is also a need to fully consider the direct and indirect impacts of those conditions. It is our view that they should be disclosed at any early stage of the approval process, especially where they will result in tangible and significant impacts on the community. This would firstly ensure that the community is fully informed of those impacts and secondly ensure that those direct and indirect environmental, economic and social impacts are considered before project approval is granted. Because of the inherent conflicts of interest that commissioning government agencies and PPP partners inevitably hold, as well as the significant potential impacts on the community, it is our view that an independent review of PPP contracts is essential. An independent body should be established for each PPP, comprising representatives of all government agencies and departments relevant to the project, local government, independent experts and community representatives.

As to the last term of reference, which is "any other related matters", the catch-all for anything, first of all in relation to the opportunities that the institute saw that the cross-city tunnel presented, the city's amenity has obviously been reduced in recent years because of worsening traffic levels adding to vehicle noise and air pollution, and cross-city movements have been a large contributor to that. In our view, the cross-city tunnel provided a once-in-a-generation opportunity to improve the city's streets to benefit road users, pedestrians and public transport users. We thought that the anticipated reduction in traffic along Park and William Streets provided opportunities for those thoroughfares to become green boulevards with increased bus lanes, bicycle lanes, widened footpaths, et cetera. Such treatments obviously would provide a fitting entrance to the city from the east and would complement the City of Sydney Council's efforts to upgrade the amenity of Kings Cross.

Also, the anticipated freeing up of surface road space meant that there was a one-off opportunity to do something significant about the city centre's urgent need for better public transport.

CORRECTED TRANSCRIPT

We have long called for the planning and construction of a light rail line to the Eastern Suburbs along Oxford Street and for that to be integrated with a north-south light rail line from Central to Circular Quay linking with the Inner West light rail line to produce a genuinely competitive public transport alternative in the city that is sustainable and attractive. We have long advocated a firm timetable and funding commitment to those projects by both the State Government and the City of Sydney Council, and it is our view that these are essential if the opportunity to produce a better and less car-dominated city was to be achieved. In conjunction with the cross-city tunnel, we saw that as something that was quite feasibly able to be achieved. Unfortunately, the public transport initiatives have not been implemented and in agreeing to the contract conditions and implementing the contract conditions for the cross-city tunnel the Government has lost that opportunity.

The design of the tunnel, things like location of entrances and exits, pricing structure and implementation of the contract conditions, have obviously impacted enormously on the city's streets. This is evidenced by the reduction in traffic lanes on William Street, the closure of streets in Woolloomooloo and East Sydney and local traffic diversions, particularly in relation to access to the harbour crossings. The rephrasing of traffic lights has added to traffic congestion, and the anticipated reduction in traffic has not been realised. An effective transport strategy in a city as complex as Sydney requires consideration and integration of all forms of transport. Designing the cross-city tunnel and applying the contract conditions in isolation from public transport improvements, along with other ad hoc transport planning decisions that have occurred, has resulted in an unsatisfactory situation in the city. It is the PIA's view that to ensure that transport planning is properly co-ordinated in Sydney we call for the integrated strategic planning of roads and public transport in the metropolitan area to be carried out by a sole agency, the Department of Planning, and that agencies such as the RTA, RailCorp, and the State Transit Authority should be responsible only for the implementation of transport projects once endorsed by Government.

CHAIR: I note, Mr Bowditch, in your submission at the very end you made the statement:

It is essential that the CCT continues to explore with its customers what value they seek from the tunnel as a service and that they find the right value proposition to attract and sustain patronage.

What do you mean by the words "find the right value proposition"? Are you referring to the toll?

Mr BOWDITCH: The toll is set as it is. But in terms of the value proposition, it can come in terms of marketing of the value of the tunnel to its customers, how to attract patronage, the interface between both permanent, that is tag users and casual users, and how those casual users can be enticed into the tunnel in a way that is not intrusive to them, if you like, with their financial arrangements and so forth. Clearly, there are a broad range of technologies available in the tolling world that can open that up to make it easier for casual users in particular to access the tunnel and to see that this is actively championed.

It is very important within the governance of these contracts that they are allowed to breathe, that is, to breathe around the complexity of a relationship between the supplier of a service and the consumer of the service. A tunnel of this nature has 50, 70, 100 years of life in it. The reasons that people will use the tunnel in year 1 compared to year 50 and year 80 will change. To what extent can the governance of these contracts in fact breathe around that complexity of being able to pitch the right value proposition to the different customer groups? It would be indeed inappropriate to assume that all users of infrastructure, which is the traditional terminology, are the same. There are different groups within the city that have different reasons for using the tunnel. Therefore, they may be entitled to different value propositions, whatever that may be. That would be an appropriate exploration of the value proposition to ensure that the services are relevant to the community.

CHAIR: You also made the point that from previous studies of these tunnels they all seem to have this optimism, whether it is a 20 or 30 per cent overestimate.

Mr BOWDITCH: Yes, indeed.

CHAIR: Would it be better for the consortium to lower the toll to attract more users — in other words have a loss of income for a short period to attract people to use the tunnel — and then to increase the toll in future years?

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Mr BOWDITCH: The Richmond report touched on this point to some extent in looking at toll-free periods and so on. The basic issue is that new transport links represent a very high level of complexity in terms of what is the knock-on impact of other roads and so forth and what will be the change in behaviour. That goes to the heart of the forecasting challenge. To be able to anticipate that is a very tall order. Whether a lower price is the answer, I cannot support or not support that idea. However, reaching out, marketing and identifying the different customer groups is a worthwhile endeavour for consortia to build patronage.

CHAIR: Have you done any comparison between the cross-city tunnel and the M7 and its success?

Mr BOWDITCH: We have not undertaken any specific studies on that. The M7 is a very different creature. It is on the outskirts of the city and there are high-density environments where there are different behavioural responses and so forth. I would not present myself as an expert on traffic modelling by any means, but I recognise that they are very different creatures.

CHAIR: All the witnesses seem to be very happy with the cross-city tunnel as a public-private partnership. Do you feel it has been a good example, or do you have some reservations about it?

Mr O'NEILL: The one aspect is a standout and it was picked up in the conclusion of the Richmond report when referring to departing from a no-net-cost-to-government model in pursuing these sorts of projects. More than these other PPP toll roads that have been developed in the Sydney region, the conception of the cross-city tunnel contains a fair degree of public benefit. That is, the benefit is not only to the individual motor vehicle users who may transit the tunnel. We have heard already in the some of the opening statements that there were traffic congestion issues in the CBD that were to be alleviated in the design and operation of the tunnel.

We have heard about the changes to the amenity of William Street and the businesses around that area. When addressing the commercial model for these projects, governments seem to be captured by a simplistic view of user pays. The user in this particular case has been narrowly defined as the motorist. I am often a public transport user in the CBD and I am getting better north-south transit times as a result of the operation of the cross-city tunnel. However, I am not charged any more for my bus ticket when I do that.

CHAIR: You are not recommending that, are you?

Mr O'NEILL: I am recommending a more sophisticated model. When a community good can be slated home to other categories of beneficiaries then rather than applying a user-pays approach to the commercial model we need a beneficiaries-pays approach. We had an earlier example of this with the increase in land values along the easement used for the construction of the airport rail link. However, the Government did not introduce a capture mechanism at the time to get those beneficiaries to contribute their fair share of windfall gain that resulted from the infrastructure. This no-net-cost-to-government concept, while it is a valuable policy proposition for PPPs, needs to be examined more carefully on a case-by-case basis. More sophisticated revenue capture mechanisms should be put in place rather than the adoption of a simplistic approach and charging one category of user.

CHAIR: Any further general comments? Was it a good example of a public-private project?

Mr MORRISON: The critical issue here in terms of this as a PPP project is the no-net-cost-to-government model and how that is treated in these types of infrastructure projects. Mr O'Neill has outlined a range of potentially sophisticated and complicated alternative funding arrangements that could be put in place to capture beneficiaries. However, the other option is that the Government acts as the proxy for those beneficiaries and looks at covering some of those public-good costs, particularly when one is talking about reduced congestion and the beneficiaries of that being hard to capture. To use the bus ticket example, charging an extra dollar might not be the optimal approach for patronage on buses in the CBD and things like that. The other option, and probably the more viable option on all almost occasions, would be for the Government to cover some of that public benefit cost. The Richmond review tipped its hat in that direction.

CORRECTED TRANSCRIPT

CHAIR: Have you had a chance to look at the Richmond review and are you happy with its recommendations? Did it go far enough? Are there other areas that should have been covered?

Mr BOWDITCH: Certainly in respect of no cost to government it presents both a challenge and an opportunity in the restructure or recalibration of PPPs. One of the areas of interest from our perspective is that tunnel users get the benefit of the economics of time in moving from east to west in a very efficient way. It is therefore appropriate that that benefit be recovered via a toll. Of course, the governance of the contract included urban amenity, which related to the deck of the city and which has been implied within the toll itself and the millions of dollars associated with that. That is picking up in another way the points being made here, that the improvement in the urban amenity is to the benefit of a much broader group than the users of the tunnel. Therefore, there may be scope for some sort of capture of the benefit through another charging mechanism. It is reflecting the fact that there is what economists call very strong externalities associated with these types of projects. It is part of putting the thinking cap on to ask how we can capture that to better reflect the scope of beneficiaries from these great projects in this city.

CHAIR: The other beneficiaries would be the Property Council and your members in the CBD if there were less congestion. You would not be very happy to have some additional surcharge or land tax.

Mr MORRISON: I would be pretty surprised if you could show that there was any sort of valuation impact on CBD commercial or residential buildings as a result of the cross-city tunnel. I think it relates more reducing, or assisting to reduce, growing congestion in the CBD. There would not be any valuation uplift at all from this project.

To return to the earlier question, the Richmond review focused on a very valuable issue; that is, the balance between getting a good deal for government out of these projects and ensuring that the outcome maximises use of the asset. That is probably the bind we are in. There has been a focus more on getting a good deal for government out of the structure of the project and less on ensuring an outcome that drives the highest possible patronage. That would deliver on the planning objective, which is to get cars off the surface.

The Hon. GREG PEARCE: I will continue on that theme. I put to David Richmond yesterday that he had almost deprived the committee of the opportunity to make any recommendations because he had covered everything. I also asked him to tell us anything that was right about the cross-city tunnel, and he could not respond. Do any of you see any deficiencies in the recommendations he has made and are there other areas we should be thinking about, particularly in terms of private sector participation in infrastructure?

Mr MORRISON: One of the comments I think the Richmond review stepped around very politely was road closures. It said alternate transport routes should not be reduced unless there was a public benefit in doing so. It probably could have been stronger. Where there is a clear public benefit as a result of a new transport project, such as the cross-city tunnel, it is quite fit and proper to restrict use on the original transport route; in fact, it would be irresponsible not to do so. I think he tiptoed around that issue.

The Hon. GREG PEARCE: Anything else?

Mr BOWDITCH: No government should be denied any restriction in terms of being able to adjust the urban amenity towards the objectives that it has been elected to implement. If anything, I would like to see a much stronger preservation of the right to adjust the urban amenity with the view to improving the aesthetic of the city. The point is that we live in a city that is a global attraction; it is a beautiful city. The cross-city tunnel was implemented — and my parent organisation, the Tourism and Transport Forum, was part of the William Street Task Force — to provide much better linkages between Darling Harbour, the CBD and Kings Cross. That goes to the heart of the beautification of William Street and making this place worthy of the wonderful reputation it has around the world. In terms of urban amenity, we need to be careful in the sense of saying that preserving existing roadways as a generalisation can be supported in a generic way. I think the Premier has used the language that public-private partnerships and so forth should go forward on a case-by-case basis. This is another

CORRECTED TRANSCRIPT

example because in certain circumstances it is not so much about access to another road as it is about the urban amenity being sought to achieve the broader objective of the beautification of our city.

CHAIR: The RTA has a responsibility to ensure there is an alternative route to the tollway.

Ms ROSER: Picking up on those points, from the Planning Institute's perspective it is important to ensure that a major project like the cross-city tunnel is well patronised and is used for the purposes for which it was constructed, which was cross-city movements for people who did not need to go into the city and who wanted to get to the eastern suburbs and to Darling Harbour and from there onwards. However, it is important to recognise that there are local traffic movements that need to be catered for. A trade-off can often be made between forcing people to use the new infrastructure and making life so difficult for those who cannot use it, whether that be because it does not serve their needs or because they may not necessarily be able to afford to use it when a user-pays principle is applied. Perhaps that is where some of the amenity benefits that may well have been realised are potentially not achieved because all the local traffic still needs to use the existing complex network of streets on the surface.

