

REPORT OF PROCEEDINGS BEFORE

SELECT COMMITTEE ON THE CROSS-CITY TUNNEL

At Sydney on Tuesday 6 December 2005

The Committee met at 9.00 a.m.

PRESENT

Reverend the Hon. Fred Nile (Chair)

Legislative Council

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

Legislative Assembly

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

CHAIR: I welcome you to the first hearing of the Select Committee on the Cross-city tunnel regarding its inquiry into the cross-city tunnel. Before we commence I would like to make some comments about the procedures for today's hearing, which follow the normal rules and regulations for these inquiries.

It is possible that some of the questions directed to witnesses today may involve issues that may be considered commercial in confidence. If a witness is asked questions that they believe relate to commercial in confidence issues, the Committee can choose to hear the evidence in camera. The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings. Copies of guidelines governing the broadcast of the 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 attendant on duty or through 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 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 fully express their views. Finally, could everyone please turn off their mobile phones for the duration of the hearing.

I now welcome our first witnesses: Mr Paul Forward, Former Chief Executive of the Roads and Traffic Authority; Mr Mike Hannon, Acting Chief Executive of the Roads and Traffic Authority; Mr Brett Skinner, Director of Finance of the Roads and Traffic Authority; Mr Les Wielinga, Director Motorways of the Roads and Traffic Authority; and Mr Chris Ford, Director Traffic and Transport of the Roads and Traffic Authority.

To make the hearing more efficient I have allocated the following suggested times for Committee members' questions. I will commence with some questions, then the Opposition will be allocated 20 minutes, the Greens representative 10 minutes, and the Government 20 minutes. I have estimated that there will be about one hour and 15 minutes following the swearing-in process. The remaining 15 minutes will be allocated as follows: 5 minutes for the Opposition, 2 minutes for the Greens, 5 minutes for the Government, and I will use whatever time remains.

CHRISTOPHER PATRICK FORD, Director Traffic and Transport, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills,

BRETT JAMES SKINNER, Director of Finance, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills,

PAUL JOHN FORWARD, Former Chief Executive, Roads and Traffic Authority, Level 8 Bligh House, Sydney,

MICHAEL JOHN HANNON, Acting Chief Executive, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills, and

LESLIE ROBERT WIELINGA, Director Motorways, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills, sworn and examined:

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

Mr FORD: I am.

Mr SKINNER: I am.

Mr FORWARD: I am.

Mr HANNON: I am.

Mr WIELINGA: I am.

CHAIR: For the benefit of all witnesses, 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. Do any of you wish to make an opening statement?

Mr HANNON: Yes, on behalf of the Roads and Traffic Authority. The Roads and Traffic Authority [RTA] welcomes the opportunity to appear before the Committee in relation to the cross-city tunnel project. The RTA developed the cross-city tunnel project in conjunction with other government agencies with a view to delivering a piece of public infrastructure for the people of Sydney, with the goal in the longer term of securing significant public benefits in terms of better traffic flow for the city, better public transport access to the city, and improved amenities throughout the central business district.

It is in this context that I must say the RTA has been concerned by the adverse publicity that has been associated with the project since its opening. We hope that this inquiry will clarify what the RTA considers to be some misunderstandings in relation to the development of the cross-city tunnel project and its longer-term viability.

While I am delivering these opening remarks in my capacity as Acting Chief Executive of the RTA, I welcome the presence of the Directors sitting beside me, and Paul Forward, the former Chief Executive.

The cross-city tunnel was given serious consideration as a project back in 1998 when the Government published and circulated a proposal involving a tunnel commencing near the Australian Museum at William Street and ending at the corner of Bathurst and Harbour streets. In the period since, various proposals have been put forward and considered by the Government and the community, each with the view of securing significant benefits for the city of Sydney.

The project that was ultimately delivered was described in detail in two environmental impact statements published in August 2000 and August 2002. These documents identified the primary objectives of the project. They included: improving the environmental quality of public spaces within central Sydney; improving ease of access and reliability of travel within central Sydney; and improving the reliability and efficiency of travel between areas east and west of central Sydney. Improvement to public transport performance in the city was also an important objective through the provision of bus and transit lanes.

The RTA believes that in the longer term the cross-city tunnel will deliver these primary objectives. While the RTA acknowledges that there has been significant criticism of certain aspects of the project, including in particular the payment to the RTA of an upfront fee, the implementation of traffic restrictions on William, Drutt and other streets, and the level of toll determined for the project, it considers that each of these matters needs to be understood in the context of the broader government objectives and requirements of the project.

These included a requirement for the project to be funded from the payment of tolls by users of the tunnel, and that the environmental and amenity outcomes be secured for key city streets such as William Street. By this I mean reducing the traffic travelling along William Street, improving its visual and environmental amenity, and securing significant public transport benefits.

Four important facts need to be kept in mind in relation to the cross-city tunnel project. Firstly, the project was given endorsement by Government at critical stages. This included the approval of the Cabinet Standing Committee on the Budget. Secondly, the RTA followed the Government's guidelines, including the Working with Government Guidelines for Privately Financed Projects, for all aspects of the project's development and its implementation.

Thirdly, the RTA used cross-government expertise and the expertise of the private sector in delivering the project, including representatives from Treasury, the Treasury Corporation, and the Department of Public Works and Services, who participated in the evaluation and review processes leading to the award of the successful tender for the project. Senior officers from other government agencies, such as Planning, Health, the Environment Protection Authority, and Sydney and South Sydney councils, were consulted in the preparation of environmental assessment documentation, and securing the key planning and public transport objectives I referred to earlier.

Consistent with this, and while much has been made of the discrepancy, at least at present between the successful consortium's traffic projections for the project, those predicted by the RTA and the actual traffic numbers, it is important to note that the risk borne is borne by the private sector, not by the Government.

In addition, by involving the private sector, the Government has obtained the benefit of efficiencies in the design, construction and operation of the project that necessarily flow from the appointment of a highly skilled and experienced contractor with a proven track record in delivering and operating road infrastructure. Fourthly, the RTA consulted extensively with the community and complied with all the requirements of the planning approval for the project, and co-operated with other government agencies involved in the process.

Experience has shown that the ramp-up period in any tollway project has always required a period of transition for road users that often masks the longer-term benefits of the project. This was the case with the Eastern Distributor, where much was initially made of road changes in the vicinity of Oxford and Crown streets. During the time that has elapsed, the benefits of both the project and the changes to local roads have become apparent.

The RTA is recognised as being a leader in the delivery of privately financed projects for the New South Wales Government. The manner in which it implemented the cross-city tunnel project transaction was consistent with best practice standards for public agencies. The RTA remains confident that the project will deliver for the people of Sydney the valuable long-term asset that advantages road users, while at the same time delivering significant environmental advantages for the city of Sydney.

We have also brought along a formal submission for the inquiry.

Submission tabled.

CHAIR: I will commence with some formal questions. Mr Hannon, I will direct the first question to you. You may wish to refer some of the questions to other members of the RTA team, or to Mr Forward. What is the relationship between the RTA and the cross city motorway consortium? Is the RTA the key contact between the Government and the consortium? Do Ministers and other agencies direct communications through the RTA?

Mr HANNON: The RTA is the contact between the Government and the cross-city tunnel consortium. The contract is with the RTA.

CHAIR: What role if any did the Premier and relevant Ministers play in the negotiations of the contract?

Mr HANNON: The contract was negotiated between the RTA and the consortium.

CHAIR: So they had no direct role.

Mr HANNON: No direct role.

CHAIR: Did the Premier or Ministers establish parameters for negotiation or did they take directions from the government agencies involved?

Mr HANNON: The contract negotiated between the RTA and the consortium was one which had regard to the contract deed that had been established and had regard to the environmental planning approval that was provided through the two environmental impact statements and the processes that attached to that.

CHAIR: Have you done any comparisons, for example, if the cross-city tunnel had been publicly funded what level of toll would be required to cover the repayments?

Mr HANNON: Mr Skinner may be able to contribute to that.

Mr SKINNER: I think in the initial stages the Government required a public sector comparator to be developed. That was in the initial stages and that borne the \$2 and then subsequently the \$2.50 toll. That was on the premise of a potentially government-run organisation and that was the basis of the \$2 and then subsequently the \$2.50 toll rates.

CHAIR: Were you surprised about the high toll introduced by the consortium?

Mr SKINNER: The high toll introduced by the consortium was in line with the negotiations and discussions that were set. The base toll was within the contract. The base toll had in it allowance for CPI adjustments. It should be remembered though that this is the cap toll so it is completely at the discretion of the consortium of what level they set.

CHAIR: There is a perception in the community that the consortium seemed to have the winning hand in this arrangement, this contract. I am just wondering what skills are needed to negotiate these large infrastructure projects with the private sector and where do these skills reside in the RTA. In other words, do you have the skills to deal with the commercial consortium that obviously has a very sharp cutting edge in its abilities, its commercial knowledge?

Mr HANNON: I refer that to Mr Wielinga, who was responsible for most of the negotiations. He can explain what team we used to carry out those negotiations.

Mr WIELINGA: The working with government guidelines require the RTA to set up a specialist team with appropriate skills incorporated so that we can negotiate at a similar level with the private sector consortium. It is a combination of in-house skills from RTA, and I will talk a little more about those in a moment; skills from other government agencies, particularly Treasury and Treasury Corporation; and also skills from the private sector that we engage before the tendering process. For example, we bring in appropriate legal skills. We bring in financial advice from outside as well, other commercial advice if we need it, and we also bring in specialist technical advice. When you are looking at these particular projects it is a combination of technical, commercial, financial and economic skills and you put a team together, and the team varies over the life cycle both in the development of the project and in the actual tendering and negotiation process. To give you an example, when you are evaluating tenderers we might bring in a group of technical people who have expertise in bridges, road pavements, earthworks, structures, all of those different technical skills, and they look at the portion of the bids that they need to compare the different proposals in that area.

We also put together a little financial evaluation team and that would include representatives from Treasury Corporation who have a background in these sorts of projects and experience and they see a lot of the deals. The RTA has a small core of people within its finance directorate who have extensive experience in financial modelling and economic analysis. They assist with the project. We usually have representatives from Treasury as well and they can provide some additional financial expertise to assist the RTA people and the private sector people who we utilise. There is a large focus on the individual people themselves. We have a good understanding of the skills throughout the industry. Given that these are very large, complex projects, we make sure that we have an appropriate team in place so that we can be properly equipped and properly advised to deal with the numerous issues, as you could appreciate, that come up with these projects.

CHAIR: Within the RTA team would you have had people who previously had commercial business experience or were they all people who had been a lifetime in the public service?

Mr WIELINGA: It is a combination of both. The majority of them have a long history with an RTA, particularly the engineering and technical aspects. We have some people in our finance directorate who have outside commercial experience, some who have worked for banks before and so on and they understand that sort of industry. You tend to set up a team with a combination of government and outside people and then there is a small core in-house. I guess one of the features of the project management of these sorts of projects is that you build up a team when you are delivering it and you then build down again when these projects are not afoot. The way the RTA does it is consistent with the way the private sector does it. They build up teams to address particular projects and issues, and we do it commensurate with that sort of approach.

Mr FORWARD: If I could just add to that, the RTA has a very long history of delivering these projects—it goes back to the Sydney Harbour Tunnel days—and it has delivered projects under both sides of Parliament, under a Liberal-National government and under a Labor government. From the harbour tunnel we then delivered a number of other considerable motorway projects under the Coalition Government: the M4, the M5 and the M2. We then delivered the Eastern Distributor, the cross-city tunnel, the Western Sydney orbital and the Lane Cove tunnel. So I think it is recognised within the industry that if there is an agency that has experience in delivering these projects it is the RTA.

The former Auditor General, Tony Harris, who was not an avid supporter of the particular model—and that is on the public record—made it very clear in his last report on the Eastern Distributor that in fact the organisation had learnt many lessons from previous projects and that each project had improved in terms of delivering value for money to the taxpayer. So whilst there is a strong team within the RTA and the organisation has a strong history, I would not underestimate the ability of the private sector in terms of our advisors to assist in those commercial negotiations. They are a strong part of the project team. They not only see RTA's projects but they actually see the full gamut of projects in the commercial sector and are able to bring a very focused commercial mind to these projects.

CHAIR: One of the most controversial aspects of the cross-city tunnel has been the restrictions and alterations to the flow of traffic. It has been claimed that the road restrictions put in place after the opening of the cross-city tunnel are intended to force motorists to use the tunnel. Is this correct? Can you tell the Committee what strategic purpose is served by these alterations?

Mr HANNON: The answer to that question really goes back to what were the objectives that were set when the cross-city tunnel project was being developed and there was an enormous amount of reaction to a report which was produced by the Roads and Traffic Authority back in 1998, which at that point in time had the tunnel finishing near the intersection of College and William streets. So it went from the Australian Museum and it went to the west. At that point in time numerous groups came together to complain that what we were doing was effectively discharging a huge amount of traffic at that point at the corner of College Street and William Street. So as I said numerous parties came together to object to that approach. Those parties took the form of the New South Wales Institute of Architects, for example.

At the time there were enormous protests around the streets, and they said that Sydney deserves a better cross-city tunnel and their argument was that we should not finish the tunnel at

College Street as indicated. They indicated that the tunnel should extend all the way through to Kings Cross and they argued that this would have given the opportunity to allow William Street to be upgraded by the city as a special boulevard. They talked about allowing access for buses and the like and basically making that boulevard a significant feature of the city—basically a gateway to the city.

They actually produced a report in 1999, submitted that to government and sought comment. As I said, there was an enormous amount of consultation with the Chamber of Commerce, the task force, the William Street committees and the like. At the end of the day, while the Government put out the report in 1998 suggesting that it be a short tunnel, the decision was made at that point in time to make it a longer tunnel. But the objectives I talked about in my opening address were very much about improving the environmental quality of public spaces within central Sydney, improving ease of access and reliability of travel within Sydney. An important one was doing a lot of things for the bus and basically the public transport lobby as well.

So at that point in time it was not just about building a tunnel to get the traffic from the east to the west; it was also about doing something for Sydney itself. That was very much about widening the footpaths, planting trees, make it a boulevard, make it a more pleasant place to live and encourage what was at that point in time being strongly supported through documents like the action for transport document which came out in 1998 which had in it a 10 point action plan for Sydney. This was endorsed by government and put out by government in 1998. That action plan was very much about improving Sydney's air quality, reducing car dependency, getting more people on public transport, making space for cyclists and walkers. So with that document on the public record in 1998 and the action for air document also on the record a little bit before that, there was a real push which came from the architects, Sydney City Council, South Sydney council, the member for Bligh and others pushing strongly, "Don't just put in the tunnel but do something else as well". That was very much about fixing up William Street and the like. So that was the objective that was set when this project kicked off and it was very much about delivering more than a tunnel.

The Hon. GREG PEARCE: Mr Hannon, listening to your opening comments you said that you would clarify misunderstandings, that the tunnel had to be understood with broader Government objectives and requirements. It was approved by a Cabinet committee and the RTA guidelines, that you used other departments and consulted and so on. It sounds a bit like a variation of the Nuremberg defence: We were just following orders.

Mr HANNON: The RTA developed the project in consultation with the community at large and with other government agencies.

The Hon. GREG PEARCE: Who made the decision to take the \$96 million up-front payment?

Mr HANNON: The decision that that related to was—the 1998 decision to go forward with the tunnel was to be one where the tunnel was fully funded by the users so effectively funded by the tolls.

The Hon. GREG PEARCE: Who made the decision?

Mr HANNON: The decision was made by the Government at that point in time to deliver it by users.

The Hon. GREG PEARCE: In 1998 to collect \$96 million from the—

Mr HANNON: No, I did not say they collected \$96 million. At that point—

The Hon. GREG PEARCE: That was the question I asked you. Who made the decision to take the \$96 million?

Mr HANNON: The \$96 million reflected the cost that was incurred by the RTA to make it no cost to government, to make it fully funded by the tolls.

The Hon. GREG PEARCE: So who made that decision?

Mr HANNON: I said the decision was made back in 1998 by the Government to deliver it as a toll road, fully funded by the users.

The Hon. GREG PEARCE: Can I just ask Mr Forward, the original contract entered in December 2002, the summary of that contract was not put up on the web for a very long time. Can you explain to us why you did not comply with the 90-day rule for doing that?

Mr FORWARD: We were in negotiations with Lane Cove tunnel. We had already concluded negotiations, in my memory, on the West Link 7 but under negotiations on Lane Cove. We were under strict instructions to deliver best value for the taxpayer and there were some issues in that contract summary with regard to the risk sharing and we did not want to be exposed in terms of the other parties in the Lane Cove tunnel project being aware of that risk profile, and that was part of the negotiations. So we felt that we would be at a disadvantage and we actually advised the Auditor-General in a meeting that I attended that in fact we were going to table the document once negotiations on Lane Cove were complete.

The Hon. GREG PEARCE: So it was okay for you to breach the Government's own guidelines so that you could get a better commercial outcome, is that what you are saying?

Mr FORWARD: What I am saying is that we were in a difficult situation where we were also expected to deliver the best value for the taxpayer for Lane Cove.

The Hon. GREG PEARCE: And you could do that by simply ignoring the law and the rules?

Mr FORWARD: Well, a trade-off had to be made and we did consult with the Auditor-General. The Government was clearly aware of what the objective was and, yes, we had to then delay the tabling of the document.

The Hon. GREG PEARCE: Did you discuss that with Minister Scully?

Mr FORWARD: I believe we did.

The Hon. GREG PEARCE: You did discuss it with Minister Scully and Minister Scully agreed with you breaching the Premier's guidelines in not complying with the rules?

Mr FORWARD: Well, we had to achieve the best value for money for Lane Cove.

The Hon. GREG PEARCE: Did Minister Scully agree with you or did he say, "No, you must comply with the rules and publish the contract"?

Mr FORWARD: My understanding is that he was in agreement that once we had concluded the Lane Cove negotiations we would have to table the contract.

The Hon. GREG PEARCE: So he agreed that you would not comply with the guidelines?

Mr FORWARD: That is my understanding. But I can also add that the Auditor-General was aware of what we were doing. We were very upfront with the Auditor-General and we explained to the Auditor-General the reasons for not being able to meet that, and he understood that.

The Hon. GREG PEARCE: He understood that, did he?

Mr FORWARD: Yes.

Mr HANNON: If I might add to that. Following recent publicity on that, I have formally written to the Auditor-General and reminded him of the discussions we had back at that time because I was also at that meeting with the Auditor-General. We had had several meetings with the Auditor-General and it was clearly in the Government's interests that its negotiation position on numerous issues should be used to advantage in getting the best result for Government.

The Hon. GREG PEARCE: We will ask the Auditor-General. I think he usually speaks for himself and I do not think he likes being set up with those sorts of things. To your knowledge did you discuss the non-compliance with the Premier's guidelines by not publishing the contract with any other Minister other than Minister Scully?

Mr FORWARD: I report to the Minister. It was my responsibility to report to the Minister.

The Hon. GREG PEARCE: So it is okay for you to breach the rules when it suits the RTA but it was not okay to breach the rules when Mr Tripodi wanted to make you a scapegoat, was it?

Mr FORWARD: Sorry, I do not understand the question.

The Hon. GREG PEARCE: It was okay for you and Mr Scully to breach the rules and not publish the contract summary when it suited you guys but when Mr Tripodi wanted a scapegoat for the cross-city tunnel he used the fact that you did not publish the summary of the amending deed?

Mr FORWARD: Sorry, I still do not understand the question. What is the question?

The Hon. AMANDA FAZIO: Point of order—

CHAIR: I will get the Hon. Greg Pearce to clarify his question.

The Hon. GREG PEARCE: The question is why is it okay for you and Minister Scully to breach the rules when it suits you but not okay for you to have breached the rule when Mr Tripodi decided to sack you over the amending deed summaries?

Mr FORWARD: Mr Tripodi's explanation has been made public in terms of the press release that he issued on 27 October and I do not wish to add to that.

The Hon. GREG PEARCE: Yes, but what is your explanation? You are the one who breached the rule. Why was it okay in the first instance when Mr Scully agreed with you doing it but not in the second instance?

Mr FORWARD: I think I have already explained the first instance. The second instance is a matter that is on the public record by a press release by Mr Tripodi.

Mr ANDREW CONSTANCE: You received a letter from Minister Tripodi on 26 October outlining a number of questions. What were those questions, Mr Forward?

Mr FORWARD: The questions are outlined in Mr Tripodi's press release.

Mr ANDREW CONSTANCE: I am asking for the public record with the Committee.

Mr FORWARD: I can table Mr Tripodi's press release. It is outlined there.

Mr ANDREW CONSTANCE: As part of your response to that you cited the fact that you had been advised that you were not required to disclose amendments to the amending deed, and you have obviously sighted the Premier's Memorandum No. 2000-11 entitled "Disclosure of Information in Government Contracts with the Private Sector". Who gave you that advice in relation to not having to provide that information?

Mr FORWARD: In terms of the amending deed?

Mr ANDREW CONSTANCE: Yes.

Mr FORWARD: The Premier's directive is silent on variations to contracts. This was a variation to a contract, not a new contract. It was the RTA's interpretation that we had acted correctly at that particular point in time.

Mr ANDREW CONSTANCE: But in your letter you stated, "I am advised that neither policy contains a requirement that amendments or variations to existing contracts be disclosed". Who provided you that advice?

Mr FORWARD: I had advice from internal RTA people and I also had verbal advice from Treasury.

Mr ANDREW CONSTANCE: When did you actually notify Joe Tripodi of the amending deed? At what point?

Mr FORWARD: He was advised, I understand, in the subsequent weeks during October.

Mr ANDREW CONSTANCE: Do you have a date?

Mr FORWARD: No, I do not.

Mr JOHN TURNER: Mr Hannon, you said in your opening address that the RTA had the advantage of significant expertise both within the RTA and outside the RTA—private sector people—in relation to the planning of this cross-city tunnel, and then I think in a subsequent answer, or maybe one of your colleagues stated that following some meetings with the Institute of Architects and the member for Bligh, I think you said, and some other groups, you suddenly had a change of heart. I find it extraordinary that you had all this expertise and yet you had the Institute of Architects—and not to take anything away from them, but I would suggest they were more interested in setting up a nice café latte precinct in William Street rather than the prime objective of the RTA which was to deliver better traffic flows and better amenity in the area. Why did you place so much reliance on the Institute of Architects and other people that are not of the same expertise that you profess the RTA dealt with?

Mr HANNON: I indicated that the Institute of Architects work closely with Sydney city council and Sydney city council, in terms of what we do in Sydney, is a group we talk to on a regular basis. We also had lengthy discussions with South Sydney Council, who at that time, of course, were heavily involved in William Street. And not only those ones: we spoke to various government agencies—the Department of Planning, Public Works Urban Design Group and others, who were certainly concerned not just about putting a tunnel in place but also addressing the other needs that were within Sydney. Other documents had come into play, as I indicated: the Action for Transport document had come out at around about the same time as those discussions were going on and the Action for Transport, which was very much about an integrated resolution of transport throughout Sydney, was a document we were asked by Planning and others to consider. As I indicated, it has a 10-point plan, and numerous parts of that plan talk not just about building roads but when you build a road we build a tunnel—that you have regard to the other considerations.

So we spoke to the people of William Street. There were various committees set up that were looking at the redevelopment of William Street itself, numerous businesses up and down the street, and we talked to other lobby groups like the Chamber Of Commerce, and the NRMA were very strong supporters of an extended tunnel as well. So at the end of the day when we came up with that solution there were numerous organisations that reflected on the change that had been made and I can talk about the Chamber of Commerce—Katie Lahey, who was the chief executive at the time, talked about how traffic congestion in the CBD cost \$2 billion and the other tunnel could cut city traffic by 30 per cent. So they were strong supporters.

The NRMA, through Nick Whitlam, who was the chief executive at the time, talked about public transport: buses will have better access to roads; there will be significant benefits to pedestrians; it will alleviate congestion. So the NRMA were strong supporters. The tourism task force: Chris Brown spoke on their behalf and talked about pedestrian-friendly streets; a more visually appealing corridor between Darling Harbour and Kings Cross. So it was not just a group of architects that we listened to, it was a large group of people. The Property Council of Australia said it will help reinvigorate Sydney's CBD district. So there were many, many people at that point in time, and in the document we have passed around we have got many newspaper articles back in 1998 and 1999 that reflected general acceptance that a longer tunnel and the treatment that was proposed for William Street was the way to go.

Mr JOHN TURNER: In view of all that interest, did the RTA look at the problems which could foreseeably occur by the longer tunnel? You talk about better access and you said Mr Whitlam said it would be better for buses and there will be better access to roads. Is it not true that something like 500 roads have been affected by this? If you walk out the front here at any time there is a bottleneck out in Macquarie Street. It is all very well to say these people came along and had a yarn to you, but did the RTA then go back and overlay the effect of these views and thoughts of having a lovely landscape when they move the portal down to Kings Cross? Would it not be true to say that if you had the portal down at Museum you would be draining a lot of traffic out of the central city area, which is not getting drained at the moment?

Mr HANNON: In terms of the traffic closures I might refer to Chris Ford, our Director of Traffic and Transport. He can explain what numbers of streets have been affected. Did you suggest 500 streets?

Mr JOHN TURNER: Anecdotally something like 500 streets have been affected, not closed.

Mr FORWARD: Mr Turner, can I just make one point here? It is difficult to come to a conclusion in the very early stages of a project like this. The Eastern Distributor: the toll section of the Eastern Distributor when it opened had a little over 20,000 vehicles. It took two years for that volume to double. People criticised the Eastern Distributor in the early days. Most people in Sydney now do not know how we can operate a city as complex as Sydney without the Eastern Distributor. The Harbour Tunnel had similar criticisms. People now take it for granted and accept the benefits that that project will offer. But you cannot judge these projects in the first two or three months. It takes at least two years to work through the ramp up and at least two years for the benefits to be understood.