CHAIR: In your statement, Ms Roser, you made reference to a commission of inquiry. You thought it was a good idea to look into the cross-city tunnel. Did your organisation call for such an inquiry prior to the cross-city tunnel construction?

Ms ROSER: Yes. Our submissions in relation to the original EIS in 2000 and also the supplementary EIS in 2002 called for a commission of inquiry under the Environmental Planning and Assessment Act as part of the approval process.

CHAIR: That was in the name of your own planning organisation, was it?

Ms ROSER: The Planning Institute of Australia, yes.

CHAIR: Did any other organisations support your call?

Mr MORRISON: No, we did not and we do not.

Mr O'NEILL: Definitely not.

CHAIR: You said "definitely not". It sounds as though you do not think it a good idea?

Mr O'NEILL: No. Definitely not. In fact, the statement made by the Planning Institute of Australia in support of release of commercial terms before they have been settled and the involvement of community consultation in the commercial negotiation of these deals, is, I would say, absolutely ridiculous!

CHAIR: Before the contract is finalised?

Mr O'NEILL: Absolutely! Yes.

CHAIR: Because of this commercial in confidence problem?

Mr O'NEILL: Correct. Full transparency once a contract is signed but definitely no community consultation over the commercial terms of concession deeds—not even for PPPs. By implication it would absolutely disrupt all government contracting if you applied that principle across the notion of large contracts.

Mr MATT BROWN: Could we get Mr Bowditch's view on that as well?

Mr BOWDITCH: I agree with the sentiment of the gentleman on my left.

Mr ANDREW CONSTANCE: I take on board the point from the Planning Institute of Australia about the need to, I guess, address some of the scepticism in the community in terms of confidence around public-private partnerships. The Government and the private sector have got to do

CORRECTED TRANSCRIPT

an enormous amount of work in that regard. One of those steps is to ensure that the public sector involved in the negotiation and the management of contractual arrangements has the skills set to be able to do that. I just wanted to seek comment from all of you in relation to the capacity or ability of the New South Wales public sector in particular to negotiate and manage such contracts?

Mr O'NEILL: Perhaps as the industry association that has been longest in the area of commenting to government and working with government to try to evolve appropriate terms and conditions to make public-private partnerships function well—and their predecessors, of course, the boot schemes—this has been an outstanding issue for many, many years. It has long been recognised that the ability to train and to select appropriate staff with the commercial skills sets to not only negotiate but also to administer what are necessarily complex contracts over several decades of the life of the contract is indeed a major challenge. It is one that has been recognised by all Australian jurisdictions that are currently advancing the use of public-private partnership procurement.

There exists now a national grouping of PPP Ministers, a forum that was initiated by the Premier of Victoria, and through that forum I believe efforts are being made to co-ordinate the provision of training. Melbourne University has taken quite a lead in that direction. Equally there are other projects under way in relation to other aspects of PPP delivery and operation. The University of Sydney is about to undertake a major project into post-project auditing that will involve the participation of several State Auditors General.

These things necessarily take quite some number of years to play out so that we have a body of expertise in academe that is capable of assembling the information and experience and then transferring that into the delivery agencies. At the moment in most Australian jurisdictions you have a body of expertise, largely in State Treasuries. To some extent it has extended out into other delivery agencies, which have become experienced in PPP delivery. The Roads and Traffic Authority [RTA] is nationally deemed to be highly experienced and probably offering best practice in the area of PPP roads. However, we still have challenges in the area, not necessarily in New South Wales. I think education has worked here with the PPP schools but I suspect there is still a lot of work to be done to transfer these skills NSW Health. Similarly, in Queensland and Victoria, where there are quite a few PPPs in the pipeline, this challenge is an outstanding one, which will not be resolved particularly quickly.

Mr ANDREW CONSTANCE: I sense that, given that the Government is intent on engendering a degree of competition between consortiums, particularly in terms of business consideration fees and upfront payments, it demonstrates a serious lack of knowledge and skills set to be able to manage public-private partnerships.

Mr O'NEILL: These skills can always be purchased. In fact, if you look at the United Kingdom model there has been the more adventurous approach adopted by United Kingdom governments in recent years to acquire those skills from the private sector and put them on the negotiating side for the government to achieve better outcomes. I therefore would certainly advocate to the Committee that there is really nothing other than a budget standing in the way of acquiring the appropriate skills sets to ensure that good-quality negotiating outcomes are achieved for the Government. The operational and management side of these concessions, however, is equally important. I would put it to you that that is an area where I think governments need to seriously look at its own internal training and staff development requirements. Indeed, it is also about what remuneration it puts on the table to attract the right sort of people.

Mr BOWDITCH: In terms of skills sets issue and so forth, I would like to refer the Committee to the Infrastructure Partnerships Australia submission to the Public Accounts Committee of, which basically touches on the issue of consolidation of those skills, that is, to have those skills reside within a central agency where there is a very strong skills set and capability. Of course, it goes much further than that, in the sense that it is very important that there is an openness and understanding within line agencies as well about the possibilities that the private sector can bring improving productivity and bringing services within their own agencies. Therefore, the issue of consolidation of skills and having an elite unit for public-private partnerships also runs the risk of having a gap between the line agency and a central agency; and that that would be an unacceptable outcome just by virtue of the fact that I think, from our point of view, the partnership model needs to

CORRECTED TRANSCRIPT

exist between the public and private sectors, not only central agencies but with the line agencies—who often are faced with profound implications when a public-private partnership is put in place.

There needs to be some balance between the elite unit and ensuring that line agencies are equipped to think, negotiate and approach their infrastructure requirements as equals, if I could put it that way. I think the other point is that there is also the issue: Are we looking at a cause or a symptom here? I think governments need to be more forthcoming in the sense of what are their expectations and their strategic objectives with respect to infrastructure. If there are no clear objectives with respect what they require as outputs from their infrastructure, it is very difficult to undertake any sort of commercial arrangement with the private sector to deliver against that.

CHAIR: You have referred to your paper to the Public Accounts Committee. I note in it that paper the comment that private sector parties have observed that considerable delays and increased costs have been encountered in the processing of PPP offerings due to lack of experience and expertise on the government side of the transaction. Are you referring there to the cross-city tunnel project?

Mr BOWDITCH: No. There was a range of other projects that were the source of frustration—more in respect of what is not coming up, in the sense of identifying projects that could be brought forward but have not been.

CHAIR: I suppose—and it may be difficult for you to comment on this—the Government was at a disadvantage in relation to the cross-city tunnel in negotiating with the commercial sector if the commercial sector had all this skills and there was a lack of skills on the part of government negotiators. That, may have resulted in an imbalance in favour of the commercial sector.

Mr BOWDITCH: The commercial outcome does not suggest an asymmetry in that particular example.

Mr O'NEILL: There is one other point about the cross-city tunnel that perhaps has been offered by other witnesses at other times, but it is a point that has not come through in the public perception of the commercial outcomes. The fact is that per kilometre cross-city tunnel has cost something like 10 times more than some of the bigger projects, like Westlink M 7. It is a major piece of sophisticated engineering of a type not seen in this country possibly since the Snowy Mountains Hydro Scheme. That's commercial reality of the cost per kilometre of course has been reflected in the negotiating terms of the final arrangement. I think that has been poorly understood, not only within government, but also by the public at large.

The Hon. GREG PEARCE: Might I just take you back to be no-cost-to-government principle for a moment? This morning Mr Knowles put the proposition that any government that abandoned the no-cost-to-government principle would be a "fairies at the bottom of the garden" government—

Mr MATT BROWN: That is not what he said at all. He said, "any government that does not use the private sector for financing".

The Hon. GREG PEARCE: I put it to him that Premier Iemma had actually adopted—

Mr MATT BROWN: You misquoted what he said and he did not answer the question.

CHAIR: Please just stick to asking questions instead of paraphrasing the answers of witnesses.

The Hon. GREG PEARCE: Do you think that the no-cost-to-government principle would be useful if, in fact, it were done on charge-for-service basis, a true reimbursement? I think where the RTA got into trouble was that it referred to it as a business consideration fairly and was actually looking at it as a concession fee rather than as reimbursement. The Auditor General started to look at that but the RTA still having a lot of trouble justifying how it got to that fee and what it is done with the money. Do you see a true reimbursement role for true costs?

CORRECTED TRANSCRIPT

Mr O'NEILL: I will answer your question by actually avoiding it, in the sense that I do not think there needs to be, in certain cases, a consideration at all. If we go back several questions to when we were talking about the wider range of beneficiaries from these sorts of projects from there is a common good outcome. Why should the Government not be contributing on the part of those more broadly based taxpayers, its share of the benefit through picking up its costs in doing these deals and therefore have no concession fee at all?

The Hon. GREG PEARCE: Perhaps keeping the toll down.

Mr O'NEILL: The net result would, of course, be a lowest tolling model. Indeed, I will, if I may, point you to be Eastlink project in Victoria—which is the former Mitcham to Frankston Freeway—in respect of which the Victorian Government very specifically went out with a brief to the market: "We want a lowest tolling model submitted to us in your tenders, please." That is the outcome they arrived at. They obviously did pick up the Government's costs in preparing its side of the deal and no concession fee was involved.

Mr MORRISON: I repeat what I said earlier: I think there is a tension here between the Government protecting its own financial interests when it is making these deals and allowing a deal to be structured in such a way that maximises the use of the asset. The Richmond Review pointed to that and I think the experience of the cross-city tunnel points to that, that we have had a focus on the former and not on the latter.

CHAIR: It poses the question as to who is to meet the costs if there have to be extensive changes to the electrical power system, for instance, moving lines, or to the water system as a result of construction tunnel.

Mr MORRISON: Clearly, in a tunnel such as this tolling will be probably the primary revenue vehicle. That is appropriate. It is really about getting tolls to a level that maximises use. This is something for government to consider, particularly, as the Richmond Review notes, we move into a much more networking environment of our toll roads as to what will be the impacts of different tolling levels on patronage levels. I think government needs to balance the way it structures the deal at the front end to ensure delivery of the appropriate outcome at the back end.

Ms LEE RHIANNON: I gather you are concerned with the public's loss of confidence in PPPs. Do you think the public would have greater confidence in PPPs if the government guidelines on these partnerships were adhered to? I refer there to the reports on the partnerships Ministers are supposed to table in a required time. Additional to that, because it is understandable that these contracts often change, if those changes were notified to the public in a transparent way?

Mr BOWDITCH: In terms of due process and so forth, I am not close enough to it to be able to comment on that, but I think it is important to acknowledge there has been a fair bit of misinformation out there about the public-private partnerships which has rattled the confidence of the broader community. I would argue that not only public-private partnerships have been challenged but also the willingness of Sydneysiders to pay tolls, which I would argue is fundamentally wrong. Where there is a clear value proposition, as I was referring to before, the predisposition of Sydneysiders to use such toll roads has been clearly evident. You do not know in the first five minutes of the project as to whether that is the case or not. In terms of the user pays principal, which in many respects goes hand-in-hand with toll road public-private partnerships, I do not think that has been questioned by the broader community.

Mr O'NEILL: A lot of public-private partnerships are not user pays and just quietly get on with delivering their service. The problem with them in terms of public perception is that often the public does not even realise the nature of the delivery mechanism. There are nine public-private partnership schools operating very successfully in New South Wales at the moment. They were delivered on time and within budget. I believe they are so attractive to both the staff and students that there is a queue of both staff and parents seeking to access those schools. Such is the success that a second tranche of schools has been put to the market. But, as to user pays, it does not exist, because there is an example where Treasury, through the budget process, pays the annual fees required to support that PPP.

CORRECTED TRANSCRIPT

The same is true of hospitals. We have examples throughout Australia of PPP hospitals going back now nearly 15 years where again the procurement model would not be understood by the public. They just see it as another hospital. I think we are looking at a situation here with the user pays aspect of PPPs being very specific to toll roads. There are other examples. The one I have in mind in Sydney, of course, is the water treatment plant, the filtration plant, at Prospect, which was done as a so-called BOOT scheme as a precursor to the PPPs. There again the ratepayers, the users of water at a residential level, do not see an additional cost on their water rates because that is picked up by Sydney Water as the intermediary who did the contract with the private filtration plant operator. So I think we have to be careful about generalising too much about what is happening to the PPP model.

Ms LEE RHIANNON: I take your point that it is obviously variable, but my question was specifically in terms of the Government tightening up the guidelines so that information is available, because that has added to the angst of people that they cannot find out what is going on.

Mr O'NEILL: That is not my understanding, because the information was thoroughly available some four years ago, however very few of us read it. I certainly did not read about road closures and when they happened I thought what the hell is going on here because I was personally affected by them. The problem is the information was out there but nobody bothered to look into the information detail to any great extent.