Mr JOHN TURNER: So you are saying we should just close this inquiry now and come back in two years and have a yarn about it?

Mr FORWARD: What I am saying is, I think it is premature to reach a decision in the very early days of a project. I am sure when the Sydney Harbour Bridge opened there were similar controversies when all the car ferries were put out of business. Hundreds of terrace houses were demolished and businesses put out of business. Lots of streets in Sydney were cut off because the Harbour Bridge was put through.

Mr JOHN TURNER: But the prime objective, according to Mr Hannon, was better traffic flow and better amenity, and we have not got that. We simply have not got better traffic flow, whether it is through the cross-city tunnel or around the streets above. It is not working.

Mr FORWARD: I repeat my point. We are now in the first couple of months of a project and people are wanting to jump to conclusions about the effectiveness of that project.

Mr FORD: If I might add: since the reintroduction of the toll in recent days on the cross-city motorway, the motorway has carried in excess of 30,000 vehicles a day. That is 30,000 vehicles a day not on the surface of city streets. With the other improvements associated with the project: bus travel times to the city, particularly from the west, have dramatically improved; bus travel speeds are in excess of 50 kilometres per hour.

Mr JOHN TURNER: They must be doing that at a different time from when I catch the bus in the morning.

Mr FORD: We have surveyed the bus travel times consistently both prior to the opening of the tunnel and subsequent to the opening of the tunnel, and they have moved from a figure of 34 kilometres per hour in 2004 to 49.5, or close to 50 kilometres per hour.

The Hon. GREG PEARCE: Could you provide the Committee with those surveys?

Mr FORD: Certainly.

Ms LEE RHIANNON: Before and after?

Mr FORD: Yes, I can make that available. At the same time, bus patronage in that corridor from the west has increased significantly. Bus patronage from the south-east has also increased. Those outcomes are short-run outcomes, but they are absolutely consistent with the objectives of the project. Coming back to the earlier question of congestion, or traffic conditions in the city, the area of influence of the cross-city tunnel is principally the core of the central business district [CBD] affecting east-west traffic. The tunnel, the cross-city motorway, would never alleviate traffic congestion in the northern part of the city.

That congestion is largely caused by traffic from the Sydney Harbour Bridge feeding into Bridge Street and Grosvenor Street—an east-west movement, which is largely unaffected by the cross-city motorway. Since the opening of the motorway we have been very pleased with operations in William Street. There has been no deterioration at all in Market Street. We have had experience, particularly on a Friday and a Thursday night, of the same levels of congestion in streets like Liverpool Street and Market Street, for example. But generally, traffic conditions in the city following the opening of the tunnel have not deteriorated at all and in some corridors it has improved significantly.

Mr ANDREW CONSTANCE: I refer to an earlier matter that was raised relating to the amending deed. You said that you let Joe Tripodi know about it in October. At what point in time in December 2004 did you let the current Minister, Minister Costa, know about changes to the amending deed?

Mr FORWARD: I am unaware of a discussion with Mr Costa on that. At that point in time the amending deed had been agreed by the previous Minister, had been signed off by the Treasurer, and was part of the total deal. At that point in time with Mr Costa we were focusing on construction and we were focusing on the management and implementation of the project. So, from my point of view, it was part of a total package that was there. I am unaware of any direct discussions that I had with Mr Costa on that matter.

Ms LEE RHIANNON: I think it would be useful for the inquiry to have a clear understanding of traffic numbers in the cross-city tunnel. Mr Forward, you spoke earlier about the Eastern Distributor and how it started at 20,000 and went to 40,000. What is the flow these days? What was the projection of the total flow for the Eastern Distributor and what is it today?

Mr FORWARD: Those figures can be provided to the Committee.

Ms LEE RHIANNON: Do you not have an approximate figure of what it is?

Mr FORWARD: Mr Wielinga might have those figures.

Ms LEE RHIANNON: One of the areas of controversy in relation to this project is the projection of 93,000 vehicles a day. How much of a ramp up do you need to get to 93,000 vehicles a day?

Mr WIELINGA: You need to look at the environmental impact statements [EISs] that the Roads and Traffic Authority [RTA] prepared for this project. Mike mentioned earlier that we did an initial environmental impact statement and then a supplementary environmental impact statement. Finally, we prepared a representations report. In the supplementary EIS, the final representations report and the preferred activity report, RTA's traffic projections were all 2016. At that time we were predicting 91,700 in 2016.

Ms LEE RHIANNON: Between now and 2016 what are your ramp-up figures? Can you give figures for two years time or four years time? Can you give us some indication of how the service will roll out?

Mr WIELINGA: As Paul Forward mentioned a little while ago, it is a particularly critical time for the project when you are dealing with a ramp up. Perhaps I should distinguish between a ramp up and normal traffic growth. When you are looking at a ramp-up period it puts other factors into it, such as people getting to know how the new road works, how it fits in with their destinations,

and so forth. Generally, that goes over an 18-month to two or 2½-year period. There is reasonably rapid growth in that period.

When you get normal traffic growth it comes from several things: the normal growth in the number of vehicles, traffic transferring from other routes, and so forth. You get growth figures that vary, depending on the locations—2 per cent a year, 3 per cent a year, or whatever—and then you get that steadier growth over a long period. So it is a combination of both those things. Right now you can look at the ramp-up period, have a look at what is happening, and make different assumptions. The short answer is we need to monitor it for a while to see how the ramp-up period goes and then we will be in a better position to make a more accurate prediction.

Ms LEE RHIANNON: It sounds quite vague. What discussions did your team have in the post-toll-free period? I would also like your comments on the difference between the tender that you accepted, which we know went with that projection of 93,000 and the second tender, which was 60,000? Was that driven by the fact that the Government would make more money out of having more cars using the tunnel and, therefore, it was attracted to that tender with a higher projection?

Mr WIELINGA: Each part of the consortium that submitted bids as part of the project had their own expert traffic advice. They take the revenue risk and the traffic risk associated with these projects. When you look at different traffic projections for projects like this, some people assume that growth will happen fairly quickly and that there will then be just a steady flow. Other people think it will grow over a longer time and they will start with a lower base and it will grow. The feature of all the traffic projections was that in around 2016 they were very similar, but with different assumptions about how it would grow between the starting time and the 2016 projection. Because they took on the traffic risk we did our normal due diligence by ensuring they were properly advised.

Ms LEE RHIANNON: You referred to traffic risk, which you have done on a couple of occasions. It seems to be contradictory because the people of Sydney are taking the risk. They have to wear these problems above ground because of all the road closures. So what do you mean by that term when changes have been applied above ground that are causing inconvenience and that are clearly pushing people into the tunnel?

Mr WIELINGA: Mike mentioned the objectives of the project, which were quite important. That was getting the east-west through traffic out of the centre of Sydney. That has been achieved partially in the past when you look at the Western Distributor down the western side of the Sydney CBD, the Eastern Distributor down the eastern side, and the Cahill Expressway on the northern side. A key objective was to achieve that. It is a combination of providing the extra capacity with the cross-city tunnel. It is a combination of achieving those important objectives by improving public domain space and providing additional public transport facilities at the top of the project. So it was a combination of those things that led to the physical outcome of the project. It was also mentioned earlier that we are still in this adjustment period of the project. We are looking at how the traffic unfolds. It is too early to say.

Mr HANNON: I add to the response relating to ramp up. We have some information on four of our toll roads, just to indicate how it varies from toll road to toll road. The figures in front of me are as follows. The M2 in the first month had about 39,800 vehicles and 24 months later it was up to 62,800. I will give you the percentages at the end. The M4 went from 51,600 to 64,200. The Eastern Distributor went from 22,000 to 32,500, and the M5 went from 19,500 to 44,400. In relation to percentages, just going through the ramp up, in that two-year period the M2 went up by 57.9 per cent, the M4 by 24 per cent, the Eastern Distributor by 45.8 per cent, and the M5 by 127.9 per cent. So the increase over that two-year period ranged fairly dramatically from a 24 per cent increase to a 127 per cent increase, for all sorts of reasons.

Ms LEE RHIANNON: Is it true that the cross-city tunnel is not meeting the ramp-up projections that you set out?

Mr HANNON: The consortium obviously had its expected increases. We had other expectations.

Ms LEE RHIANNON: So are they not being met?

Mr HANNON: Our expectations were that by 2016 we were anticipating about 90,000 vehicles.

Ms LEE RHIANNON: I am talking about the ramp up. From what I am hearing that is not being met. From what I am hearing and seeing the ramp up is not being achieved.

Mr HANNON: We normally consider a ramp-up period to be one or two years. You do not ramp up in two weeks or four weeks. A ramp up is a period of time.

Ms LEE RHIANNON: I appreciate that. I am referring to this early period. So are you satisfied that you are keeping up with your projections for the ramp up? Is that what you are saying?

Mr WIELINGA: The traffic projections that we have in this ramp up are what they are at the moment. We are monitoring them. Perhaps you should discuss this with the cross-city motorway.

Ms LEE RHIANNON: Did the Roads and Traffic Authority seek independent financial advice on the contract prior to the contract being signed? If you did seek such legal advice, who provided it and on what date was it provided?

Mr SKINNER: Is it legal advice that you are talking about, or financial advice?

Ms LEE RHIANNON: Financial and legal advice.

Mr SKINNER: With any project that is so complex we always take on board a number of advisers. Mr Wielinga referred to this earlier. In early 2000 the organisation went through an extensive tender process to select a number of advisers to assist us with this process—those being commercial advisers, legal advisers and financial advisers. As part of that process we also brought on board a probity auditor to ensure that there was a satisfactory process for conflicts of interest and confidentiality matters to be dealt with. That commenced at an early stage.

Ms LEE RHIANNON: When the contract is finalised from whom do you get advice in obtaining that second opinion?

Mr SKINNER: I am not clear on the second opinion.

Ms LEE RHIANNON: I am referring to an independent opinion. The contract is finalised and the consortium hands it to you.

Mr SKINNER: The point I want to make is that it does not just happen at the end. Throughout the whole process of negotiation, from the date when the contracts and the project deeds and consent deeds are all put together, that commences from quite a long period leading up to the final signing of the contract. So we have advisers with us from our side of it all the way through to the final signing of the contract—legal, financial and commercial.

Ms LEE RHIANNON: Was one of them Ernst and Young?

Mr SKINNER: Ernst and Young was our financial adviser, yes.

Ms LEE RHIANNON: Why did you use Ernst and Young considering the fact that they were working for the cross-city consortium?

Mr SKINNER: That is a good point to make. The advisers we were using were originally selected back in 2000. They were selected as part of an extensive tender process. The firm we selected at that time was Arthur Anderson, the corporate finance advisory people. They stayed with us right through until 2000 or 2002. In about May 2002 Arthur Anderson had a significant issue where they were merged with Ernst and Young. At that time we discussed that and they advised us that there was a potential conflict with another part of the original Ernst and Young firm providing audit advice for the cross-city tunnel consortium.

Mr MATT BROWN: Mr Skinner, some of the evidence that you gave earlier referred to a \$2 or \$2.50 base toll when looking at a government-funded tollway. I see similar figures on page 5 of your submission. I want to know whether that \$2 to \$2.50 was in 1999 dollars or whether it is in 2005 dollars?

Mr SKINNER: I should clarify that issue. The figure that was put in there back in 1999 was part of the original project that was put together. That was at the early stages of the initial project design. So we look at the tolls at that point—once a determination is made that we are going to do this at no cost to Government. The toll is then determined based on the costs associated with that project and the potential impact of that toll. At that point a number of options were looked at, be it a government project—a government SOC-type arrangement—or whether we go to the private sector. At that point the original \$2 was selected, and that was done back in 1999 when the first project was considered. That was updated later on to \$2.50 when the project had changed substantially. So in 1999 dollars it was \$2.50.

Mr MATT BROWN: If it was \$2.50 in 1999 is there really any significant difference between the assumptions you made with what was a government finance project and the cost of the toll now as a private finance project?

Mr SKINNER: A point of clarification: in terms of where the toll would be now, the \$3.56 that is currently being offered is in line with the base arrangement of 1999 dollars. In fact, if you allow for the CPI base on that arrangement I think a \$3.56 maximum toll is probably still better value than what it could have been if you adjusted it for CPI. So the \$3.56, it must be remembered, is the base case maximum that was allowed within the project. There is a significant difference when you start to look at whether it is a government-run project or a private sector PPP-type project. Again, that is all about the risks that we have discussed this morning already. You need to understand who is accepting these risks in this sort of project. In a PPP environment a lot of these risks are transferred to the private sector, and therefore they have to take the risks associated with the level of the toll that they are charging and the ability for them to generate the revenue associated with the traffic that goes through that tunnel. They are probably the main differences.

The Hon. AMANDA FAZIO: Mr Forward, earlier this morning you were asked a question about when Mr Tripodi was first told about the first amendment deed. On 26 October Mr Tripodi wrote to you and stated that he was informed about the existence of the first amendment deed on 20 October this year after his office had been advised the day before, on the 19th. Are these dates consistent with what you recall about that information?

Mr FORWARD: Yes.

Mr PAUL McLEAY: How did the proposal for the cross-city tunnel, about? What was its genesis?

Ms LEE RHIANNON: They have answered that.

Mr PAUL McLEAY: We talked about community consultation and what came after the initial discussion was on the table. Why did the initial one come onto the table?

Mr WIELINGA: Perhaps we could talk a little about community consultation and how the project came about.

Mr MATT BROWN: We are particularly interested in the community consultation and the opportunities provided for community involvement and comment.

Mr WIELINGA: I guess, to assist the Committee, if you look at the RTA's submission there are a couple of attachments that I think you will find useful. The first thing is a flow chart that shows the sequence of events with the tender process and the planning approval process. There are a couple of key steps on that that show some of the more important points with the formal community input into the project. In addition, there is a collection of brochures that will help the Committee to get a good understanding of how the project changed over time. There are some explanations in those series of brochures about the community input and so forth that was occurring.

Mr MATT BROWN: Did any of those changes occur due to community consultation?

Mr WIELINGA: Yes, they did, and I can get into that in a little while. Dealing with the community consultation process, you will probably appreciate with large road projects that we go through a project development phase and then we go through implementation or the design and building it and then into an operation phase. The community consultation is normally targeted to facilitate the delivery of projects within each of those phases. Mike Hannon mentioned earlier that October 1998 was the formal kick-off with the cross-city tunnel although there had been a decade before that of various inputs into the way the project developed. At that particular time the RTA put out a booklet entitled "The Cross-city tunnel: Improving the Heart of Sydney". It had a tear-off and a survey—you have a copy of that there. This is that particular document you see at the front. That was the shorter tunnel mentioned earlier finishing at College Street, with some proposed changes to Park Street. There was a three-month display at the Sky Gardens shopping centre in Pitt Street, stakeholder discussions, surveys and an 1800 telephone information line.

One of the advantages of 1800 telephone information lines is that it gives you an opportunity to identify stakeholders in projects. People are invited to register an interest in the project and we build up a database of people who we can send information to while the project is under way. We find that when we work closely with local councils they give us a lot of assistance in identifying important community groups and individuals in the community, and they further strengthen our database and the interaction that the RTA has with the community. Advertisements were placed in the major newspapers along the way with key steps of the project. State Government representatives and authorities, local government representatives of transport agencies and groups with interests—Mike mentioned the chamber of commerce as an example a little while ago—so that we could get some feedback about how the project was developing, what were the community issues and those sorts of things. The broader community response to the proposal was received. We had about 7,800 visitors to the Sky Gardens centre display that I mentioned earlier, 150 returned surveys, and numerous community calls on the 1800 information line. With this interaction process with community people, other agencies, local council and so forth, projects are progressively developed over time.

During the preparation of the EIS there were a number of advertisements placed in local and metropolitan newspapers. You can see some of the brochures outlining the project. We delivered them to more than 300 households in the local area and business premises in City of Sydney and the South Sydney city local area. We sent them out to persons who had responded to our preliminary concept brochure from the database that we had of interested people. There were displays in motor registries, libraries, community centres and so forth. A display was mounted at the City Exhibition Centre at the Customs House, Circular Quay for the duration of the EIS preparation. Information was provided on web sites, and again we had the toll-free telephone number. Focus group sessions were conducted with various landowners in the area of Kings Cross and Darling Harbour. There were five community discussion sessions and briefings of property owners potentially directly affected. There were a number of specific information sessions on issues such as urban design and so forth.

The initial environmental impact statement was placed on public display from 2 August to 6 October 2000 at many locations. I will not go into all of them but they included the New South Wales Government Information Centre, the RTA at Surry Hills and Blacktown, the Customs House, the New South Wales Environment Centre and various councils and library locations, including the Ultimo Library. The main volume of the EIS was also available on the RTA's web site.

CHAIR: Is this material in your submission?

Mr WIELINGA: Yes, a lot of it is.

CHAIR: That may be sufficient, I think.

Mr PAUL McLEAY: Were traffic changes associated with the cross-city tunnel project determined through contract negotiations or through the planning and consultation process?

Mr WIELINGA: When you have a look at the flow chart of how the tender process and the planning approval process unfolded, one of the things that will strike you is that the actual planning

approval was completed before the detailed proposals submitted for the project from the contract. The significant decisions in relation to the traffic arrangements on the project were made as part of the planning approval process. Dealing with the first part of your question now, there were a number of changes during the different EIS processes along the way that responded to community input into the project. I will give you some examples of those. There is a comprehensive list included in our submission as well.

I guess the most significant one, of course, is the change of the project from the shorter tunnel going to College Street to the longer tunnel in William Street. That came out of a significant amount of input that occurred over very many years, as we mentioned earlier. The introduction of the eastern land bridge at the end of the Kings Cross tunnel came at the request of the community. A number of urban design updates to that particular land bridge also came out of the community consultation process. The reinstatement of the right turn out of Cowper Wharf Road came out of the community consultation process. We increased the height of masonry wall to shield the Department of Housing residents adjacent to the Eastern Distributor ramp. We introduced the Ward Avenue ramp to provide safe access for motorists down to Bayswater Road out of the community input process. The local traffic management scheme for Paddington came out of the community consultation process. An acoustic shed at the Bourke Street site to shield residents from noise and dust during the tunnelling came out of community consultation during construction—to give you a construction example. I mentioned the eastern land bridge enhancements and so forth.

A number of minor traffic changes around the project were incorporated and, again, they are included in the list. A lot of the changes to William Street and Park Street—the detail of those arrangements with parking bays, the construction of landscaping, the smart poles and all of those sorts of things—came out of the community consultation process. A number of additional pedestrian crossings were incorporated into the project as a result of that consultation process. The pedestrian bridge access to Darling Harbour, the form and the nature of that, came out of the consultation process. There is a garden memorial wall going into The Domain and the Royal Botanic Gardens that was also part of that process. As I have said, the list can be seen in the submission we have provided to you.

Ms LEE RHIANNON: What about the loss of the walkway on the western side?

The Hon. AMANDA FAZIO: Excuse me, Ms Rhiannon. It is not your time questions.

Ms LEE RHIANNON: But it is part of what he is saying. That information would be very useful. I am sure you would like to know.

The Hon. AMANDA FAZIO: Actually, I would like to know something else. Mr Skinner, you were asked a question earlier about Ernst and Young and you said that a potential conflict was identified because of the merger of Arthur Andersen and Ernst and Young. What did the RTA do in response to that potential conflict once it was identified?

Mr SKINNER: Once the partner that we had been working with was part of the merged entity he flagged with us that EY had a working arrangement as part of audit advice, particularly at that time, with the cross city consortium. We had advised the probity auditor of the project of that issue and went through the impacts. This is an issue that we are having to deal with more and more with the large consulting firms, as they are starting to group into smaller and smaller groups. We have been working through with the probity auditor how we could deal with these to maintain the best advice within the commercial marketplace and how we could ensure the conflict of interest issues and confidentiality issues were identified. That was about putting in certain Chinese walls and the way they might operate.

The sorts of things we had to do were to ensure that the same partner who come across from Arthur Andersen maintained their sole working arrangement with the RTA through to the end of this project. There was only a small team of those people—there is only about two or three people. Those people were required to re-sign conflict of interest statements and to re-sign confidentiality deeds. We also asked them to novate the contract that we had had with Arthur Andersen with Ernst and Young, restating the issues that they had to provide the RTA. They were also asked to get statutory

declarations from those individuals in Ernst and Young's team that were working for the RTA only that they had not discussed those matters.

The Hon. AMANDA FAZIO: I have a few questions in relation to the tender process.

CHAIR: To clarify, who was the probity auditor?

Mr SKINNER: The probity auditor was Peter Gifford, who was an ex-ICAC commissioner.

Ms LEE RHIANNON: Can you explain what a Chinese wall is?

Mr SKINNER: Largely, the things that I was just talking about are what is determined as Chinese walls within the larger organisations. Most legal and financial firms are trying to build those because most of them have potential conflicts, and they have to advise their clients if there is a potential conflict within other partners providing services to other organisations. They have to put in those sorts of probity-type issues within the organisation if they continue to provide advice to one organisation versus another.

Mr HANNON: Can I just clarify that Peter Gifford, the probity auditor that we used, is not a commissioner. He is actually the former director of corruption prevention and education at ICAC.

The Hon. AMANDA FAZIO: In relation to the tender process, in your submission on page 11 you have a little bit of information about the tender process, but I just want to get a little bit more detail. You say the "invitation of detailed proposals". How do you actually solicit these invitations of detailed proposals from organisations who might want to tender for the project? How do you actually choose who is the successful tenderer?

Mr WIELINGA: I guess you need to look at this from a couple of aspects. The development of these major projects is essentially two things. It is a process that you follow to obtain the tenders and secondly it is a governance structure where you utilise people to assess and evaluate the tenders and you get some independent review of that work done as well. Starting at the highest level for these particular projects, it is essentially a two-step process. The first is what we call a registration of interest and that process very much focuses on the capability of the organisation that wishes to submit a proposal—you know, their technical capability, their project management capability, their financial capacity to deliver a project of this magnitude—those sorts of things. The second step is what we call a request for proposal, sometimes called a detailed proposal. The purpose at this particular stage is to select a preferred proponent and then to finalise the negotiations with that particular consortium to see if you can, you know, ultimately execute a contract.

The process is essentially similar to a lot of other tendering processes. The RTA puts out a document. It establishes a set of assessment processes and evaluation guidelines. It determines a set of weightings applied to those particular areas. It assesses the proposals that come in against the information provided, and we request the information from the consortium in a very structured way. We think up front of the sort of information that we need for these projects, and every bit of information we get is used as part of the value for money assessment of these projects. What I might do is deal with that in a little bit more detail with the detailed proposals. I think you mentioned detailed proposals, but just talking a little bit about the governance structure, I mentioned earlier in response to a question to the chairman about the sort of organisations we put in place to help us evaluate this, so I will not go into detail with that.

We have that project team that I talked about in place. We tend to get them to look at proposals and look at sections on a need to know basis. We have a probity auditor overlooking it. We have an evaluation panel with specialist advisers to assist us to evaluate the proposals and we also have a review panel that usually consists of some RTA senior officers, some senior officers from Treasury, and on the Cross-city Tunnel we also had the Chair of the State Contracts Control Board. They reviewed the work of the evaluation panel before the ultimate recommendations were made to government in the normal processes that are detailed in the Working with Government Guidelines for Privately Financed Infrastructure.

With detailed proposals, the RTA again puts out a set of documents that normally includes a project deed. It includes these days a very detailed technical specification where we talk about the minimum requirements technically for the project, including some performance standards, and there is a very specific list of information that we require from proponents at this stage. Normally it is very structured so that we can easily divide it up so that our evaluation team can look at it. The actual process itself is a value for money process. You will probably appreciate that the bids that we get in for these projects are quite complex. They are in different specialist areas. When you get a bid in from a consortium for these large projects, they generally consist of a financial offer. They have the consortium's position on the proposal's risks.

They have a lot of technical features because we get things like a concept design of a project that they are proposing—a geotechnical model, traffic models and a whole lot of things—and importantly they also include a lot of non-price features. Those non-price features include things like the quality of the project team that they are putting up in numerous different technical disciplines and professional disciplines. They include details of how they are going to approach the project with different project management plans and community consultation plans and a whole lot of different plans that we asked them to give us a framework of so that we can evaluate that. Essentially the process is determining a value for money outcome.

As Brett Skinner mentioned earlier, we also prepare a public sector comparator, and that assists us to do a financial comparison with the offers that come in. We have a look at the state of transaction. We have a look at the adjustments for risk. We are very careful to check the concept design that comes in against RTA's technical specification to make sure that they conform with that, and if necessary we interact with the bidders to make sure that they have a proposal that meets the RTA's technical requirements. We do a user cost and a whole-of-life adjustment consideration. We do non-price features assessments so that when you are looking at those bids, it is not just about price, it is about value for money. We have processes where we can utilise all of this material to come up with a recommendation of a preferred proponent.

CHAIR: Thank you. I am just wondering—with all the people involved, there was a report claimed by the former transport Minister, Carl Scully, that some of the details of the project had been leaked to the Cross City Motor Consortium, particularly the relocation of the exhaust stack. Are any of the members of the RTA aware of that report and can they explain?

Mr HANNON: That is a matter that is before ICAC at this stage in terms of the alleged leak of information, so we are not in a position to comment on that.

CHAIR: Right. As a general point, would that information have been of value to the consortium, or do you feel that is covered by ICAC? Would that information have been of value to the consortium?

Mr HANNON: Again, I think that is a matter that we should leave for ICAC to report upon.

The Hon. GREG PEARCE: Can I just finish with Mr Forward? Earlier you said that you and Mr Scully had decided not to comply with the memorandum or the Premier's directive to publish the summary of the original contract so that you could improve on the negotiating position on Lane Cove and M7. Did you actually inform Dr Gellatly or anyone in the Premier's Department that you had decided not to comply with the Premier's directive?

Mr FORWARD: I did not inform the Premier's office.

The Hon. GREG PEARCE: You did not think that you needed to inform him?