Ms LEE RHIANNON: That is not the case with the full extent of the road closures. With those road closures the CCM was able to continue to negotiate—I think it had a few months after the August opening date—to nominate what those road closures would be. So, nobody knew about them—maybe even CCM did not know about them—until after the project was open. So, we did not know about them years ago.

Mr O'NEILL: That is those additional road closures, as you say, but they were notified as soon as they were settled between the agencies in question.

Ms LEE RHIANNON: I think that is also not the case but your earlier statement that all this was known is not true. You made a statement earlier in which you said about full transparency once the contract is signed. Could you explain what you mean by full transparency? How do we get the information?

Mr O'NEILL: In the same way that the Victorian Government does it. The contracts are available. They are available through a web site of the Victorian Department of Treasury and Finance. If you want to read 300 pages of concession deed, you are welcome to download it and read it.

Ms LEE RHIANNON: So, you think that would be a sensible thing for us to recommend?

Mr O'NEILL: No, I think it would be a silly thing to do because the vast majority of people cannot get their heads around 300 pages of dense legality. I prefer the approach where contract summaries are put out.

Ms LEE RHIANNON: Could we do both?

Mr O'NEILL: We could do both, of course, yes. I would like to put on the record that I wrote to the then Premier, Mr Carr, in 1999 and copied the letter to the then Leader of the Opposition, Mrs Chickarovski, and said that the membership of my council, who are largely the contractors and investment banks and equity investors on all these sorts of projects, have no objection whatsoever to full disclosure of these contracts once they had been signed. Therefore, it was clearly a matter of government policy as to whether or not full disclosure thereafter occurred.

Ms LEE RHIANNON: In the *Australian Financial Review* on 29 November last year you said:

There will be significant time savings and some individuals will be happy to have the choice but when those choices have been constricted by road closures you do drive an element of angst.

I wonder what your response is to the announcement by the Premier when the Richmond report came out, where he says there will be no further road closures associated with these motorway projects. Are

CORRECTED TRANSCRIPT

you concerned by that? Do you agree that we should no longer associate road closures with PPP motorway projects or do you think they just need to be explained better?

Mr O'NEILL: I think it has to be more the latter. While you can construct a road project like Westlink M7 with negligible road closures because of the nature and location of such a road, if you go back to the original planning objectives for a road like the cross-city tunnel clearly road closures are implied in the model because you are trying to achieve a particular decongestion outcome for traffic management. All I can read into the Premier's statement is we will not be doing any more projects like the cross-city tunnel because the centre of the city region has been satisfied by the construction of the project and nobody at a planning level is envisaging that there will be another such project.

Ms LEE RHIANNON: This issue of the traffic volume through the tunnel has been a controversial one. Many people like yourself who very much back PPPs have argued it is not that different from the Eastern Distributor or any of the others and we are going through that ramp-up period and we are on our way to this grand number of 90,000. From what I have seen of the figures and heard while sitting in this inquiry, the gap between what was projected and what has been achieved in these early months is far different from what happened on the Eastern Distributor. That seems to have been backed up quite clearly by the free period for the CCT, that while they projected 90,000 all we have is about 50,000 per day and it dropped back and we found out that maybe it is about half of that 20,000—9,000. I would be interested in your comments about that. Are you confident the numbers will get up? Certainly many people say it will still end up being profitable. I acknowledge some people are saying that, so I am interested in your comments on that, and do you acknowledge that this is different from the Eastern Distributor and other motorway projects that we have seen because we are starting at a much lower base than was anticipated?

Mr O'NEILL: I have to say, firstly, that my organisation provides input to government in what I call the pre-competitive public policy, that is before projects are put to the market. Once they are in the market and become commercial it is up to the entities, the consortium, of the members of the consortia who bid for those projects to then address the public policy issues specific to that project. The question you have raised is a very commercial question and I will not give you an answer on it because it would really take me out of the remit of my council and I think it is a question best put to those who are taking the risk in that project.

Mr BOWDITCH: From the Government's point of view within the contract I think the Government got it exactly right, in the sense that these issues that Dennis has referred to as fundamental commercial issues regarding traffic modelling and so forth—

Ms LEE RHIANNON: Sorry, Mr Bowditch, can you say which bid they got right?

Mr BOWDITCH: Patronage risk being held by the concessionaire, as opposed to the people of New South Wales. I think that is a fundamental point and I think that is a very strong part of the contractual arrangements.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I was interested in the idea of transparency. You are all in favour of transparency after the contract is written and whether it is a summary or lengthy document that a few specialists might like to have, but before that the Planning Institute were keen to have transparency. From the public point of view—

Mr BOWDITCH: Sorry, I do not believe that IPA was in that group. It may not have existed at that time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But you agreed with the statement that the Planning Institute wanted transparency?

Mr MATT BROWN: I do not think the honourable member can verbal witnesses that, Mr Chair.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am not trying to give the witness a hard time, I am trying to define who wants what in terms of transparency.

CORRECTED TRANSCRIPT

Mr MORRISON: I think it was a commission of inquiry. It is different. PIA favoured a commission of inquiry and I think others did not favour a commission of inquiry being held as part of the approval process.

Ms ROSER: But I think the point at which there was perhaps some disagreement with statements made by the PIA, we have said we would like to see some transparency during the contract negotiation phase. Mr O'Neill made the point that he did not believe there should be any transparency or openness with the public until the contract is signed. I think that was the distinction perhaps.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I would be interested in the definition of what was done in the sense that in this case the RTA would get a tunnel. That amount of money probably meant that the Planning Institute's idea of a tram that went out to the Eastern suburbs did not happen because the roads were blocked and the money had gone in the tunnel. So, in a sense, planning in the public interest would have said yes, we want to spend the money reducing congestion, but what is the best way to do that? If there is a secret process where the tunnel is negotiating with the Government without looking at other options, the public might have considered it. Surely that would not be a problem for you if there was a longer discussion period about what was to be done?

Mr BOWDITCH: I think the point that was made very strongly by Professor Richmond was that there was no cost to government. So, in terms of funds being directed to one project over another, that is to the tunnel—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, but there is a huge opportunity cost. You have blocked all these streets to get people bundled into the tunnel and that has made a huge difference to the flexibility of the Government in terms of planning transport in Sydney generally. So even if there is no financial cost to government there has still been a huge opportunity cost in city planning, has there not?

Mr O'NEILL: Not in the case of public transport. If you still want a tram to go out there, there is nothing in this arrangement that would prevent a future government from deciding to provide for a tramway out in that direction. There would be things that might stop it but providing for the opening of roads for the use of private motorists, that is a different thing, but if you want public transport out that way, like a tram, that is a different issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: People tell us the buses are running a lot slower than they used to because of all the road closures?

Mr MORRISON: I think there is a difference between strategic planning of infrastructure and how different projects are delivered. This was a process of delivery of a particular project once it was decided we needed the tunnel, and there are changes in the nature of the tunnel and different road closures, et cetera. The Property Council has been strongly critical of Government for not having a strong strategic infrastructure plan and remains so. The Premier said that there will be a 10-year infrastructure strategy delivered along with the budget but it was certainly a missed opportunity that we did not have more on infrastructure in the metropolitan strategy released late last year.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you would agree with me that we should have a lot of public input to an infrastructure plan, and that the closed part of the negotiation is when the government says, "We will have a tunnel. You three people want to build it. Now we will go into some secret negotiations as to who proposes the best deal"?

Mr MORRISON: There is no doubt that it is a dire situation that we do not have an infrastructure strategy for Sydney. That needs to be rectified.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I would certainly agree with that.

CHAIR: We will now move to Government members' questions.

Mr MATT BROWN: Was the Property Council consulted on the cross-city tunnel proposal? And did you support the proposal?

CORRECTED TRANSCRIPT

Mr MORRISON: Yes, we were, and yes we did, from its initial concept phase, through the EIS phase, and we have been making public comments in the media in support of the tunnel.

Mr MATT BROWN: How important do you think the cross-city tunnel will prove to be to Sydney's road network and the economy?

Mr MORRISON: It will certainly be important in terms of the amenity of the CBD. That obviously is very important, the amenity of William Street. As others have been saying, we would like to see the patronage increase over time, to provide better amenity. But there is no doubt it is a fundamental building block in creating the CBD as a less congested place.

Mr MATT BROWN: Have you been able to quantify any of the economic benefits?

Mr MORRISON: No, we have not done that.

Mr PAUL McLEAY: My question is to the Infrastructure Council. How important do you think the cross-city tunnel will prove to be to Sydney's road network?

Mr O'NEILL: I cannot add much more to what Mr Morrison has said. I think it is a very valuable addition to the amenity of the central part of the Sydney region around the CBD, because it has the potential not only to decongest considerably the operation north out of the CBD but also to speed up transit times between the Eastern Suburbs and those seeking access to the west. Of course, once the other missing links that remain are put in place, particularly to the M4 East, the cross-city tunnel will become even more important—once we basically have traffic light free transiting from the Eastern Suburbs right through to Penrith. That is why I think you have to look at these pieces of infrastructure in the context of the overall network. Hence the point I would emphasise here is that we still have some key missing links, and until those links are put in place we will not realise the full potential of these existing links.

Mr PAUL McLEAY: The Committee has had evidence, in particular, from former Premier Greiner and others that a PPP is a way to bring these proposals forward. You talk about a missing link in the road network. Is a PPP a suitable solution to that problem?

Mr O'NEILL: Absolutely. I am aware of the views of some on the negative side, for example, the former Auditor-General Mr Tony Harris. Over numerous glasses of red wine with Mr Harris, I have reached violent agreement with him over the fact that if governments do not want to borrow the money—which is, perhaps, the other alternative to look at—then PPPs are the only alternative if you want the piece of road put in. I am not an economist, but I am told that economists can construct an argument, as has Mr Harris, that sovereign borrowing and building the road, and perhaps even introducing a government toll to repay those borrowings, is the first-best solution for these missing links. That may be so, but governments do not seem to have the will to do that.

There is another dimension, which may not have been addressed in evidence to this Committee. I would draw attention to a publication, I think in 2003, by the Planning Institute of America in which some academic work looking at some US\$90 billion worth of publicly financed infrastructure was examined. It was examined from the point of view: Why did these projects run over time and run over budget? The conclusion arrived at was that it was not so much incompetence but rather that people made poor estimations of the cost of those projects in the first place, largely to get them over the political approval hurdle and also the deficiencies of government budgeting processes whereby capital was drip fed into those projects, resulting in their running over budget because they took too long to build.

Of course, we have some classic examples here. We have people in governments talking about duplicating the Pacific Highway over a period of time which would see conclusion of the project by I think 2016, when the engineering sector could actually do it in three or four years. So we are actually getting very inefficient application of capital in favour of public works outcomes. The PPP model strips away that inefficiency, because the capital is there on day one to produce the project outcome in an engineering, optimised time frame. Unless governments are prepared to get that capital on day one—and borrowing is the only other alternative they have got and, frankly, until we have some checks and balances in place to make sure that borrowings are applied to that type of

CORRECTED TRANSCRIPT

investment, and are not frittered away on a range of other expenditures by government, then it is probably an unwise direction in which to head—then, frankly, the PPP model is an outstanding model to give the amenity and productivity gains that those projects offer.

Mr PAUL McLEAY: You spoke earlier about some of your views on the recommendations of the Richmond review of motorways in response to questions that Mr Pearce asked. Were there any other views you wanted to express on other recommendations, while we are on this subject?

Mr O'NEILL: My organisation is quite happy with the recommendations made by the Richmond review. I think my last comment about the true cost of traditional procurement of infrastructure is perhaps an area on which the Richmond review could have spent a bit more time analysing. I cannot add any more to my earlier comments.

CHAIR: Are you happy with Professor Richmond heading up this infrastructure unit from the point of view, I suppose, of speeding up these projects and so on? It is almost equivalent to you and the government.

Mr O'NEILL: If you look at the excellent record of the Olympic Co-ordination Authority, which he headed up, in making sure that all the required projects were built on time and were ready for proper functioning by the start of the Olympics, I think you can see that his track record is excellent, and therefore he is an outstanding person to apply to this task of making sure that these complex and difficult projects are preceded with as efficiently as possible.

CHAIR: I was not just referring to Professor Richmond personally, but to the structure that has been set up by the Government. Are you happy that the unit that he heads up is an improvement?

Mr O'NEILL: I would rather judge that after I have seen the runs on the board, but conceptually the idea is a very good one.