Mr FORWARD: No, I informed the Minister.

The Hon. GREG PEARCE: Did the Minister indicate to you at any time that he had informed the Premier, or anyone in the Premier's Department?

Mr FORWARD: I cannot recall.

The Hon. GREG PEARCE: You cannot recall? On issues as important as that, you cannot recall?

Mr FORWARD: Correct.

The Hon. GREG PEARCE: Your advice was that you did not have to produce the amending deed or publish it?

Mr FORWARD: The amending deed is a variation under the contract.

The Hon. GREG PEARCE: A variation, yes. The advice was that you do not have to do that.

Mr FORWARD: Correct.

The Hon. GREG PEARCE: And Mr Tripodi sacked you because you had not done it.

Mr FORWARD: It is outlined in his press release.

The Hon. GREG PEARCE: I think you said that you are at the Premier's Department at the moment?

Mr FORWARD: Correct.

The Hon. GREG PEARCE: Can you tell us what you are doing there?

Mr MATT BROWN: Point of order on that question: What Mr Forward does in the Premier's Department is not part of our terms of reference.

The Hon. GREG PEARCE: He is probably prepared to answer it, so if he is prepared to answer it—

The Hon. AMANDA FAZIO: I think we would rather have the Chair rule on it.

CHAIR: It is not relevant to the terms of reference to the inquiry. He is unattached.

The Hon. GREG PEARCE: Are you still receiving your salary and benefits that you received?

Mr MATT BROWN: Again, Chair, these questions are not part of the terms of reference.

The Hon. GREG PEARCE: Are you still receiving the salary and benefits?

Mr FORWARD: I am still a public servant.

The Hon. GREG PEARCE: Are you still receiving the salary and benefits at the level of a chief executive officer of the RTA?

Mr FORWARD: I am.

The Hon. GREG PEARCE: There were a number of comments by various of the witnesses that the decision in 1998 to go with the long tunnel was basically as a result of consultation with the community and architects and so on. Was the long tunnel as you describe it what was actually eventually built?

Mr HANNON: The tunnel that was eventually built was actually longer than the long tunnel that you have just mentioned.

The Hon. GREG PEARCE: So it was not as a result of community consultation that what we have now is—

Mr HANNON: It did exactly what the community was after—and that was, it protected William Street—but the tunnel which was actually built went beyond the original long tunnel. Mr Wielinga can probably give you the detail.

Mr WIELINGA: When you have a look at the slightly longer tunnel that took it to the eastern end of the Kings Cross tunnel, the feature of the initial long tunnel was that it would have involved a cut and cover construction all the way along William Street. There was concern from businesses in the area that that cut and cover work would have a major impact over a long period of time. The slightly longer tunnel provided an opportunity to get it deeper and to minimise all of those construction barriers.

The Hon. GREG PEARCE: So that was the reason for going with the final proposal?

Mr WIELINGA: It was part of the reason, yes.

The Hon. GREG PEARCE: It was part of the reason. What were the other parts of the reason?

Mr WIELINGA: It had some traffic advantages as well and it sort of minimised the environmental impacts during construction. They were the basic tenets of its advantages.

The Hon. GREG PEARCE: What was eventually built I think is described in some of the RTA's notes as the long 80 option.

Mr WIELINGA: Yes.

The Hon. GREG PEARCE: Can you just explain what that means?

Mr WIELINGA: What they were able to do with the proposal was to design the vertical and horizontal alignment of the tunnel so that it could be posted at 80 kilometres per hour. When you are determining speeds on roads or tunnels and so forth, it is a combination of both horizontal and vertical geometry that influences what is a safe speed to travel, basically. They were able to create something in their design which enabled an 80 kilometres posted speed.

The Hon. GREG PEARCE: So the RTA selected the long 80 version; is that what you say?

Mr WIELINGA: It came out of that selection process or that tendering process that I described a little earlier, yes, as the preferred proposal, yes.

The Hon. GREG PEARCE: Did the other short-listed tenderers give you a proposal for a long 80?

Mr WIELINGA: Did any of the others, do you mean?

The Hon. GREG PEARCE: Yes.

Mr WIELINGA: The other tenderers provided other different designs and other different options.

The Hon. GREG PEARCE: Can I just go to—we might talk a little bit more about it later—but the Cross-city Tunnel finalisation report that the RTA prepared, it is one of the documents that has been produced. It has in it a table 2.9, which I am sure you are familiar with, that runs through the various six proposals that you were considering at the end of the project. They were by the two short-listed tenderers, the Cross City Motor Consortium [CCM], which eventually got it, and the other one. The first column in relation to the comparison is the column which says, "Proposed payments to the RTA", millions of dollars. Are you familiar with that table?

Mr WIELINGA: I would need to refresh my memory by having a look at it, I am sorry.

The Hon. GREG PEARCE: If I said to you that the proposed payments to the RTA were, for CCM's conforming bid, \$42 and a half million; for its conforming 80 bid, \$81.8 million; for the long 80, \$100.1 million, and for the long \$43.9 million. The similar figures for the other tenderer were: their conforming bid, minus \$28 million, and the other conforming bid minus \$42 million is the payment to the RTA. Would it be fair to say that the long 80 stood out because it gave you a maximum payment to the RTA?

Mr WIELINGA: Based on those figures that you are telling me, that is true, but I need to refresh my memory with that table.

The Hon. GREG PEARCE: We might do that before we come back at two o'clock and I will talk to you about it then. From those figures it is apparent that the other tenderer was not prepared to pay the RTA anything. In fact, they wanted you to pay them between \$28 million and \$42 million to build the Cross-city Tunnel.

Mr WIELINGA: I understand what you are saying, but again I would need to refresh my memory of that table and get its context.

CHAIR: We will break now. You will come back after lunch and we can follow that question.

Ms LEE RHIANNON: I have received a report that the consortium have given senior RTA staff free passes to use the tunnel. Is this true, Mr Hannon?

Mr HANNON: I certainly do not have a free pass.

Ms LEE RHIANNON: None of you has a free pass?

Mr FORWARD: No.

Mr WIELINGA: No.

Ms LEE RHIANNON: I have one more quick question that relates to this afternoon.

Mr MATT BROWN: I hope it is as good as the last one.

Ms LEE RHIANNON: I have asked on a number of occasions about the Cross-city Tunnel daily traffic figures. Is there any good reason why these figures cannot be made public?

Mr WIELINGA: Yes. The traffic figures that come out of Cross-city Tunnel are provided to RTA under the contract. The traffic figures come from two sources and the equipment is CCM's. They come from some loop counters and their tolling systems. Those figures are CCM's. The RTA encourages them to make them public.

Ms LEE RHIANNON: Why do you believe they are not making them public? What is the good reason?

Mr WIELINGA: Again, that is a question for Cross-city.

CHAIR: We have to adjourn now. We will deal with that later. We thank all members from RTA for attending and for their co-operation. Earlier when we referred to questions on notice, they are not questions on notice, but simply questions that are put in writing to the RTA. But we can ask those questions after lunch. If members still have questions, we can ask specific witnesses to come back. I thank the witnesses for their attendance and appreciate their co-operation.

(The witnesses withdrew)

ROBERT JOHN CARR, of 4-6 Blich Street, Sydney, affirmed and examined:

CHAIR: For the *Hansard* record, what is your occupation?

Mr CARR: Journalist. I should say, as Disraeli said when asked on one occasion, patriot.

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

Mr CARR: As a former Premier.

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

Mr CARR: Yes, I am.

CHAIR: I have some general questions, Mr Carr. Why did the New South Wales Government choose a public-private partnership as a means of delivering this infrastructure, rather than publicly funding it?

Mr CARR: I think the main reason is that all the risk falls on the private sector with this model. That is the first argument. The second argument is that it is the accepted model, increasingly, that offers real advantages for the public sector. The advantages of high-quality toll roads are, I think, now beyond dispute. More specifically, the Government was open to arguments about whether a publicly funded toll road would offer more advantages to the taxpayer. Our very first decision on the cross-city tunnel was to require a study of this as an option. As a result of that there was emphatic advice from Treasury, based on a public sector comparator, that the public sector could not have delivered the project as the private sector could. We looked at it and explored it as an option, but the Treasury advice was firm. My simple policy question was one that I proudly put before this committee: this was going to be a privately funded, user pays toll. We were not funding this in any other fashion. We made a key policy decision that, unlike the M2, there would be no public money going into this.

We made another decision that, unlike the M2, which had taken \$250 million from the State Budget to put into a private road – I have a list of road projects which were being funded in 2002-03 and I want to know what advocate would have us squeeze funding for what project. I would like to go into that later.

CHAIR: You have answered that question in general terms. Is there anything else you wanted to put on the record?

Mr CARR: I welcome your calling Nick Greiner because, quite eloquently, he has put the case about risk as recently as two weeks ago saying, with this model, 'the private sector have taken instructions, which was considerable; the consortium has taken the patronage risk, which will mean they will not get the equity returns if they are not right; and the banks, who lend 60 per cent of the money, may not get the payments on time; but the public ends up with a valuable road.' That is Nick Greiner. Mr Chairman, I say to you that eventually, inevitably, without this bit of infrastructure, Sydney would have strangled on its own traffic.

The Hon. GREG PEARCE: Look at it now.

Mr CARR: Without this bit of infrastructure, Sydney would be facing by 2016, without this tunnel, including the re-design of William Street, 20 000 more cars every day on the east-west axis. The key advantage this offers in public transport terms is that you free up bus movements, which overwhelmingly run on a north-south axis through the central business district. The figures you have just heard quoted, by very fine public servants from the RTA, are that as a result of this the average bus movement has gone from 34 kilometres per hour to 49 kilometres per hour, and bus patronage is up.

Ms LEE RHIANNON: That was only in the west, Mr Carr. You wouldn't say anything about the east. There are problems there.

Mr CARR: Yes, but they can be tackled. That is a good question. There are good transport options along Elizabeth Street for giving priority of bus movement and freeing up and expediting bus movements to the east. We have no chance of doing it, Ms Rhiannon, without this project. The whole thing that is slowing down north-south bus movements, bus movements from the east to the west, is that funnelling of cross-city movement that this tunnel takes care of.

I want to add one other thing by way of opening statements. I will not go into the sort of detail that I can. The idea that somehow this was secret is rebutted by a pile of documents I have here. From the very start, the re-design of William Street was spelled out in detail, and comprehensively reported in the media. Indeed, some of the journalists who criticise the project have written glowing articles referring to the reduction of lanes in William Street. I can quote them. I have them all here with me.

In October 1998, the Government released this document, a 16-page RTA publication, that said on page 8, 'Building the tunnel will mean that one lane can be closed in William Street, allowing footpaths to be widened and trees planted.' In 1999, the City of Sydney proposed a longer tunnel, which you have been discussing, and the narrowing of two lanes each way, reclaiming William Street for the public. The Government eventually, as you have heard, adopted that.

In September 1999, we released the Cross-City Tunnel Environmental Assessment - there were 22 000 copies of the publication, it was out there in the media, spelling out in detail the reduction of the number of traffic lanes, the widening of footpaths, the planting of trees. It was all spelled out. This is the response these details got in the media: 'European vision for William Street eyesore', reporting that 'only one traffic lane will be allowed on William Street's north side, along with a bus lane'. The *Sydney Morning Herald*: 'Window of opportunity to transform city. A reduction in lanes in William Street'. It was reported in detail, as the Government wanted. 'Running Sydney in drive for southern race'. 'The enhancement of William Street'. On and on, on radio—

The Hon. GREG PEARCE: You've taken up reading the papers yourself instead of getting Reham to do it.

Mr CARR: —in full detail. 'Tunnel vision to banish gridlock', reporting the reduction in lanes in William Street.

Ms LEE RHIANNON: What about some of the headlines now, Mr Carr?

CHAIR: Let the Premier finish.

Mr CARR: Ms Rhiannon, I have checked the records of Greens press releases and in all this discussion you issued not one criticism of these detailed proposals.

Ms LEE RHIANNON: Yes we did.

Mr CARR: It is not in the Parliamentary Library. It must have gone in late. There was none in 1999; there was none in 2001.

The Cross-City Tunnel, August 2002, is a public document backed by government advertising detailing the changes in William Street. 'William Street Upgrade, September 2004', again spelled it out. The Government not only issued this material, but also it bought space and printed brochures – printed them in Chinese – and bought advertising in ethnic papers as well as the metropolitan dailies, to publicise this. I give the lie to any suggestion that these plans were kept secret. The Government bought advertising time and space to see that the public knew about them.

CHAIR: Thank you very much. Now you will face the Opposition.

The Hon. GREG PEARCE: Thanks for the entertainment. I have a couple of serious questions for you, Mr Carr. When you were Premier did you expect your Ministers and senior bureaucrats to comply with directives from your office?

Mr CARR: Let me deal with this question. I have followed the discussion about contract disclosure and private sector proposals. Let me deal with that in detail. I believe the officers of the RTA—

The Hon. GREG PEARCE: Just before you go into it, could you just answer my question yes or no? Did you expect Ministers and senior bureaucrats to comply with your directives from the Premier's Department?

Mr CARR: You have asked the question and I will answer it in my own way.

The Hon. GREG PEARCE: I am asking you for a yes or no.

Mr CARR: You will not ask me for any such thing. I will answer questions as I am entitled to.

The Hon. GREG PEARCE: I have already asked you.

Mr CARR: I would not only commend, but also congratulate the RTA officers who sit here in the public interest. They would not reveal to consortia with whom they were negotiating two other major road projects, the M7 west link and the Lane Cove tunnel, important details about this project that were relevant to the defence of the public interest.

The Hon. GREG PEARCE: That is an adequate exemption: is that what you are saying?

Mr CARR: Absolutely.

The Hon. GREG PEARCE: Then why did you not put it in your directive?

Mr CARR: I not only think it is adequate, I congratulate the RTA officers for protecting the public interest because they, like me, want to save the taxpayer money. They want to go into negotiations around the table and get the best deal for the taxpayer. You do not do that by giving the consortia you are negotiating with all the details of a current set of arrangements.

The Hon. GREG PEARCE: Why didn't your directive say that?

Mr CARR: I have answered the question. Their behaviour was exemplary. It was motivated by one thing along – protecting the taxpayer's interests.

The Hon. GREG PEARCE: You say it is okay for the Minister and the bureaucrats to breach your guidelines to get a better deal. Is also okay for your bureaucrats and Ministers to mislead proponents and to knowingly allow them to enter contracts on a false premise so they get a better deal? Is that also acceptable to you?

Mr CARR: Well, I have to disagree with you. On 7 February 2000 the Probity Auditor said this about negotiations and about the tender process. These are the views of the Probity Auditor—

The Hon. GREG PEARCE: I am after your views.

Mr CARR: I endorse the views of the Probity Auditor. He is very experienced, he is from the Independent Commission against Corruption [ICAC] and he ran anti-corruption activities in the ICAC. His view was:

Negotiations were conducted with "the highest level of probity applied to all aspects".

I conclude with this point: I am very proud to have led a State that issued billions of dollars in private-sector contracts for all the Olympic projects, these major pieces of infrastructure, without a single allegation that there was not a proper tendering process. In all the period that I was Premier there was not an ICAC investigation into tendering processes. I will say this by way of bipartisanship, that applies as well to the record of the Greiner and Fahey Governments. This reflects very well on the probity of governance in this State and it applies to this project as well.

I will not go into details, it would take too much time, about the work of the Evaluation Committee—the assessment panel. You spoke to the Roads and Traffic Authority [RTA] about how they went out and got outside advice from Clayton Utz, Arthur Anderson, Edwards and Tech Management, Corporate School Card, Financial Rating Agency, Deloitte Touche and a range of others, as they went through these negotiations. But one fact stands out, and that is probity was foremost, as he has indeed and in this State under both Governments in the negotiation of major contracts like these. I am proud of it. Everyone should be proud of it

The Hon. GREG PEARCE: What stands out is that you say that it is acceptable for your Ministers or your ex-Ministers and senior bureaucrats to breach guidelines that are out there in the public domain so that the public are given confidence that in fact the Government is complying with its own rules. You say is okay to breach those to try to get a better deal, and you say it is okay to string along a proponent and to let them go up into making contracts—

Mr CARR: Oh, this is an absurd!

The Hon. GREG PEARCE: No. That is what you say. That is what you say.

Mr CARR: If this is the worst criticism you can marshal—

The Hon. GREG PEARCE: That is what you say.

Mr CARR: —trying to contradict what the Probity Auditor said.

The Hon. GREG PEARCE: No. No. I am stating what you have said—what you have said.

Mr CARR: Let me just say this, the Auditor-General—

The Hon. GREG PEARCE: How can anyone have any confidence—

CHAIR: Let the witness answer the question.

The Hon. GREG PEARCE: —in your Ministers, if you allow them to breach your own guidelines to get a better deal?

Mr CARR: The Auditor-General noted that the contract had been signed on 18 December 2002, the audit report signed on 30 June 2003 and the contract summary—

The Hon. GREG PEARCE: You are looking a bit weak if you have to resort to reading from your notes.

Mr CARR: —and the contract summary tabled by the Minister on 19 February 2004. You are reading your questions! Do not blush. You look more guilty than normal and I say this with the greatest of respect. I have the document here, the summary of contract. The Auditor General noted in his report tabled in the Parliament—2003, volume 5, page 214—that the Government's "Working with Government. Guidelines for Privately Financed Projects" requires the RTA to prepare a summary of the cross-city tunnel contract for the Minister to table in Parliament. He examined the summary to ensure that it fairly represented the substance of the contract. That is this document, tabled in Parliament, the Auditor General oversighting the proposal and the Auditor General saying it was a fair summary. We reported the contract summary forwarded to the Chief Executive of the RTA on 30 June 2003. That is the process at work here. The RTA says a delay in the release of details while we bed down negotiations on the M7 West Link and the Lane Cove Tunnel—

The Hon. GREG PEARCE: Were you told of a delay?

Mr CARR: —so we can get a better deal—

The Hon. GREG PEARCE: Were you told of that delay at the time?

Mr CARR: I was not involved in negotiations.

The Hon. GREG PEARCE: Were you told of that delay at the time?

Mr CARR: I was not involved in negotiations or that procedure. My role—

The Hon. GREG PEARCE: So you were not told?

Mr CARR: My role—

The Hon. GREG PEARCE: You were not told.

Mr CARR: My role, and this is the way government works—I will talk about my role in the whole project in these terms: My role was, one, policy and I was insistent that, unlike the M2 entered into under a Coalition Government—not a bad deal in many respects, but it did require the payment at the end of the day or \$250 million of taxpayers money to a consortium—I was insistent, this was my policy role in this project as Premier, insistent that with this proposal, a private sector road would be built without a single cent of taxpayers money. Good work by the RTA officers in seeing that the public sector was not out of pocket. And by the way, when that was announced, namely that the government was going for an upfront payment, it got praise in the financial press.

[*Interruption*]

Let me finish this sentence. I am just going to finish this sentence.

CHAIR: Let Mr Carr finish his answer.

Mr ANDREW CONSTANCE: He is filibustering.

Mr CARR: It was praised in the financial press as an example of the RTA getting tougher on tollway consortiums. The *Sydney Morning Herald* of 14 January 2002 said that in seeking an up-front payment the RTA was seeing that in future roads projects, like those in the past, M2 for example, that taxpayers were not going to be putting money in. They praised them. They were praised in the financial press for being smarter and for being tougher. This was always going to be, and it was not my insistence as well as a consensus within government, a private project, the risk falling on the owners—the risk of any disappointing patronage falling on the owners, not on the public sector—and an up-front payment covering all the costs of the RTA—deliberate policy, good policy, sound public policy and an improvement on the model that was applied by you to the M2, not to mention the city to airport rail link.

Mr ANDREW CONSTANCE: In light of your comment earlier about the exemplary work done by the RTA, you obviously therefore do not agree with the sacking of Mr Forward by Joe Tripodi.

Mr CARR: I do not comment on things that happened after my time as Premier. I am here to talk as a former Premier about my time as Premier. I am happy to do that but you are not going to draw me out on things—

Mr ANDREW CONSTANCE: In light of your comments you obviously do not agree with that statement.

Mr MATT BROWN: That is not part of the terms of reference.

Mr CARR: It is not a scope of questioning for many. I am not going to provide a running commentary.

CHAIR: You cannot verbal Mr Carr.

Mr CARR: I would not say that. I would not expect that of my friends in the Opposition. They have a job to do and I deprecate any—

Mr ANDREW CONSTANCE: You going to apologise to the motorists of Sydney and this State for the cross-city tunnel and the closure of public roads for private gain?

Mr CARR: Oh, the closure of public roads—

Mr ANDREW CONSTANCE: You going to apologise, Bob?

Mr CARR: The closure of public roads—

Mr ANDREW CONSTANCE: Are you going to apologise?

Mr CARR: —for private gain?

Mr ANDREW CONSTANCE: You are not going to apologise?

Mr CARR: The question was about the closure of public roads for private gain. It is a good question.

Mr ANDREW CONSTANCE: You are not going to apologise? The question was whether you are going to apologise, Mr Carr?

Mr MATT BROWN: I would like to hear the answer.

Mr ANDREW CONSTANCE: I would like to hear the answer, too. Is he going to apologise?

The Hon. AMANDA FAZIO: Well, stop talking and you might hear the answer.

Mr CARR: Mr Chairman, the last big road project concluded by a Coalition Government was the M2. I asked for information about the M2. The closure of public roads for private gain, how many do you think were closed in respect to the M2? Maybe two, maybe three, six, maybe seven? After all, this was the last big roads closure, the last big roads projects, under a Coalition Government. I ask: Surely not ten or more?

Mr ANDREW CONSTANCE: What was the length of the M2?

Mr CARR: The fact is, the answer is, more than 20. More than 20! I should reject any notion that these were only small roads, because they included Pittwater Road, part of which was essentially removed, Junction Road, which connected to Windsor Road, and Murray Farm Road, which used to cross Pennant Hills Road. The full list is this, these are the road closures in their last big roads project: Vincent Street, road closure and cul-de-sac north of the M2 motorway and reconstruction of Junction Road, South of the M2 motorway—

Mr ANDREW CONSTANCE: Can you just tell me, are you are going to take up all of our time reading that nonsense?

Mr CARR: —Portman Avenue, road closure and property access north of the M2 motorway; reconstruction of Junction Road south of the M2 motorway; Alma Road, road closure and cul-de-sac south of the M2 motorway with legal turn into property access; Pittwater Road north of the M2 motorway; Pittwater Road north of Wicks Road; Junction Road; Canyon Road; Linton Street; Russell Street; Carlton Road—

CHAIR: The Committee is happy, Mr Carr, for you to table that list. I think we get the message.

Mr CARR: Not as happy as I am. I will give you a copy later.

Ms LEE RHIANNON: Do you argue that what the Coalition did is justification for what you did?

CHAIR: Time for questions from the Opposition has expired.

[Interruption]

CHAIR: We cannot have questions from the floor, thank you. Please escort that person from the hearing room, thank you.

Mr ANDREW CONSTANCE: Mr Carr, have you ever meet with Li Ka Shing?

Mr CARR: I do not think so, no.

Mr ANDREW CONSTANCE: You do not think so or you do not know?

Mr CARR: Well, I do not recall any meeting with him, no.

Mr ANDREW CONSTANCE: Do you think you might recall a meeting with one of Asia's most powerful businessmen?

Mr CARR: No, one I am asked about my time as Premier, and when I was asked as Premier did I recall a meeting with X or Y, I would say, "I cannot recall it. Not to the best of my recollection," but reserve my right to check the records. I think that is a reasonable thing. A Premier meets a host of people. I would not want to say, "No, I have never met him," and then be reminded that he was in a delegation that I saw. But, to the best of my knowledge I have not met him.

Mr ANDREW CONSTANCE: On that note you will be happy to come back to the Committee at a later stage and answer questions.

Mr CARR: Absolutely!

The Hon. GREG PEARCE: Have you had any meetings with his representatives in relation to the cross city project?

Mr CARR: Again, not have that I recall but let me reserve my right to check my diary as best I can.

CHAIR: You can advise the committee in writing, thank you.

Mr CARR: Absolutely.

The Hon. GREG PEARCE: Just going back to the issue of the completion of the project at no cost to government, are you aware that the other short-listed tenderer, in its final proposal, was not prepared to make any payment to the Government as an upfront payment, but instead was asking for a payment to it of \$28 million on one of its bids or \$42 million on the other bid? In other words, they were not prepared to pay anything to the Government to do the project; they wanted to be paid.

Mr CARR: Yes, I understand that is the case. I would reserve my right to check this, but I understand that the other bidders wanted money from government.

The Hon. GREG PEARCE: Your current employer, Macquarie Bank, is also in the same category.

Mr CARR: Just let me finish. I will not be long. I understand that the other bidders wanted money from government. Indeed, that took place with the M2. I am advised that the total money paid by the taxpayer to the consortium that built the M2 was \$250 million. The Government, including its public servants and the RTA and the Ministry, proceeded with this road project on the basis that there would be no contribution from government. For a very good reason, we were funding, from our budget, very important road works around the State. They included roads in regional and rural New South Wales and in Western Sydney.

The Hon. GREG PEARCE: We do not need you to go into that, unless you are going to come back and take some more questions next year, which I hope you will agree to do, given that you appeared earlier in this inquiry. If you want to read out long answers—

CHAIR: If you would just ask your question.

The Hon. GREG PEARCE: The issue then is: you recognise that the other tenderers who looked at this road saw that it was a dog and were not prepared to do we unless they were paid by the Government.