The Hon. AMANDA FAZIO: Could I ask Mr Bowditch some questions about the co-ordination in government issue, which we have just been teasing out with Mr O'Neil? In your submission to the inquiry you state that you support the establishment by the Government of the Infrastructure Implementation Group. You also stated in that submission, "Government must also ensure that it is co-ordinated in its attitude towards PPP projects. Situations have arisen in the past of government-sponsored projects being stymied by action or lack of action in areas of the public sector." I would ask you to comment on two issues. One is the approach, which we have had in the past, of projects being designated as whole of government and of State significance, co-ordinated by Premiers. Now we have the Infrastructure Implementation Group. Can you compare the roles of those two bodies, from the perspective of your organisation, and can you tell us what benefits the new Infrastructure Implementation Group will bring?

Mr BOWDITCH: My understanding—and I am happy to stand corrected—is that Professor Richmond's group is very much about unlocking bottlenecks, in the sense of processes that have slowed down, or addressing problem areas, and so forth. I think that is the core of his function: making things happen. The proposition in our submission goes much further than that. That is very much about the systematic identification of new projects, and assessment of them, so that there can be a register of significant projects. The Government started this process in 2002 with its infrastructure plan, but I note that that has not been updated, to the best of my knowledge. Going to the next step, to the how-to, is an excellent step, and we wish Professor Richmond well in terms of executing his duties. But I think we need to come further down the pipeline to the beginning, and say, "What sort of projects are we going to put into that pipeline and ensure a very proactive and positive approach to ensuring high-quality projects?" I guess that is the other way of saying "infrastructure plan".

The Hon. AMANDA FAZIO: I want to ask Ms Roser a few questions about the perspective of the Planning Institute. Ms Roser, you have already mentioned the opportunities through revitalisation of William Street and parts of the CBD, by taking through traffic off the surface streets and into the cross-city tunnel. Could you go into that in a bit more detail? In particular, some people seem to have been surprised by the street works in William Street, yet I can remember front pages in the Herald a few years back depicting a French-style boulevard—although the trees looked a little better in the illustration in the Herald than they did in France! But it was of a really nice vista from

CORRECTED TRANSCRIPT

Hyde Park up to the top of the Cross. I think this is a very good opportunity to improve things in Sydney, but could you talk to us on a little bit more of the detail? Have you got any views why people did not seem to understand that this was part of the whole package?

Ms ROSER: As I have mentioned, the institute is very supportive of that whole process to improve the urban amenity and urban environment in and around the city. That includes things like the William Street boulevard. I recall those lovely pictures on the front page of the Herald, and I certainly understood what that meant when I saw it. Perhaps the concern that has arisen is simply a matter of timing. The cross-city tunnel was opened and there was the furore of the public regarding lane closures almost instantaneously, while the public was still trying to figure out what this new road meant and what the traffic diversions meant. That can only have complicated the matter.

It could well be that, similar to a project like the East Circular Quay toaster, there is a lot of concern and brouhaha while things are happening, and it may take people a while to settle down to the change. But, once the changes are implemented and William Street is much more attractive people will realise and understand the benefits.

I think that has contributed to the confusion and concern. I do not think it is simply a case of the public being ignorant. The proposals were there on the table to improve William Street. I think it was simply the case that everything happened at once, and that was concerning and confusing. I would restate our position that anything that might result in an improvement in the urban environment is something that the Planning Institute would support, and that includes things like taking vehicles off the street—whether that is done by the provision of the tunnel from the east to the west, or whether it is by things like public transport improvements, which we think need to happen in a co-ordinated fashion as well.

The Hon. AMANDA FAZIO: One of the other issues, which has been referred to in a very oblique fashion by some of my colleagues, is concern about the impact of surface traffic of the changes in William Street. Could you give us some ideas on how, in terms of sound planning principles, there might be a place for influencing the road network through traffic uses by roads, motorways and things like the cross-city tunnel to avoid all that rat running on local surface roads? Is there a way that you can plan to do that?

Ms ROSER: Obviously, if you have a clean slate to start with that is fantastic. Unfortunately in Sydney rarely do we have that clean slate. That is a pretty difficult question to answer. Off the top of my head, I do not know.

Ms LEE RHIANNON: What is your understanding of where the M4 is up to?

Mr O'NEILL: There are two issues here, if I may. In terms of the technical planning for it I am assuming that the RTA is continuing to work in house to do all of that. In terms of work to put it out into the market for tender, my understanding is that that has been slowed down while, firstly, the Government reviews the Richmond report and the outcomes of other internal processes it has put in place to look at the commercial alternatives, if you like, for delivery of that road, one of which, I assume, also simply has to be the whole tolling regime that might be amenable to such a road or not.

Ms LEE RHIANNON: Would it be similar to the F6?

Mr O'NEILL: Could you just elucidate for me? The F6 is the link—

Ms LEE RHIANNON: The one down south.

Mr O'NEILL: No, I do not know about that one. The other missing link I thought you might have been referring to is the M2 to F3 link, but that is part of the National AusLink process and, therefore, that would be subject to not only discussions and negotiations with the Commonwealth Government, but also to the Commonwealth's own timing in relation to its budget outcomes.

CHAIR: Thank you very much for your assistance to our inquiry. You have given a different perspective to the other witnesses we have had, which helps to balance out the information we are getting.

CORRECTED TRANSCRIPT

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Could I ask if the Allen study publicly available?

Mr MORRISON: Yes, it is. I will send it up to the Committee.

(The witnesses withdrew.)

(Short adjournment)

CORRECTED TRANSCRIPT

PETER SANSOM, Chief Executive and Managing Director, CrossCity Motorway, on former oath:

CHAIR: Do you have a statement?

Mr SANSOM: Yes, I would like to make an opening statement. Particularly as the Chief Executive and Managing Director of the CrossCity Motorway, I again welcome the opportunity to appear before you. Given that there has been considerable debate and evidence to the Committee about the cross-city tunnel I would like to make some opening comments, which I will now do. The cross-city tunnel was conceived by the State Government, it was managed by the RTA and it was delivered by the CrossCity Motorway. Several government departments, including many departments that have been represented before the Committee, have been involved with the project, particularly the Department of Planning. The cross-city tunnel was conceived and delivered as part of an integrated transport plan for Sydney. While the cross-city tunnel is a motorway, the objectives for the project include improving access for public transport, pedestrians and cyclists. It involves a major upgrade to William Street, which is now a gateway into the city.

The Government wanted to restrict traffic in the Sydney CBD. The cross-city tunnel is the piece of infrastructure to help deliver the objectives by giving motorists access to the road under the city. The cross-city tunnel means that motorists can travel east-west, west-east and connect with other north and south motorways. The objectives of the cross-city tunnel were endorsed at the time by the NRMA, the State Chamber of Commerce, the Tourism Transport Task Force, the Sydney City Council, the New South Wales Property Council and many other groups during the planning and construction stages of the project. Far from competing with public transport, the cross-city tunnel enhances it. The Metro West, the Metro Pitt heavy rail lines have been preserved; there have been improvements to bus lanes and bus routes right across the CBD, and also improvements in bus travel times.

However, as part of the Government's plan to restrict traffic coming into the CBD the cross-city tunnel contract contained road changes. In addition, the Minister for Planning approved further road changes after community consultation. The CrossCity Motorway consortium bid for the contracts on the basis of these road changes, as did every other consortium. We are only delivering the contract the Government wanted after consultation with the community over the past seven years. In order to clarify CrossCity Motorway's position, there are no plans to reverse the road changes contained in the contract. The Government has not proposed to CrossCity Motorway any road changes. If the Government were to put forward a proposal then CrossCity Motorway would need to obtain legal and technical advice in relation to the impacts. CrossCity Motorway obviously would enter into negotiations in good faith, as we have done right through the project and as required under the contract. If those negotiations did not reach a suitable outcome then CrossCity Motorway would pursue its rights under the contract and seek compensation.

There also has been a wide range of debate in relation to the toll price. The toll price and the quarterly increases were set by the Government through the RTA in the tender documents. We believe the cross-city tunnel's toll price presents good value in terms of savings, less wear and tear on motor vehicles and savings in petrol. I also understand that there has been some debate about consultation. There has been significant and substantial community consultation from conception through to the project delivery. The RTA submission to the Committee details the history and substantial community consultation associated with this project. There have been numerous discussion papers. There were two environmental impact statements, representations and preferred activity reports. The media has covered the project extensively over the years, including the planning process, which involved the road changes. In addition, a condition of approval required CrossCity Motorway to undertake community consultation.

Finally, CrossCity Motorway has borne, and will continue to bear, all construction, all design and patronage risk. No taxpayers' funds are at risk in this project. As I explained to the Committee last year, the cross-city tunnel has been open for only a few months and all toll roads around the world require a ramp-up period. This is a 33-year project, and CrossCity Motorway is here for the long haul. We believe the cross-city tunnel is, and will continue to be, a great piece of infrastructure for Sydney. I am happy to take questions.

CORRECTED TRANSCRIPT

CHAIR: Going back to the current traffic figures using the tunnel, can you update us on the situation?

Mr SANSOM: Certainly. On Monday there were 26,380 vehicles through the cross-city tunnel. On Tuesday this week there were 27,388 vehicles. On Wednesday there were 29,282 vehicles. On Thursday there were 29,550 vehicles, and I expect today there would be somewhere between 30,000 and 31,000 vehicles through the cross-city tunnel.

CHAIR: Does it appear that every day there is an increase in the number of vehicles?

Mr SANSOM: Yes. You might recall in my address to the Committee last year, essentially there is a change through the course of the week from Monday to Friday. Essentially there is a 5,000 difference from Monday through to Friday, which has been evident right in the build-up to Christmas and now with the school community going back we are starting to see gradual increases again.

CHAIR: What is your view of those figures now? Are you satisfied with them, or are they still below your original proposed estimates?

Mr SANSOM: We like to see just a gradual increase in traffic. We expect that to continue. We expect that as people understand the benefits of the cross-city tunnel—less wear and tear on their motor vehicle, travel time savings, less petrol costs—they will continue to use the cross-city tunnel and that will take some time. It is not unlike the Eastern Distributor experience. It is not unlike the M2 experience.

CHAIR: You are fairly relaxed at this stage?

Mr SANSOM: Yes, and the shareholders certainly are taking a long-term view of the project.

CHAIR: Have you revised the traffic estimates used in the base case financial model?

Mr SANSOM: No. In fact, we have not undertaken any amendment to the base case model. We are, at the present time, preparing an operations model, which will take it through the original opening date through to the 33-year period. But we have not adjusted the base case model.

CHAIR: A moment ago you referred to the consortium's view that if there were changes to the contract with road openings and so on, as a minimum you would have legal costs and engineer costs to calculate the impact of those proposed changes. Obviously, you would have to be reimbursed for those. If there were changes do you anticipate that there would be a compensation figure also?

Mr SANSOM: The way the arrangements work, under the contract deed and the contract documents there are specific mechanisms in place for changes. Should a change be proposed we would expect to be advised by the RTA, ultimately, as our client and then we would work through the technical and legal issues. Then, should there be an issue we would then go back to the RTA and negotiate in good faith. However, should the negotiations not work out as we saw them we would reserve our right to seek compensation under the contract.

CHAIR: That would vary to the degree of how major the changes. If it were a very minor change it may be—

Mr SANSOM: It is a little bit hypothetical unless we understood the exact scope of the change.

CHAIR: It is.

Mr SANSOM: Again, they would have to seek technical and legal advice in relation to that.

CHAIR: At this stage there has been no suggestion to you of any changes? They have not given advanced warning of any proposed changes?

CORRECTED TRANSCRIPT

Mr SANSOM: The contract has a mechanism for that, and we have had no indications in relation to any other changes.

CHAIR: They have not been triggered in any way?

Mr SANSOM: No, not at all.

CHAIR: To clarify another point, do you maintain that none of the road changes associated with the current cross-city tunnel project were suggested by CrossCity Motorway as part of the long 80 proposal?

Mr SANSOM: Firstly, I would point out that the original EIS virtually promulgated the vast majority of the road changes associated with the project. The long 80 proposal, selected by the RTA as the preferred option, involved some consequential road changes. These included the widening of Bayswater Road, obviously, and also some adjustments to the Market Street viaduct to improve the traffic flows. The only other change in our long 80 proposal related to a right-hand turn from Cowper Wharf Road into the Domain area and then the Harbour Bridge crossings. We proposed that that right-hand turn be banned. Subsequently that was included in the supplementary EIS and then, during the community consultation phase, that actually has been taken away so the right-hand turn was permissible. In other words, the only change of significance associated with the long 80 option proposed by the CrossCity Motorway consortium was not accepted ultimately by Planning.