Mr CARR: But you, much to my distress, have missed the very point that Nick Greiner was making. The point Nick Greiner makes it is that it is a virtue that a proposal like this, a bit of infrastructure like this, has the risk borne by the private sector. That, sir, is the whole point. That is what Nick Greiner—and I am delighted you are calling him—meant when he said, "The private sector has taken the construction risk, which was considerable. The consortium has taken the patronage risk, which will mean that they will not get to their equity returns if they are not right." Are you proposing that when the Government faces three bids and goes for the one that offers the best deal to the taxpayer, we do not take that? No, that is an extraordinary proposition and would lend you, if you are in charge of infrastructure one day, open to very regular ICAC investigations. The fact is that when a Cabinet meets and it has three bids—

The Hon. GREG PEARCE: But it did not have that bid.

Mr CARR: —and two of them require the taxpayer to putting money and one of them says, "No," you go for the beard that offers the best deal to the taxpayer.

The Hon. GREG PEARCE: In return you are selling out the people of New South Wales and slugging people for 30 years.

Mr CARR: My goodness sakes, if I am offering this advice to you and you are shadow Minister for Infrastructure—

CHAIR: The witness will answer the question.

Mr CARR: You are putting forward a proposition that says: When faced with three bids, the Government should not go for the one that offers the best deal for the taxpayer.

The Hon. GREG PEARCE: It was not faced with three bids. It was faced with two bids that were extracted, based on the wrong figures.

Mr CARR: Not under my Government. I am proud that our infrastructure tendering process was above that kind of taint. We went for the deal that offered the best for the taxpayer.

The Hon. GREG PEARCE: You went for the deal that was taken out of the context of the tender—

Mr CARR: That is not the view of anyone—it is certainly not the view of the probity auditor.

The Hon. GREG PEARCE: —which was only extracted at the cost of the road closures and the 30-year toll slug—

Mr CARR: I thought I responded to the issue of road closures. Here is the list of the road closures with the M2, which your Government signed off on. They are all the roads that were closed with the M2, which your Government signed off on.

CHAIR: The time for Opposition questions has now expired.

Ms LEE RHIANNON: In your opening remarks and in answer to some of the questions you made great play about the risks with the private sector, and also about the great benefit of the project

being that it will decrease traffic in the city. Are you aware of the enormous number of forced road changes, that there are 71 completed or scheduled, and that 22 of those road changes will expose the RTA to a financial liability, payable to the consortium, if they are removed?

Considering you have made great play about this whole issue of traffic and the benefit to the public, surely you would know, given that you live in the eastern suburbs, that a great number of people are not moving east-west; they want to move around their suburb or they want to come in from the city, and this is causing huge inconvenience to residents and businesses. Surely people should be able to move around their suburb without being faced with the difficulties they are now facing. But these road changes are designed to push people into the tunnel, to get those figures up to 93,000. Do you not think that is very unfair?

Mr CARR: Let me highlight again that every aspect of these road changes was publicly released in immense detail—

Ms LEE RHIANNON: Mr Carr, I have to challenge to on that, because many times you have said that it was not secret. But let us remember that in 2002 we were having such trouble finding out what was going on with this project. We made a call for papers in the upper House. It was your Minister who claimed privilege on many of those documents. It was only in recent months, when we took that decision on privilege back to Sir Laurence Street, that he then released all those documents. So it was your Government that kept this material secret. To this day, we still do not have—

Mr CARR: No. Your question was about road closures.

Ms LEE RHIANNON: And about—

Mr CARR: The question is absolutely about secrecy in respect of road closures. The first announcement by the Government, about the changes in William Street, was on 22 October 1988. All the details on the closure of those two lanes in William Street are here in this document. On 1 August 2000 the second document, the EIS, was released—again, in immense detail, all that information regarding the changes in William Street. That led to an endorsement of this proposal by the Tourism Task Force, by the NRMA, and both the city council, which until that time had been opposed to the Government's proposition for a tunnel.

An eight-page fold-out brochure in relation to William Street referred to all the traffic restrictions that have since come about. The EIS was displayed in 17 locations and on the RTA web site; 70,000 copies of the EIS were distributed, including 6,500 in the Chinese language. Not only did the Government publicise these changes, and not only did the media endorse them as an enhancement of William Street, but the Government actually bought advertising space to ensure that everyone understood what was being proposed.

Ms LEE RHIANNON: Mr Carr, you have not commented on the other road changes—

Mr CARR: I have researched *Hansard* in great detail, and the Parliamentary Library, for comments. There was no comment from your party, with respect—

Ms LEE RHIANNON: That is not true, Mr Carr—

Mr CARR: In respect of all these proposals, there was nothing. There was absolutely no criticism of the changes in William Street.

Ms LEE RHIANNON: Mr Chair, we put in a submission about the EIS in 2000. There was most definitely criticism—

Mr CARR: But there was no criticism of the William Street changes. Moreover, I was able to find only one release, from the State Opposition, in response to all this material and all this advertising. It came from the member who represents the area whose people would have been most affected, that is, the member for Vaucluse. It came out after the changes to William Street had been set out in great detail. The member for Vaucluse, in his press release of 3 January 2001, made one criticism of the Government, and that was that it was not getting on with the project fast enough.

The Hon. GREG PEARCE: The project that was built was not the project in those documents.

Mr CARR: No, that is not right. That is the critical point.

The Hon. GREG PEARCE: Have a look at their evidence this morning. They admitted that the project that was built was not the project in those documents.

Mr CARR: No. That is absolutely the point. The point about tabling this material—and I will leave it with the Committee if required—is that it spelt out the details to a tee. I will go into the detail if you like. I will find the page references and spell it out in greater detail. It actually defined the changes in William Street—not only in those documents but in the media reports. The media reports I have quoted spelt out the lane closures, the extension of the pavements, and all the rest. With all this publicity behind it, the member for Vaucluse, who was then shadow Minister for Transport, says effectively, "One criticism can be made of this project: it's not happening fast enough."

Ms LEE RHIANNON: Mr Carr, are you willing to come back to this inquiry? As you know, we have only just started. We have not heard from the consortium; the issue is very complicated; and not all the documents have been released. It would be useful if you would agree to come back if we have further questions.

Mr CARR: Try to keep me away. I make these two propositions. I am a little nostalgic. We ought to take over the Legislative Assembly for the next one, so I can move up and down, as I always wanted to do for 17 years.

Ms LEE RHIANNON: Given that the cost of a light rail network is comparable to the cross-city tunnel, and you have a great desire to keep the city moving, to make it amenable and to decrease traffic, do you think that the Government would have been better off investing in a light rail network throughout the CBD, the inner-city and the eastern suburbs—?

Mr CARR: I thought you were concerned with street closures. The only way light rail can operate is with significant closure of lanes. To enable people to get from the pavement to light rail running at the centre of William Street would absolutely mandate road lane closures there, and elsewhere where it runs.

My other response is to say that that is an option for the future. I would like to see an extension of light rail through the central business district, but the great challenge with light rail in Sydney is the relevantly narrow, early nineteenth century street pattern that we have inherited on that central spine. I am a passionate advocate of light rail. But light rail threaded down George Street would have a significant impact on the movement of service vehicles and other vehicles around the city. You need to establish definitively—we were never able to do this when I was in government—that the cost benefit when it comes to the impact of light rail would outweigh the removal of buses.

The other challenge with light rail is that you require people who have embarked on a journey to the city from Ashfield or Maroubra to change public transport mode. At Taylor Square, on the other side of Darling Harbour, they have to get off the bus and switch to light rail. Part of the advice we have always accepted is that when you require people to change the public transport mode, they are less likely to use the public transport alternative.

They are the challenges with light rail. I do not say that they can never be eliminated, but Sydney does present real challenges in running light rail in the central business district before you are able to define the billions to extend it to every corner of the city.

Ms LEE RHIANNON: When you were in office, did you receive regular briefings on the cross-city tunnel? To what degree were you—?

Mr CARR: That is not how government works. You have advisers—and I am happy to give you a full account of the evaluation of the assessment teams. My involvement was, first of all, in laying down the policy. The key commitment I made—I was persuaded to make, in co-operation with

my colleagues—was that this would be a privately funded toll road based on the user-pays principle. Unlike the M2, and unlike the city to airport rail link, there would not be a contribution of the taxpayer, because that would squeeze the money we were pouring into Cowpasture Road, Windsor Road, the Pacific Highway, or roads in the Hunter or in rural New South Wales. They were our priorities. I was not going to ask a pensioner on the North Coast of New South Wales to wait longer, or a farmer in the south of the State to wait longer, for essential regional roadworks—

Mr ANDREW CONSTANCE: They are. The regional road network is a disgrace.

Mr CARR: If you had taken \$250 million from the budget, there would have been more delays with regional roadworks—

Ms LEE RHIANNON: But \$25 million of public money had to be put into this project because the money was not there for the Anzac Bridge extensions and some of the other work. So public money has been put into this project—

Mr CARR: No. This is the focus on the so-called upfront fees. It is wrongly called a business consideration. I think that is falling nomenclature. The principle is this. The RTA should see that with future roads projects, unlike the M2, there is a full recouping of its expenses from the private consortium. That is an absolutely valid principle. The Government does that now. It did it in this project—we were praised by the financial press for doing it—based on our assessment of the force of the previous roads project, the M2.

I underline this point. Governments learn from each new bit of infrastructure. The work of this Committee, and the work of the Richmond report, leaked straight from this process lessons that can be applied in the future. The former Auditor-General himself said that the Eastern Distributor had a more robust contract based on the failures for the M4 and M5. I do not think any government will repeat the errors of the city to airport rail link. Governments learn, and the work of this Committee, the work of the Richmond report, and other inquiries, can be valuable in the process so that you get better and better deals.

But I have to underline this again. When the RTA said, with the agreement of Government, "This time around it is purely private-sector funded; the Government will extract all its costs from the consortium," that is sound public policy. The upfront payment was praised in the financial press as an example of the Government getting tougher on consortia and seeing that the public interest was protected. By the way, it means more money available for the regional roads—the roads in western Sydney, the roads in the Hunter Valley, and, above all, the State's biggest roads project, the upgrade of the Pacific Highway.

CHAIR: You are saying you want to save the taxpayer some money, but obviously the consortium simply put that \$105 million onto the toll and increased the toll. Did you take into account that that could happen: that the toll would be increased to offset that amount of money?

Mr CARR: I think it is agreed—

The Hon. GREG PEARCE: You take "no cost to the Government" as meaning: slug the community with the toll and slug the community by taking away the freedom of access to their roads.

Mr CARR: I will respond to your question, Mr Chair, in a moment. The Hon. Greg Pearce has provoked me—

The Hon. GREG PEARCE: The Government is meant to be there looking after the interests of the community, not the Government. "No cost to the Government" is fine, but not at the expense of slugging the community for the extra toll for 30 years and taking away—

CHAIR: We will lose Mr Carr if you do not allow him to answer the question.

Mr CARR: On 22 January 2003 the party represented by the Hon. Greg Pearce proposed a tollway, a tunnel, called the express tunnel, running from the Burbridge bypass to the Warringah Freeway. They proposed it in January 2003 and they said it would be funded by a \$3.50 toll. I quote

the press release from the Hon. Jillian Skinner, MP, the member for North Shore: "The Coalition commits to construction of northern beaches expressway". You compare that with the toll proposed in 2001 for the cross-city tunnel of \$2.70.

The Hon. GREG PEARCE: You have got to use that in comparison. It is \$3.56 for a two-kilometre tunnel.

Mr CARR: That is certainly, decisively, clearly within the ballpark. If that January 2003 figure had CPI applied to it and the GST applied to it, it would be as high or higher than the \$3.56 we are talking about. And I think it is commonsense that it would have blown out anyway.

Mr MATT BROWN: I am particularly interested today to listen to the sudden interest of the Liberal Party and their animated questioning. I wanted to ask Mr Carr: how many questions without notice were you asked during your time as Premier?

Mr CARR: None. This was released in August 2002 with the details of the William Street rearrangements. The details of the lane closures in William Street had been announced back in October 1998 in this document and then in August 2000 the full EIS, with a block by block account of the changes in William Street and the 15 September 2004 William Street upgrade—I was Premier then—not a question. All the media was positive and supportive about the beautification of William Street and this city finally having a presentable, respectable gateway.

Mr PAUL McLEAY: In relation to the beautification of William Street, and you talked earlier about light rail, could you give the Committee your views and expand on the issue of congestion tax?

Mr CARR: I put it simply to you that without measures like this, including the changes in William Street, down the track there would be a government inevitably introducing a congestion charge on traffic in this city. The simple fact is every city in the world is forced to take planning measures and cost recovery measures to reduce the huge surge of traffic into central business districts. This city would be no different. You look at the figures I quoted in my opening remarks and you can see the growth of traffic—20,000 more cars every day on east-west streets throughout the central business district, according to RTA projections, by 2016. That is 6,000 more cars each day on Market Street alone: that would be an increase of 60 per cent on the 1998 levels. Sydney is going to face an increase in population of one million and that will be reflected in the steady increase—

Mr ANDREW CONSTANCE: That is not happening in the Eastern Suburbs.

Mr CARR: It is.

Mr ANDREW CONSTANCE: Where are all these cars going to come from from the Eastern Suburbs?