Mr ANDREW CONSTANCE: We heard from Mr Chris Ford yesterday that the CrossCity Motorway was involved in discussions regarding traffic light phasing. I would be particularly keen to hear from you as to what the CrossCity Motorway put to the RTA and the Government in relation to traffic light phasing?

Mr SANSOM: Firstly, let me say that the RTA is the responsible agency for all operations of traffic signals in New South Wales. Naturally, the cross-city tunnel, like West Link, the M2, the Eastern Distributor and the Lane Cove tunnel today, consulted and regularly consults with the RTA in relation to traffic signal changes. These are significant infrastructure projects and traffic behaviour alters during construction and operations. We may undertake the construction but they have to operate the signals. To the best of my recollection, the discussions with the RTA tended to revolve around what we would call road occupancy licences, so we can get access to the road, the approval of the traffic management plans that had to be submitted to the RTA's traffic management centre and then the timing of the works. I recall that the RTA discussed with us the timing, for instance, of the Harbour Street traffic signals and they said to us they were concerned about us undertaking the traffic signal changes on day one, which is as contemplated by the project deed. so we essentially deleted a phase of the traffic signals and did not bring those changes in until 28, 29 November, the same time when we did the changes on the T2s on William Street and at the same time that we put the bus lanes in on Park Street.

Mr ANDREW CONSTANCE: Surely you must think though that the community would question your interest in traffic signal phasing, given the potential funnel effect that they have?

Mr SANSOM: The reality is that I cannot influence the RTA on how it operates a major automatic system across the Sydney CBD and broader. All the operational matters are a matter for the RTA.

Mr ANDREW CONSTANCE: Over the Christmas period someone put to me concerns about the city to surf. Will the tunnel be closed? Have there been discussions with the organisers of the city to surf in relation to tunnel closures during that event?

Mr SANSOM: Yes. The project deed reflects some major things that may occur in the city. City to surf is one of them. I would need to confirm this but I think the gay mardi gras is another, and there might be other events contemplated in the future for which we would have to look at commonsense approaches to how we deal with the operations of the tunnel.

CORRECTED TRANSCRIPT

Mr ANDREW CONSTANCE: I imagine that William Street would be quite hard to negotiate for joggers at the next city to surf. Have you or any of your staff been interviewed by ICAC?

Mr SANSOM: I would like to think that that is a matter for ICAC.

Mr ANDREW CONSTANCE: We have had other witnesses confirm that they have been, so I am just seeking a response from you.

Mr SANSOM: I have been advised that it would be unlawful for me to comment on that and I would like to keep it at that.

The Hon. GREG PEARCE: In one of the finalisation documents prepared by the RTA for the closure, the document signed by Mr Ingram, Mr Hannon and Mr Forward, it starts off saying, "As part of submitting proposals, proponents were required to nominate a payment to RTA, the business consideration fee, which was intended to cover RTA costs associated with the project and also for the ongoing right to operate the tollway during the term". What was the consortium's understanding of what the business consideration fee was meant to cover?

Mr SANSOM: I think in my previous evidence to the inquiry I explained how the Cross City Motorway Consortium calculated the business consideration fee. Basically, it was calculated around traffic projections that were undertaken by international consultants, and they were escalated over the 33-year period, and then it looked at the construction costs and all other costs of the project. Internal rates of return were then set, and that generated what was termed a business consideration fee that was able to be made available to the Government or to the RTA. That was clearly documented in the tender design, and you might recall option two, the long 80 option, a business consideration fee was included as part of the bid.

The Hon. GREG PEARCE: In relation to the road closures and the road measures, I think you are fairly clear now on the consortium not requiring—you have mentioned the Cowper Wharf Road right turn. The only other things I understood that you required were the lanes on the Anzac Bridge and viaduct and the eastern approaches at Ocean Street and New South Head Road were to be maintained. That was in the long 80 bid.

Mr SANSOM: I think from memory there are some requirements that the feeder roads must be maintained, and Anzac Bridge is essentially one of those feeder roads. I am not sure whether that was specified in the tender documents; I would need to confirm that.

The Hon. GREG PEARCE: But you did not require, for example, the closure of Bourke Street.

Mr SANSOM: The relationship in Bourke Street is a condition of approval matter with the planning Minister, and that is by law associated with the project but some of those approvals are still being progressed, as I understand it.

CHAIR: Did you request, is that part of the barrier going across?

Mr SANSOM: No, not at all.

CHAIR: You never requested it?

Mr SANSOM: Not at all.

CHAIR: You have no view one way or the other if it was opened again.

Mr SANSOM: We would need to have a change order from the RTA so that we could understand the impacts both technically and legally to determine whether the change impacted this. We have not been associated with the consultation at all.

The Hon. GREG PEARCE: In fact, you had a change during the negotiation process in terms of what was required and that is referred to in a lot of documents as the clause 18.4

CORRECTED TRANSCRIPT

requirements, where the Government or the RTA came back to you and wanted to provide transit lanes and bus lanes for public transport. As a result of that request, you indicated to the Government that you would require a reduction in the amount you were prepared to pay for the business consideration fee—I think it was \$24 million.

Mr SANSOM: I do not have access to that information. I would have to take that on notice and respond accordingly.

The Hon. GREG PEARCE: I am not too worried about the exact figure but the process as I indicated is correct, is it not? The consortium went back to the RTA and said that it wanted a reduction.

Mr SANSOM: Again, I was not part of the discussions and negotiations at the time but, under the arrangements, I understand that all the negotiations were undertaken in accordance with government guidelines and under the auspices of a probity adviser throughout the whole process. So perhaps you could direct your question to that probity adviser.

CHAIR: Do you want to take it on notice?

Mr SANSOM: I could certainly take it on notice but I was not part of the negotiations team with the RTA. The RTA would have that information, as would the probity adviser.

The Hon. GREG PEARCE: Are you also aware that there was a reduction as a result of the change to the Cowper Wharf Road arrangements?

Mr SANSOM: Yes. In fact I do recall the Masson Wilson Twiney report and I can provide that information. I understand that for the first EIS Masson Wilson Twiney came up with a traffic figure of about 80,000 and then with the long 80 proposal from the consortium the figure became 96,000. Ultimately, Masson Wilson Twiney undertook calculations associated with what they called the altered modified activity and that was with the right turn reinstated at Cowper Wharf Road, and their traffic projections indicated that the figure would be in fact 91,000 as a result.

The Hon. GREG PEARCE: In relation to the ramp up, what period have you allowed for the ramp up to the expected figures?

Mr SANSOM: I think in my last evidence I suggested that it would perhaps be something of the order of three years from the opening. Our opening was in August last year.

The Hon. GREG PEARCE: You also said at that stage that you wanted to have a few more months to see what happened. You have had the few more months so I am asking you whether you have changed your view on that.

Mr SANSOM: No, I still think it is probably three years. As I said in my previous evidence, this is a fairly unique project. It is one of the first full electronic toll roads that has opened without an extensive period, and people need to understand the benefits, the savings in travel time, et cetera.

The Hon. GREG PEARCE: Have you had an opportunity to look at the Richmond review on toll roads?

Mr SANSOM: Yes, I am aware of the Richmond review. I have not studied it in full.

The Hon. GREG PEARCE: So you do not have any comments on any of its recommendations for us.

Mr SANSOM: I probably have if you ask me a specific question, but that is really a matter for the Government and Cross City Motorway and any other consortium would abide by the recommendations in the tender documents that would ultimately come out for a project.

Ms LEE RHIANNON: Thank you for the figures that you have provided to us on the use of the tunnel. Is it correct that traffic flows have not changed since last December?

CORRECTED TRANSCRIPT

Mr SANSOM: Yes, it is only early days. As you are probably aware, schools only went back on Tuesday and Wednesday, and some schools have not gone back. The universities are not back yet. So we expect there to be gradual increases over the next three to four months.

Ms LEE RHIANNON: When we spoke last time you said, "I am happy to publish from time to time our figures." Can you tell me where you have published the figures?

Mr SANSOM: Essentially I will from time to time when asked to publish them. You have asked me today; I have given them to you. The Herald rang our organisation on Wednesday and we gave them the figure. Channel 10 rang up yesterday and we gave them the figure.

Ms LEE RHIANNON: As you have said "from time to time", could you agree now that you will publish them? Obviously we would like daily figures. If I am assuming that you are still standing by your original statement that you will not do that, will you publish it every week, every month, every three months?

Mr SANSOM: No, we do not intend to. We believe it is commercial in confidence.

Ms LEE RHIANNON: Why is it commercial in confidence?

Mr SANSOM: We believe it is part of Cross City Motorway's business and it will stay that way.

Ms LEE RHIANNON: If it is commercial in confidence for you, why do many other motorways around the world regularly put up monthly traffic figures on their web sites? Ontario, Canada, the 407ETR; the main turnpike authority in New England, USA, also does monthly figures; and a number of motorways in Florida, USA, do annual figures. So either monthly or annual figures are published for many motorways. Why are you different?

Mr SANSOM: It is not Cross City Motorway's policy to publish the figures.

Ms LEE RHIANNON: I want to give you the opportunity to clarify this issue about some of the street changes and the issue of compensation. I appreciate that you went some way to try to clarify that in your earlier statement. As you would be aware, 39 of the closures are included under category B, which would not expose the RTA to material adverse liability. So for those ones, what is your position? Do you want them to stay closed?

Mr SANSOM: CCM does not have a role here to determine the closures. All road changes had been previously provided in the EIS, the supplementary EIS or as part of the planning condition. Should the RTA propose a change, we would expect that it would document that. It would determine the scope and it would advise us so that we could look at the legal and technical implications of the change.

Ms LEE RHIANNON: So you are saying that you want to be notified—

Mr SANSOM: We must be.

Ms LEE RHIANNON: No, I am talking about the ones that do not involve any MAE liability. So even for those you are saying that you need to be notified?

Mr SANSOM: Yes. We believe that that is part of the planning conditions. It is a requirement by law and if there was a proposal—and you are speaking hypothetically—we would look at that and its impact both legally and technically.

Ms LEE RHIANNON: And financially?

Mr SANSOM: It may not have a financial impact. We would need to look at it legally and technically to determine what the impact is and negotiate in good faith with the RTA and reserve our rights to claim compensation should we feel it was appropriate.

CORRECTED TRANSCRIPT

Ms LEE RHIANNON: So that is a shift from your previous position, that you are now saying that on those roads that people have understood previously are under category B and that carries no MAE you plan to seek compensation. So that is a shift from your previous position. I am just asking you again because of the confusion that ended up last time on this matter.

Mr SANSOM: It is something I attempted to clarify within 24 hours after my evidence to the Committee last time that we would expect to be notified. We would undertake a legal and technical review and then we would discuss and negotiate with the RTA in relation to a suitable outcome. We would pursue our rights under the contract and seek compensation should we feel the need to.

Ms LEE RHIANNON: Considering there is no MAE for these category B roads, what would be the basis for seeking compensation? What is your benchmark to judge what you believe the CCM is owed?

Mr SANSOM: You have not given me a proposal. I would expect the RTA to give us a proposal so we could understand the traffic and legal implications. Because we are speaking hypothetically I cannot understand the scope of what those changes could be.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Some of the residents groups have claimed that there were 75 road closures of which 58 were not involved in MAEs. Do you say if any of those 58 went ahead you would still reserve your right to act?

Mr SANSOM: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Even though they were not specified as MAEs?

Mr SANSOM: Yes, because they are a condition of approval associated with the project. Again, as I indicated, we would look at the legal and technical implications of the changes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Even if they are not MAEs you still can pursue?

Mr SANSOM: We believe so.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You said in your opening statement that you believe that there were improvements in bus transit times. Yesterday's evidence from the head of the State Transit Authority was that he thought the traffic on Victoria Road, Parramatta Road, Oxford Street and William Street was actually slower but he did not have any figures to back that up.

Mr PAUL McLEAY: No, he did not.

Mr MATT BROWN: He said William Street only.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Let me ask the question.

CHAIR: Dr Chesterfield Evans, do not quote other witnesses. Just ask the question about what the witness understands about the issue of bus times.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you understand that the bus transit times have improved due to the road closures associated with the cross-city tunnel?

Mr SANSOM: The RTA in evidence last year said it had undertaken a survey of bus travel times before the tunnel was opened and then after it was opened. That survey has seen buses, according to the RTA, moving from 34 kilometres per hour in 2004 to 50 kilometres per hour at that time. I also understand there will be a range of traffic and transportation studies undertaken over the next one to three years, which I am sure will confirm exactly that.

CORRECTED TRANSCRIPT

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If the traffic levels are not met, is there any change to the contract from the people of New South Wales? Does it extend the time of owning the tunnel or is there any other taxpayer consequence?

Mr SANSOM: No, there is no cost to the taxpayer of New South Wales and there is no ability to change the concession period.

Mr MATT BROWN: Mr Sansom, does the Cross City Motorway think the community is sufficiently aware of the advantages of using the tunnel? What is the Cross City Motorway doing to ensure community awareness?

Mr SANSOM: We believe that every day and every week people are starting to understand the benefits. We believe it is a matter of time for them to realise that they can proceed across the city within a couple of minutes. We are finding that people are telling us when they ring in that the benefits are almost guaranteed travel times. People in Balmain are saying, "We like to go for a swim now. We can guarantee that we can get to Bondi in a certain time and we can get home and then head off to work." It is that guarantee that is making it better for people. We believe that this is part of the ramp-up. Every project in the world has a ramp-up. The Cross City Motorway is going through ours. The Eastern Distributor went through exactly the same situation.

Mr MATT BROWN: What is the CCM actively doing to improve awareness about the tunnel's entry and exit points?

Mr SANSOM: We are looking at a range of activities at the present time. We are looking at a communication strategy. I would be hopeful that we will be looking at that and announcing some things we might do in the future. I am not sure what they are going to be, but we are certainly looking at improving awareness generally.

Mr MATT BROWN: Are the parent companies of the cross-city tunnel satisfied with its performance to date?

Mr SANSOM: They are certainly satisfied on a technical level. This is a marvellous piece of infrastructure for Sydney. This is a marvellous piece of technical infrastructure in the fact that from day one it has managed to operate successfully. They are a little bit disappointed with the traffic numbers but they have taken the long-term view. They are here to support New South Wales over the next 30 years and they will do so.

Mr MATT BROWN: What is the long-term view?

Mr SANSOM: It is a 30-year project. When the Eastern Distributor opened they also had issues with traffic projections and to date the Eastern Distributor is accepted as a marvellous piece of infrastructure for Sydney. The cross-city tunnel is accepted and will continue to be accepted as such as well.

The Hon. AMANDA FAZIO: Mr Sansom, we have heard some conflicting advice from witnesses about the ultimate capacity, the traffic volume in the cross-city tunnel. One witness said he did not believe the tunnel had the capacity to deal with 91,000 vehicle movements and then came back to us and revised that figure downwards—I do not know how. Are you confident in the traffic modelling that was used to give you the projection of about 91,000 vehicle movements per day by 2016?

Mr SANSOM: Yes, I think so. We have had an international firm of transportation consultants, Hyder Consulting, undertake our traffic projections. It is interesting to note they are not materially different from the RTA's traffic projections undertaken by Masson Wilson Twiney. There is always a ramp-up. It is just a matter of time and traffic will continue to grow in the cross-city tunnel as it has on the M2, the M5, the M4 and other toll roads.

The Hon. AMANDA FAZIO: In relation to the consultative and planning phase for the cross-city tunnel, we had information from some witnesses this week that there was a fair degree of resistance from the tunnel consortium to make any changes to the design of the tunnel. They were

CORRECTED TRANSCRIPT

particularly talking about things like the design of the portal at the Rushcutters Bay end of the tunnel. Is that a true comment of theirs that on a cost basis you resisted these changes or was it just a matter of commercial commonsense from your point of view?

Mr SANSOM: I think it was probably part of the commercial negotiations once the conditions of approval were known. My recollection is that the conditions of approval were finalised on the date of around about 12 December 2002. That gave certainty to the consortium as to what the project involved. The difficulty for any consortium competing these projects is when the ground rules change. A change in the ground rules before what we call the dates of satisfaction is fine because you can then adjust your model accordingly.

The Hon. AMANDA FAZIO: The cross-city tunnel is the only motorway that has no toll booths. How is the system working where people who go through without a tag have to ring in? Would you explain to us how that is going? Do you have any figures on how many people are trying to use the tunnel without a tag, how many ring up, how many have to pay extra?

Mr SANSOM: In December I think from memory there were about 780,000, 770,000 vehicles that used the cross-city tunnel. In doing so, we think a number in the range of about 40,000 to 50,000 did not have a pass or a tag account. Those people have been forwarded letters in the last few weeks. We are progressively finding that people are contacting us either on the Internet or by phone to adjust their account.

CHAIR: Are they taking up a tag?

Mr SANSOM: Yes, many of them are taking up a tag. We think that is a fairly good result. We would expect that to continue to increase as people became more aware.

The Hon. AMANDA FAZIO: After you had the toll free period, have you had an increase in the number of people who have been seeking to get an E-tag from your company?

Mr SANSOM: No, not specifically. It is a small number every week. I do not have the total numbers across Sydney but I understand the total tag market in Sydney is probably now in the order of 700,000-plus. There is significant growth that is necessary across Sydney as more toll roads become electronic: the Westlink M7, Lane Cove, and perhaps some of the other roads, the M2 Hills motorway for instance.

The Hon. AMANDA FAZIO: Since the tunnel has opened have you had any technical difficulties with the tunnel or any problems in the tunnel with breakdowns that have caused major delays? Were the problems handled well?

Mr SANSOM: We are very pleased about the way technically the tunnel is working. There have been some minor variances that we have managed to adjust and work with. We have had one incident where we had a fire in the tunnel with a taxi that caught fire. That was handled particularly well and the fire was put out. So nothing untoward. From memory, I think we have had one accident in the tunnel and that was handled well. We are very pleased both from a safety perspective and operational perspective in how the tunnel is operating.

The Hon. AMANDA FAZIO: Do you think that because of the separate ventilation tunnel, which is different to, say, the M5 East, that that gives you a better capacity to deal with issues like clearing smoke from the tunnel after the taxi fire?

Mr SANSOM: There is no doubt the cross-city tunnel is the only tunnel in Sydney with a bypass vent tunnel. That gives us an ability to ensure that in-tunnel visibility is particularly good. We take our air quality issues really seriously. We believe we have got a fairly sophisticated system.

The Hon. GREG PEARCE: You mentioned that Masson Wilson Twiney for the RTA had come to substantially similar figures to Hyda on traffic volume. How then do you explain the report they did for Mr Tripodi in December in which they suggest that the toll be decreased to \$2.90 and a forecast of 25,000 to 52,000 by December 2006?

CORRECTED TRANSCRIPT

Mr SANSOM: We think it is a reasonably superficial report. We do not hold much stock in it. You just made the comment that the final statement is that by December 2006 we might have 25,000 to 50,000. That is a fairly broad number. We believe this week we are running well over 26,000, 27000, perhaps 28,000. We do not hold a lot of store in it.

The Hon. GREG PEARCE: You do not accept the proposition that the correct toll levels should be \$2.90 for a car?

Mr SANSOM: Not at all. We believe the tunnel offers good value.

The Hon. GREG PEARCE: Did you see the press reports of the e-mails in October 2005 from Mr Skinner, the Director of Finance of RTA, to Mr Wielinga titled "Renegotiation Event" in which it is suggested that the best thing to do would be to wait for the tunnel effectively to go broke and perhaps get the asset for a cheap sale price?

Mr SANSOM: The reality is we have taken a long-term view. The tunnel is not for sale and we have had no approaches from the RTA in relation to that at all. If it is an e-mail between the RTA, perhaps you should talk to the RTA.

The Hon. GREG PEARCE: It was the RTA and various other people in the Government looking at the option of buying out the tunnel.

Mr SANSOM: Again, the Cross City Motorway is taking a long-term view.

CHAIR: The tunnel is not for sale?

Mr SANSOM: The tunnel is not for sale.

The Hon. GREG PEARCE: Are the banks in agreement with that?

Mr SANSOM: You would have to ask the banks.

The Hon. GREG PEARCE: The e-mails also referred to the possibility of changing traffic back and opening three roads. I am not sure which three. They suggested that if they did open the three roads there would be a 25 per cent decrease against the baseline, which would equate to about \$75 million in revenue decrease per annum to the consortium. Does that sound right to you?

Mr SANSOM: I cannot comment. As I have indicated, if the RTA wishes to make a change, we would expect it to advise us. Again, we would look at the scope, the traffic and technical implications and a range of legal implications, and we would expect to negotiate in good faith with the RTA. However, we would at all times reserve our right to claim compensation.

The Hon. GREG PEARCE: There is the opening bid; it was suggesting three roads at \$75 million a year.

Mr SANSOM: We have had no approaches from the RTA in relation to any changes to the project.

CHAIR: Thank you very much for appearing before the inquiry a second time and giving us the benefit of your knowledge. All the best for the cross-city tunnel.

Mr SANSOM: Thank you.

(The witness withdrew)

CORRECTED TRANSCRIPT

PAUL LEVINS, General Manager, Operations and Corporate Affairs, Bilfinger Berger Australia, sworn and examined:

CHAIR: Thank you very much for agreeing to appear before the inquiry. Are you conversant with the terms of reference of this inquiry?

Mr LEVINS: I have read them.

CHAIR: If at any stage you feel that some of your evidence should be heard in camera, we are willing to consider your request.

Mr LEVINS: Thank you.

CHAIR: Do you wish to make an opening statement?

Mr LEVINS: Yes, I do. First, thank you for the opportunity to appear today. Since its opening two months ahead of schedule in August last year, the cross-city tunnel has not surprisingly been the subject of intense scrutiny. That scrutiny has taken the form of criticism based on some misinformation, the fact that it has and will continue to change and dramatically influence traffic movement in and around the CBD and that it has been the source of a number of firsts. It is the first fully electronic tollway to open without a cash option on day one, as you know. It is by definition the first east-west underground crossing of the CBD. Crucially, and I do not think we can emphasise this point enough, it is a deliberate attempt to decongest CBD streets. That has been referred to as funnelling, a term that has now accrued derogatory connotations because critics have used it to suggest that this traffic movement is about increasing the profit to the private sector operator. It is not.

The Chairman of Bilfinger Berger Australia, Nick Greiner, made that point in evidence to this committee when he appeared in December last year. What the tunnel is about is an urban amenity program that was well consulted upon and considered. Indeed, in the cross-city tunnel summary of contract, which has been publicly available since February 2004, it clearly states: “that the primary objectives of the cross-city tunnel project are to reduce through traffic in central Sydney, thereby easing traffic congestion and improving environmental amenity in the CBD and on the streets approaching the CBD, and to improve east-west flows.”

We have heard much criticism that the development of the cross-city tunnel was not consulted upon adequately, that somehow it has crept up on us and that the community consultation was limited. In fact, I contest that the reverse is the case. Indeed, The Review of Future Provision of Motorways in New South Wales by Professor David Richmond referred to earlier today says: “that whatever the perceived merits now and in the long term of the cross-city tunnel, the community in its various manifestations has very real ownership”. He goes on to say that: “during the planning and development phase the project had broad public discussion, sustained expert input, extensive community involvement and strong support from key opinion leaders”. Only once that overarching objective of the tunnel is appreciated — that is, decongesting the CBD — can the issue of viable alternative routes and other traffic changes be fully understood.

In the case of the cross-city tunnel there was a planning and urban amenity objective to remove traffic from city streets, and traffic changes were made to that end. There was a very full exposition of the project and the traffic changes in the contract summary. The media publicised the changes. Indeed, the Lord Mayor gave evidence that the local traffic changes were the subject of many local community consultations in what is a very articulate and informed community. The traffic changes have not occurred for the sake of making the tunnel a commercial success. Whether it is or not is at the risk of the backers and the operators. To the extent the traffic changes give preference to drivers using the tunnel, that has occurred because the policy imperative was to take as many cars as possible off the CBD streets. The changes to traffic may not be popular now, as they were not in the case of the Eastern Distributor. No-one enjoys change that is at first inconvenient. However, the objectives of the project are important and they deliver environmental and urban amenity benefits. They were set by the Government, not by the private sector.

CORRECTED TRANSCRIPT

I will refer briefly to the level of the toll if I may. Tolls are not set by the private sector; the RTA sets the tolls. That has been the methodology of the cross-city tunnel, the M7 and the future Lane Cove tunnel. As I believe you have already heard in evidence, the RTA sets those tolls based on a cost-benefit analysis that works the benefits for users. It does not set them on the basis of costs to tenderers. It then includes that in the request for tender, as well as the environmental impact statement. It is up to tendering consortia to work out if they believe that they can cover the construction, operation, maintenance and financing costs as a result. If they can, they will tender.