Mr CARR: Exactly. Have you ever been to Bondi Junction, Mr Constance? It might be worth a visit. There is a distinct population increase taking place there; look at the ABS figures local government area by local government area. There is pressure and cars not only in the Eastern Suburbs. The fact is the central business district of every major city in the world is under pressure as a result of population growth and an increase in car density and that mandates measures like the infrastructure and the traffic changes in William Street that we have seen. The alternative to that is to live with the inevitability of a congestion charge, and that might not be a bad thing, but I can tell you it is headed our way unless you have traffic measures like those that are in place here.

I welcome the evidence of the RTA this morning—and I think it is incontrovertible—about the ramp up of usage of high-quality tollways over time. It took two years for the numbers using the Eastern Distributor to double. But I tell you what, the media at the start of the Eastern Distributor was exactly the same as the media now about this project, exactly the same.

Mr PAUL McLEAY: In relation to your experience, in terms of past government private sector contracts how does this one compare?

Mr CARR: The first point is the M2. The M2 required the Government to put \$250 million into a private sector project. We have learnt from that experience and we said explicitly the RTA will recoup all its costs; not a windfall for the RTA; I am advised not a flow of revenue that enables them to carry out works elsewhere, but the motorists of Western Sydney or the North Coast were going to pay for this road for eastern Sydney: that was the principle. Hence the upfront payment—good public policy.

The second point is that all risk of patronage falls on the private sector. Nick Greiner said it all in that quote I have given you twice. But that is in vivid contrast with that other infrastructure that the Coalition gave us: the city to airport rail link. No one would criticise its engineering achievement, but just bear in mind what it meant for the public sector. The patronage figures were wrong there so the burden fell on the taxpayer and the date on a project that was not going to cost the taxpayer anything—Bruce Baird said in the Parliament in 1992 the airport rail link would be solely funded by the private sector, but when patronage figures were not achieved who ended up paying? The taxpayer, \$800 million after.

Two things stand out in contrast with this project: all risk, as Greiner says, is borne by the private sector—good public policy; there is no payment from the taxpayer—

The Hon. GREG PEARCE: Unless you count the tolls.

Mr CARR: But you proposed tolls. You introduced tollways. Your government introduced tollways into New South Wales that did not exist before the M4 and M5, and you proposed a tunnel—

Mr JOHN TURNER: I thought Jack Lang did with the Harbour Bridge.

Mr CARR: In these hallowed rooms we are not going to mount an attack on Jack Lang, are we? His ghost will come storming in at any moment and get the better of you. You say the outrageous imposition of tolls; here is a press release from your own colleague the Hon. Jillian Skinner proposing a \$3.50 toll, and that is back in January 2003 money.

The Hon. GREG PEARCE: That is a proper toll.

Mr CARR: So tolls imposed by coalition governments are "proper tolls" but tolls imposed by Labor governments to recoup the full cost of a project that has been achieved with, as the ICAC man said, total probity, are improper.

Mr PAUL McLEAY: If the RTA had not received the business consideration fee, what would that have meant for the budget?

Mr CARR: If the RTA faced costs like the cost of a pavement in William Street or the other works associated with this project—and when you have them back they can spell out what they were—if they had not recouped those costs that would have meant \$100 million coming out of the roads budget. In this period 2002-03 this is what we were funding, and I am quoting from the 2002 budget announcements: we were funding \$63 million in that budget towards the fast tracking of a \$323 million upgrade of Windsor Road/Old Windsor Road, making it a four-lane road progressing 12 separate projects along the route. That was perhaps the biggest single project we were undertaking that year, apart from the Pacific Highway, and that would have been squeezed.

The Cowpasture Road and Hoxton Road corridor, building on improvements in south-western Sydney roads in recent budgets: \$36.3 million. That would have been squeezed. \$15 million for bus priority measures to put public transport commuters in the fast lane, including bus and transit lanes, at Parramatta Road, Victoria Road and Windsor Road—again Windsor Road—that would have been squeezed. The Bangor bypass: \$15.1 million being invested in the Bangor bypass in that budget. That would have been squeezed; that would have been delayed. These are vital projects for the people of Sydney, and there are others in rural New South Wales. Widening the Western Distributor to three lanes in both directions: another \$9.3 million. If you have not recouped the full cost of all the works associated with the cross-city tunnel, these projects inevitably would have to be squeezed. The Government has—I am going to sound like Nick Greiner; I am going to give you a full taste of Nick Greiner—a limited pot of money.

[Interruption]

Because we won't borrow. Nick Greiner, again, said it all: but it is not an option for governments faced with the ageing of the population, with that demographic that is coming to hit all budgets, State and Federal, in future years, to just add to borrowing and thereby to run the risk. So you say the Government should just borrow and make it a public road, but that means today the Government would be bearing the cost of patronage figures failing to reach their target.

The Hon. GREG PEARCE: Why would the \$100 million have to come out of the 2002-03 budget when most of the expenditure that they have claimed has only been in the last year, and some of it still has not been expended?

Mr CARR: Because that is when the road was being built, you would have had to have made allowance for it. If it came out of this year's budget there would be another set of equally essential road projects; if it came out of next year's budget there would be another set of equally indispensable road projects that would be squeezed. Surely, someone with your formidable business experience would have to concede—and I saw you at the infrastructure forum the other night; your contribution was sensible—you would have to concede that if the Government does not recoup these expenses from the private sector consortium, the taxpayer has to pick it up.

If you people were in government today, I think you, as much as we, would have learned from the M2 experience and decided that this time around a private sector road will be just that.

The Hon. AMANDA FAZIO: Could I ask you what your reaction was when the operators of the cross-city tunnel first stated that they were going to have all electronic tolling, that there would be no toll booths in the tunnel, given that that was the first time this has happened in New South Wales, and I know they do it a lot in Victoria? What was your reaction to that and what justification did they give to the Government when they said that you had to have a tag to use the tunnel?

Mr CARR: I would need to check the records. I remember discussions at the time but it was seen as inevitable that the other tollway companies were moving in that direction. As you say, it was being introduced from the very start with those major Melbourne tollways. I think I might have talked to the RTA at the time about making it as seamless an introduction as possible and I was gratified when it was rendered pretty much seamless. I saw it as a major engineering and marketing challenge but I was glad that all parties rose to the challenge.

The Hon. AMANDA FAZIO: With the M7, because that is all electronic tolling as well, when you were Premier was that raised by the people who were developing that road?

Mr CARR: I might be wrong but I think by the time we started to consider the M7 West Link the principle was pretty much entrenched, but the RTA will be able to confirm or modify that view.

Mr PAUL McLEAY: Premier, you have compared a lot with the airport rail link.

CHAIR: Mr Carr.

Mr PAUL McLEAY: I am sorry, Mr Carr.

The Hon. GREG PEARCE: He still thinks he is Premier.

Mr CARR: I try to be shy and unassuming.

Mr PAUL McLEAY: I think once a Premier always Premier. How does this project compare with the Eastern Distributor?

Mr CARR: It is very interesting. I went back and looked at the media that reported the advent of the Eastern Distributor. I went back and looked at the reaction to the Eastern Distributor and I found it just about identical to what we have seen with this project.

The Hon. GREG PEARCE: This newfound ability to read newspapers is fascinating.

Mr CARR: I have always read newspapers carefully. The Eastern Distributor got exactly the same reaction as this project. We had headlines about "Traffic Tunnelling"—

Ms LEE RHIANNON: There was no toll-free period, though. It is more extreme this time, Mr Carr. Surely you would acknowledge that.

Mr CARR: I will return to that in a moment, Ms Rhiannon. I will answer this first. The headlines included: "Motorists conned to use tollway", "\$700-million road takes its toll on drivers taking the freeway", "The Eastern Distributor's 400 per cent cost blow-out", "Gridlock just to honour contract", and "Wrong way—tollway deals contempt for drivers". To quote the detail of the articles "The traffic drama is set to continue", "Easy street—revealed the \$15 million winners and the traffic losers of the Eastern Distributor" and "Taking a toll". It goes on and on. I believe the RTA is essentially right when it says, inevitably, traffic figures will rise on this bit of infrastructure as they have risen on the M2, M4, the Eastern Distributor and the M5. There will a ramp-up period but, as with these other projects, the usage will increase. Of course, at the risk of being monotonous, if it were not to increase, the risk is borne entirely by the private sector—a point that my colleague Nick Greiner I am certain will elaborate for you when he speaks to you tomorrow.

In the meantime, 30,000 cars are off the streets of the city. Buses are now moving at a decent speed. Ms Lee Rhiannon is right to mention buses to the eastern suburbs. They should benefit—put that on our agenda—from traffic changes that can now be considered with the advent of the cross-city tunnel. Bus patronage is up. These are precisely the effects that all of us want. There is better movement of public transport running north-south through the central business district. But it can only happen with this project. The Eastern Distributor started with 20,000 people a day using it. No-one could imagine Sydney without the Eastern Distributor today. But it started with low patronage—a mere 20,000 people a day used the Eastern Distributor when it came in but today we cannot imagine Sydney without the Eastern Distributor.

CHAIR: Thank you very much for appearing before the Committee, Mr Carr.

Ms LEE RHIANNON: I have a brief question that Mr Carr would like to answer.

CHAIR: We are over time and the former Treasurer is waiting.

Ms LEE RHIANNON: Did Dr Gellatly tell you at the end of 2004 that the tunnel contract had been amended?

Mr CARR: I am happy to answer anything on notice.

CHAIR: We will send questions in writing to Mr Carr. Thank you very much for your attendance and your frank replies.

Mr CARR: I have never enjoyed myself so much.

CHAIR: I know; I could see that.

(The witness withdrew)

MICHAEL RUEBEN EGAN, Unit 64/5-13 Hutchinson Street, Surry Hills, sworn and examined:

CHAIR: Thank you, Mr Egan, for agreeing to appear before the Committee. We appreciate your co-operation.

Mr EGAN: Thank you very much.

CHAIR: What is your occupation?

Mr EGAN: Fisherman, Chairman of the Board of Governors of the Centenary Institute of Cancer Medicine and Cell Biology, and Member of the Board of Governors of the Woolcott Institute—and contractor to the *Australian Financial Review*.

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

Mr EGAN: I suppose as the best and longest-serving Treasurer of New South Wales.

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

Mr EGAN: I am, indeed. I would like to make a very brief oral submission to the inquiry.

CHAIR: We would like to hear your opening statement.

Mr EGAN: First of all, thank you very much for the invitation to be with you today. I have to tell you I often miss the opportunity that I once had to mix with Arthur Chesterfield-Evans, David Oldfield, Sylvia Hale and Lee Rhiannon—I am glad Lee is here today. But there are just a few things I want to get off my chest. First of all, Mr Chairman, I am quite cheesed off with Carl Scully and the RTA getting almost all the publicity on the cross-city tunnel because this is a great project—a very fine project—and I deserve my fair share of the credit. I am not going to let Carl Scully, Paul Forward or the RTA monopolise all the credit.

A couple of weeks ago I was fishing on the shores of Botany Bay. And, as one does, I got to talking with another fisherman, who recognised me. After a while he said, "Tell me, do you often talk to Carl Scully these days?" I thought, "Oh, here we go!" I said, "What's it to you?" He said, "Well, I used the cross-city tunnel this morning and I got from Balmain to Brighton-le-Sands in next to no time." So he said, "Next time you talk to Carl Scully will you thank him for me?" I said, "Hang on, what about me?" He said, "Well, what about you? You didn't have anything to do with it." I said, "I bloody well did"—and I did. When this project is acclaimed as the great project it is—and it inevitably will be so acclaimed—I want a fair dollop of the kudos.

The Hon. GREG PEARCE: Where did the fisherman travel—from Balmain to where?

Mr EGAN: He lives at Balmain and he drove down to Brighton-le-Sands using the cross-city tunnel.

The Hon. GREG PEARCE: Did he not go through the tunnel? He slipped out through the Eastern Distributor.

Mr MATT BROWN: You go through the tunnel to get to the Eastern Distributor.

Mr EGAN: Some of you do not know where it is! By the way, we keep talking about the cross-city tunnel; there are actually two tunnels. We should be talking about the cross-city tunnels.

CHAIR: Let Mr Egan finish his opening statement before questioning.

Mr EGAN: Let me canvass with you some of the benefits of the project as I see them. First of all, it has already taken 30,000 cars out of the central business district and it will inevitably take a lot more out of the CBD. As a regular user of Sydney's buses, I can tell you that my bus now hurtles

down Elizabeth Street every time I catch it. It has removed part of that east-west blockage that used to interfere with the north-south bus movements. The other feature of this project is one that the former Premier—the Premier emeritus—referred to at great length. That is that it has not cost the taxpayers of New South Wales a single cent. Unlike the airport rail link—which, according to the previous Government, was going to cost the taxpayer not a single cent but ended up costing about \$700 million—this project has not cost the taxpayer a single cent and, as I see it, it never, ever will. That is a great plus for the project. The third great advantage, of course, is that it gets traffic from one side of the city to the other in next to no time, avoiding at least a dozen sets of traffic lights. The fourth, I think, great aspect of it is that the cost of getting from one side of the city to the other is not much more than the cost of a schooner of beer. So I think it is an excellent project all round.

The other point I would like to make, Mr Chairman, is that we do not live in the Garden of