The Chairman of Bilfinger Berger, Nick Greiner, in his evidence to this committee said that the yet to be built Brisbane north-south bypass tunnel is projected to have a toll of \$3.47. He also made the point that if people do not believe that \$3.56 is worth a time saving of 20 minutes then they need not use the motorway. The risk that they will not is carried by the private sector operator. Interestingly tolls for similar length tunnels in New York, for example, are Brooklyn to Battery tunnel, 2.8 kilometres — bearing in mind that the cross-city tunnel is 2.1 kilometres — \$4.50 each way; the Holland tunnel, 2.7 kilometres, \$6.00 inbound to Manhattan; the Queens to midtown tunnel, 1.9 kilometres, \$4.50 each way; the Lincoln tunnel, 2.7 kilometres, \$6.00 Inbound to Manhattan.

CHAIR: They are US dollars?

Mr SANSOM: Yes, they are US dollar amounts.

CHAIR: The equivalent would be half again as much in Australia.

Mr LEVINS: Three quarters.

This debate has also questioned the use of privately funded motorways at all. Numerous submissions to the 2003 ministerial inquiry into sustainable transport in New South Wales, the Parry report, said there was support for road-use pricing to address traffic congestion and air pollution. A particular submission to the inquiry from the Federal Department of Environment and Conservation cited estimates of Australia's annual road user deficit — that is, the extent to which costs associated with road use exceed the road revenues — of between \$19 billion and \$21 billion. In the face of so massive a deficit we have to preserve options for road funding, not eliminate them.

So much of the debate has focused so far on what is wrong the tunnel as opposed to what is right. Focusing on the positive, there is much to be lauded. Some of the positives are: it has and it will take a significant number of cars off Sydney's roads. On this point, the Eastern Distributor was exactly the same, that is, subject to strong criticism. I understand, having heard the evidence Mr Sansom provided this afternoon, the tunnel took 30,000 cars off Sydney streets. They will now travel up to 20 minutes less per day. That means in round terms, 3.65 million fewer hours of travel by cars in Sydney's CBD each year with all the attached savings in greenhouse gas emissions and accidents. We should bear in mind that motorways result in 20 per cent of the accidents, fatalities and casualties of the arterial road system as well as all the wear and tear and associated stress on drivers.

At the time, critics said that the Eastern Distributor could not physically carry more than 40,000 cars per day, and that even that number would create extraordinary traffic congestion. The Eastern Distributor now carries approximately 51,000 cars northbound alone each day, and a similar number southbound. The same critique — that it is physically impossible to carry 90,000 cars — has been applied to the cross-city tunnel.

The most recent of the traffic changes in William Street have introduced a T2 transit lane in each direction, among many other changes that give preference to public transport and cyclists. There is an additional five kilometres of bus lane and buses use the tunnel for free. It has and it will improve journey times to cross the CBD for those who elect to use it. Members would have heard the figures before that the trip from Darling Harbour to Rushcutters Bay can now be done in two minutes or less. I understand that bus patronage in the western corridor has increased significantly, as has bus patronage in the south-east.

I note also the RTA evidence to this committee that traffic off the Sydney Harbour Bridge in the evenings is largely unaffected and that it is pleased with the operations in William Street, with no

CORRECTED TRANSCRIPT

deterioration at all in Market Street and in some of the other corridors. I also note the RTA says the traffic in the CBD has increased significantly overall.

In conclusion, it has and it will provide Sydney with transport options, and it will achieve its objective to improve the urban amenity of the CBD and William Street. Thank you once again for the opportunity to appear.

CHAIR: Can you outline what was Bilfinger Berger's ongoing association, if any, with the cross-city tunnel?

Mr LEVINS: Bilfinger Berger is the holding company of three companies: firstly, Baulderstone Hornibrook, which was part of the joint venture that constructed the tunnel; it also owns the Abigroup; and a third company called Bilfinger Berger Services Australasia. The interests as far as Bilfinger Berger Australia is concerned is limited to the fact that it owns the company and was involved in the construction of the tunnel via Baulderstone Hornibrook. The concessions company owned by the German parent is called Bilfinger Berger Concessions. That company has a remaining interest, along with the other shareholders, in the ownership of the tunnel. That is not associated with Bilfinger Berger Australia, other than the fact that it is owned by the same German parent.

CHAIR: Do you have any discussions or meetings between those two entities?

Mr LEVINS: I am sure the CEOs have discussions, but not in the terms of the ownership of the tunnel or financial interests in terms of the tunnel.

CHAIR: Were you involved in the contract negotiations with the RTA?

Mr LEVINS: No, I was not.

CHAIR: Did you provide any input to the conditions of approval for the cross-city tunnel project?

Mr LEVINS: No, I didn't.

The Hon. GREG PEARCE: We had Sydney Buses in yesterday and, although I note your point that buses use the tunnel for free, they do not run buses through the tunnel and do not have plans to do so.

Mr LEVINS: Not at this point, but there is that mechanism. In other words, there is a preference given where there is public transport and bus provision it will travel for free.

The Hon. GREG PEARCE: How long have you been with Bilfinger Berger?

Mr LEVINS: Since August last year. Prior to that I was employed Baulderstone Hornibrook in a similar position, the director of corporate affairs. I commenced with them in April 2004.

The Hon. GREG PEARCE: Prior to that?

Mr LEVINS: Prior to that I was chief of staff to the former Minister for Infrastructure, Planning and Natural Resources.

The Hon. GREG PEARCE: Mr Knowles?

Mr LEVINS: That is right, yes.

The Hon. GREG PEARCE: You are aware of the business consideration fee that was part of the transaction?

Mr LEVINS: I am, yes.

The Hon. GREG PEARCE: You are aware of the quantum?

CORRECTED TRANSCRIPT

Mr LEVINS: Yes, I am.

The Hon. GREG PEARCE: When did you first become aware of the quantum of that fee?

Mr LEVINS: During the discussion and debate that has taken place, probably since the opening of the tunnel.

The Hon. GREG PEARCE: Since the opening of the tunnel?

Mr LEVINS: Yes, that is right.

The Hon. GREG PEARCE: Were you aware of it during the time you were employed with Mr Knowles?

Mr LEVINS: No. I was not.

The Hon. GREG PEARCE: Are you sure of that?

Mr LEVINS: Yes.

The Hon. GREG PEARCE: You mentioned that during your time with Mr Knowles you did not have any input into the planning process and that was because Mr Refshauge was planning Minister. You did not work for him?

Mr LEVINS: No. I did not.

The Hon. GREG PEARCE: But you were with Mr Knowles when the issue of the potential moving of the stack was discussed. Is that so?

Mr LEVINS: Yes. I was.

The Hon. GREG PEARCE: Will you tell the Committee your understanding of that issue?

Mr LEVINS: Of the moving of the stack?

The Hon. GREG PEARCE: Yes.

Mr LEVINS: Look, I do not want to go into detail because, having read the transcripts of proceedings here, so many people have already said the matter is before the Independent Commission against Corruption [ICAC]. So I am not going to go into the detail.

The Hon. GREG PEARCE: The issue of the stack, believe me, is not before the ICAC. The issue of whether there was a leak from Mr Knowles' office may be before the ICAC.

Mr LEVINS: Yes. I am aware of that.

The Hon. GREG PEARCE: Of course, I would not ask about that.

Mr LEVINS: I am in broad aware of the issue, mainly now as a result of having read the transcripts of evidence before this Committee. But I do recall—and my memory was jogged in relation to this, having read the transcripts—that it was a condition of approval that the location of the ventilation stack be consulted upon. I cannot say an awful lot more, other than the fact that I was aware, again through reading the evidence, that the now Director General of Planning has said that he made the decision about the location of the ventilation stack, and that it was a usual process in relation to fulfilling a requirement which was a condition of approval of a major project.

Ms LEE RHIANNON: Did I understand you correctly that you said that the Government sets the toll?

CORRECTED TRANSCRIPT

Mr LEVINS: That is as I understand it, yes—the original toll. In other words, the Government set the—my reference to that was the original \$2.50.

Ms LEE RHIANNON: You are not saying they can set the toll now?

Mr LEVINS: No. What I am suggesting is that they set the base toll. For the purposes of the contract they have set a toll. My understanding is that the Cross City Motorway has also provided some input into what the ultimate toll figure could be because it is the private operator of the road.

Ms LEE RHIANNON: You would never have had anything to do with the street closures?

Mr LEVINS: No.

Ms LEE RHIANNON: I want to ask you about the death of the worker. It was a tragic event for everybody and I know that you have expressed that. There has been suggestion that it occurred because of the speed with which the work was being undertaken to fulfil a deadline to finish early. Can you comment on that, please?

Mr LEVINS: I said publicly, when I had to respond to this on the occasion of that gentleman's death, that it was a tragedy of enormous proportions. But, equally, it is a tragedy to suggest that somehow—you have to understand some of the culture on those jobs. They are incredibly close. The workers and management are incredibly close. Of course, like any activity, they have their moments. However, I said at the time when that suggestion was put to me publicly, I think on radio, that frankly that is an insult, certainly to management who take pride in the fact that safety has to be the number one priority. It has been put to me since that event that, and it is a mantra that I know certainly Baulderstone Hornibrook applies, a good, successful and profitable job is a safe job.

I think, from memory, the Chairman has already said—to be crass about it for a moment—the impact that death had on the speed and profitability of that job was enormous. If you look at it from a crass point of view, there is no way anyone would want to risk safety just from that point of view. But from purely a human point of view, and as I said from the culture that accrues to those jobs, the suggestion that somehow corners were cut and that somehow speed was given a premium over safety, is, I think, unfair and unjustified in relation to the management of the job and the workers on the job. Also, the burden of responsibility and safety is taken very seriously by the individuals who work on the job and as well these days there is the scrutiny of the union movement.

Ms LEE RHIANNON: Considering that in the lead up to the opening of the tunnel we so often saw Bob Carr in his hard hat using the occasion as a photo opportunity and heard many statements from the company that the project was ahead of time, how can you be confident that, for a project of that size to be so many months ahead of schedule—as you stated so often—that you were not cutting corners? How can you be confident that that was not happening?

Mr LEVINS: That is a question I that is best directed to the people who manage the job day to day, not to me. Firstly, I would ask how it is relevant to the terms of reference of this inquiry? However, what you have to understand, again I go back to the culture of these jobs, it is that the level of scrutiny, not just by the management but also by unions and by individual workers, means that if there was a brazen attempt to cut corners we would have heard it screamed from the rooftops by individual workers. Can I also say that I do not want to tread too much into this territory. I am happy to continue with these questions, but I do not want to stray too much into this because it is the subject of a Coroner's inquiry. That is the best forum for those sorts of matters to be drawn out.

Ms LEE RHIANNON: Do you expect that you have learned lessons that will reduce the likelihood of this happening in the future?

Mr LEVINS: That is a very good point. Once again I use the word "tragedy". It is a great shame and a great tragedy that one has to learn from an incident such as that. It is shame we cannot learn all the lessons in advance and prevent these things from happening. These are mammoth jobs, mammoth engineering tasks. That, I guess, is also part of what is regrettable about the current debate, that I know that the people who worked on the job, up to and including the widow of Ron Shores, are pretty upset about the fact that this great engineering achievement has been sort of washed away in the

CORRECTED TRANSCRIPT

debate about traffic movement. It is something that we have now, as a community. It is a piece of infrastructure that we will have for at least 100 years. It is iconic, if I can use that overused word, and I think it is a shame that in many respects the engineering achievement has been overlooked. However, have lessons been learned? Yes. They have. You cannot go through an incident like that without people realising and making some changes.

CHAIR: Would it be true to say that many of these major projects are finishing ahead of an estimated time set out in the contract?

Mr LEVINS: Yes.

CHAIR: I am thinking particularly of the M7. It is not unusual for projects to be finished before the estimated finishing date?

Mr LEVINS: No. It is not. It is now becoming, I will not say "feature," but something that occurs with more regularity. Why is that the case? I would suggest it is not because people are cutting corners; it is because, frankly, if you have a job of that scale of course you will build in a time factor to take on board mishaps as they occur, and tragic events such as the death of a worker that may occur, or other changes to the project as it moves along. I would suggest that it is not about cutting corners in so much as it is about actually driving the efficiencies on the job and factoring that in in terms of completion of the job.

Mr PAUL McLEAY: What community consultations were carried out in relation to the cross-city tunnel project specifically? You may not be able to answer that question but what role did your company play in those consultation processes?

Mr LEVINS: I mentioned in my opening statement that it was pretty extensive. I am grateful for the opportunity to expand on some of this because it is extraordinary. There were two separate teams established, one for the design and construct provider that had a community relations team of five people. There was a separate team managed and operated by the Cross City Motorway, which had three people in it. As well as that three formal community liaison groups were in operation during the project. There were originally four but two of those were amalgamated. On top of that there was an air quality consultative committee. So, a total of about six, as I understand it. But the statistics behind the amount and the distribution of this material bears some explanation.

There were a number of advertisements placed in newspapers, as you would expect. There were 33 public advertisements. That does not sound terribly much, but they were placed a total of 206 times across 15 metropolitan and local newspapers up until the road opened in August 2005. That excluded the marketing campaign that was undertaken by the Cross City Motorway. There were 394 individual notifications about traffic changes and construction activity that occurred during the commencement of the project through to its opening. That again is a figure that does not sound very much, but it translates into 575,000 flyers individually delivered up until July 2005. On top of those 575,000 flyers that were delivered to businesses and residences, there were 11 bi-monthly newsletters delivered to 30,000 homes and businesses. In fact, I have some examples here when I think about it.

Document tabled.

One of those, in November 2004—not 2005—almost a full year before the opening of the tunnel, expressly outlined the changes to William Street. There were many that did that but this one was solely devoted to the changes to William Street, which you see in place now on William Street. So, that was a total of 330,000 on top of the 575,000 flyers that went out. In addition to that 400 external meetings, briefings and presentations were conducted. The project web site was visited 166,000 times, or about 6000 visits month.

The community liaison groups met 101 times until August 2005, and there is one that is continuing to meet that I will talk about in a moment, and there were six separate monthly construction updates, all of which also outlined temporary changes as well as permanent changes to traffic movement as a result of the tunnel. There was the maintenance of two community information centres on a permanent basis, a 24-hour, seven-day toll-free hotline to answer complaints and inquiries and, in what we think is a first for an infrastructure project of this kind, people were able to register

CORRECTED TRANSCRIPT

online to receive alerts on their mobile telephones to be informed of proposed changes up to and including the changes that occurred in August. People receive those real-time on their mobile telephones.

As well as that, additional things came out of the consultation, for example, the temporary relocation of higher school certificate students during examination periods; the provision of alternate parking when temporary loss of parking spaces made it unavoidable; and development of things called "localised micro maps" for businesses to distribute to all of their clients, to delivery vehicles. They encompassed not only the temporary changes but also the permanent changes that were to occur. These things were in distribution as well.

Finally, the development of a broadcast email database, which went to each of the four construction zones, peak body associations, every major tenanted building. Also, a monthly update kit provided ad hoc information as well, material that we ordinarily would not commit to print was provided as well through those global emails. I think that is probably enough in terms of the overarching consultation that occurred.

Mr PAUL McLEAY: The Committee has heard some claims that the RTA was outclassed and outwitted in its negotiations on the cross-city contract by the private sector. However, the RTA has conducted many contract negotiations over time. Generally what is the reputation of the RTA in the private sector on these matters?

Mr LEVINS: I can only talk from my experience, which is, while I worked for Telstra for a brief period, but also since I worked for Baulderstone Hornibrook and now Bilfinger Berger Australia. Resoundingly, and I do have to deal with other agencies, and other business organisations and lobby groups, it is held in very high regard. It is held in high regard because it is considered tough. It is held in high regard because it is considered meticulous on probity issues. It is considered professional, and that goes for not only business and lobby groups but also by their sister agencies in other States. Here in New South Wales, if I can talk with my government experience hat on, the agency is also no mean operator when it came to negotiations in government circles either. It is highly regarded and highly respected. At the risk of reintroducing evidence which has already been provided here, this critique that is made about the upfront payment they were lauded for in the financial press, the fact that it is an indication that they have become tough and smarter.

Mr PAUL McLEAY: In relation to the expertise your company has brought to this project, can you elaborate on that, but particularly how was the construction of a major tunnel under the Sydney CBD different from other tunnels?

Mr LEVINS: It is significantly different. During the course of this debate I think there has been a comparison between the M7, the rate of toll on the M7 and the M7 project in general and the speed and efficiency with which it was run and the cross-city tunnel. It is apples and oranges in many respects. The risk and cost of drilling a tunnel underneath a city as sophisticated as Sydney is, in engineering terms, much more compared to the establishment of the freeway being largely greenfield situations, as it was for the M7. I suppose the best way of characterising the complexity of it, quite apart from what you have just heard in relation to the level of consultation that had to occur with different interest groups, is that you had to keep the CBD running.

In other words, the traffic congestion had to be managed, the traffic recycling had to be managed. The carriage of spoil, for example, had to be done in an efficient way, and I suppose part of the technical achievement of the tunnel was doing that and doing it in a way that minimised the impact on businesses and pedestrians in the city. As a consequence, a fair amount of innovation, engineering innovation, occurred on the job, and also additional cost was taken on board to accommodate those things. The consortia and the constructors took that on board. What I mean by that is, rather than taking the easy option of trundling trucks through the city streets, there was a decision to make a connection with the Eastern Distributor directly—that was not a requirement, that was a cost to the consortium—so that no spoil needed to be taken through CBD or even on to William Street.

There was—in fact, you can still see it—a very large shed constructed on the corner of, I think, Cathedral and William streets, which again, rather than doing what would have been a cheaper and I think probably more efficient option of drilling from either end, they drilled from top down, 40

CORRECTED TRANSCRIPT

metres down, and then drilled out, so that things like dust, noise and traffic would be minimised. That all happened at the bottom of the shaft as opposed to coming from both ends.

There are a number of other innovations I could probably talk about in relation to the engineering achievement but the other thing that is worth bearing out is the co-ordination effort with the different agencies, the Department of Environment and the utility providers, Energy Australia, Telstra, the gas utilities and so on. All of that had to be managed as well. Bearing in mind there are points where this tunnel travels to within a metre of the existing railway tunnels. All of that had to be managed, and it was managed in a way that I cannot think—and bearing in mind that as the corporate affairs director I would have been alerted to these issues—of an incident where there was a major power outage, a major gas outage or water or telecommunications outage as a consequence of that activity. So, all in all, it was pretty well managed. The risk of all of that is factored in and adds to the cost as compared to a greenfield site like the M7.

Mr PAUL McLEAY: You spoke before about community consultation. You raised it again in your last answer. Is there any ongoing community consultation on this project?

Mr LEVINS: Yes, there is. I mentioned there were three formal community liaison groups. There is one ongoing one which has as its focus the remaining works in stage 2. The remaining works in stage 2, as you are probably familiar, are William Street, and they are progressing and progressing I think reasonably well. The community liaison group there consists of representatives from the former community liaison group for that zone. But we also still employ a community liaison officer whose job it is to walk door to door and do doorknocking on changes that have occurred and obviously the permanent changes that have occurred in traffic management as well as the ongoing changes that will occur in William Street.

CHAIR: So, your company has the contract for all those changes in William Street?

Mr LEVINS: From stage 2, that is right. That is Baulderstone Hornibrook.

Mr PAUL McLEAY: Finally, what benefits will the cross-city tunnel bring to Sydney?

Mr LEVINS: I suspect you are very familiar with the broader ones, but can I just emphasise the point I made in my opening statement. That is, if the Committee finds anything, I hope it understands—I am confident it understands—the overarching purposes of this. It was about the congesting of the CBD, about improvements to William Street, an urban amenity program that has always been clear in the EIS and in the summary of contract. That is the overarching objective.

Far too often, as elected representatives I am sure you are acutely aware of the criticism that is made of elected representatives that they never show any leadership or they should show more leadership. I contest that this is an occasion when some leadership was shown. People said notwithstanding the inconvenience that is going to occur, this is an important step that needs to be made, a decongestion of the CBD, we need to make a decision. That will flow through, I suspect, over time. As I made the point earlier, whether it is 20,000 or 30,000 cars—and we have heard today it is 30,000—that is 30,000 cars that are no longer on the deck of the CBD, with all of those improved time savings.

However, can I just very briefly, to go to the guts of the question, talk about mainly William Street. I think William Street is obviously the source of contention. People say it is narrow. I made reference earlier to the fact that in November 2004—almost a full year before we distributed that document, which was about the William Street upgrade—and once these materials are tabled you will see there is consistent referencing over time. This one is headed August 2004 and you will see that imagery from a distance of the narrow William Street. I have mentioned the T2 lanes in each direction, the construction of a land bridge which is now in place and which has added in a small way to the pocket park space which is available on the eastern end, footpaths being widened, parking bays created—and if you have had the opportunity to walk down there in recent times you will see that people are already using those widened spaces—and 80 new trees planted to create that boulevard effect which was part of the gateway project as originally announced.

CORRECTED TRANSCRIPT

I could keep going about the other things but I think possibly you are familiar with those—information to do with all the sets of traffic lights that are avoided. I think this is the point that gets missed sometimes—and I go back to what I said about the engineering achievement—the creation of 1,600 direct jobs during the construction period and 3,600 jobs during the construction phase as well, indirect jobs, and of course those ongoing jobs that are there as a consequence of the operation and maintenance of that tunnel itself.

CHAIR: When you mentioned about that drilling equipment coming down the shaft, is that unique?

Mr LEVINS: My understanding is it is something that did not occur on any other job. That was the first time it occurred globally. I can check on that, out of interest, for you.

CHAIR: That is the impression I had.

Mr LEVINS: Yes. I certainly remember asking the question myself and I am pretty sure I was given the answer that it was a world first as far as people could remember.

CHAIR: I know it is an international company, but it would still be mostly Australian engineers who were working on it?

Mr LEVINS: It was a joint venture between Bilfinger Berger—So, the German construction arm and tunnel expertise—and Baulderstone Hornibrook, which is why it was called the BHBB. But, yes, mainly engineers—I am just trying to remember the accents, and there were not too many German accents amongst the tunnelling team that I can remember, but certainly Australian expertise on the job.

The Hon. AMANDA FAZIO: Can I just ask you a question about Professor Richmond's review of motorways. You are probably aware that in that report he said that public-private partnerships have enabled the delivery of motorways and other major projects much sooner than if they were wholly funded by government. Do you agree with that and do you have any comments to make on the recommendations he made in his review and how they impact on future equivalent sort of projects?

Mr LEVINS: I think overwhelmingly people thought, certainly the private sector, that it was a very good report because of the clarity it provided. It has gone some way to clarifying the game rules, if you like, the rules of the game for future PPPs. To answer the first bit of the question, have PPPs delivered projects earlier, I think the evidence is obvious, that is, that they have. We would not have those projects, up to and including the M2 as early as we have had them. We certainly would not have the cross-city tunnel, and we would not have the M7 unless we had the public-private partnerships.

As I said in my opening statement, so much of this is about how you cut cloth. There are other options than PPPs but if we want, as a community, infrastructure in all its kinds, then increasingly—and having worked in the health portfolio, for example, demand is going through the roof—demand is extraordinary on the public purse for those sorts of services. So, it is a trade-off. It is a trade-off about whether or not you pour money into road projects, as desperately needed as they are, or in projects that have a very real front-end need and save people's lives like health, or to educate children.

Mr MATT BROWN: What did your company do to ensure businesses could continue operating in William Street during the construction phase?

Mr LEVINS: On top of the measures that I mentioned in relation to community outreach and community consultation there was, as I understand it—and I would like to take some of this on notice, if I can, because I would like to get you some information on this—a program that was specifically targeted at businesses. Earlier I mentioned community notifications about changes that occurred that were going to affect businesses in particular. You might have been out of the room when I mentioned that we were doing things like provision of alternative parking, when there was a temporary loss of parking space that was unavoidable, and the development of localised micro maps

CORRECTED TRANSCRIPT

for businesses to distribute to clients, including delivery vehicles, where permanent or temporary changes were introduced. In addition, there were business benefits in terms of just having the activity around the tunnel.

I note also that at the time of the Eastern Distributor as well there was a very, very strong critique about businesses going out of business on Crown Street. That same critique was made by businesses with the same sorts of arguments in relation to William Street. I would just suggest that it was not as if those changes to William Street, and the way those businesses may or may not be affected, came at the eleventh hour; they were changes that were fully explained in the context of both the summary of contract and the EIS. Once the boulevard effect, as it has become known, cuts in on William Street, businesses will thrive. You might have a different calibre of businesses, but they will thrive. I certainly note that the local hardware shop down there did very well out of the cross-city tunnel.

Ms LEE RHIANNON: In your current job, have you found the experience you gained in your previous position of chief of staff useful?

Mr LEVINS: I think as anyone moves from one job to another they build on their experience. I have found my experience from that, and my experience working as a stacker of boxes on trucks when I started my working life, and my experience working at Telstra, and my experience working as a volunteer for the St Vincent de Paul Society all relevant and helpful in my current position.

CHAIR: Thank you very much for appearing before the Committee, and we thank you for the information that you have provided. You mentioned the commercial aspect, and you said you might take that on notice and provide further information.

Mr LEVINS: Certainly, Mr Chairman.

(The witness withdrew.)

(The Committee adjourned at 5.18 p.m.)
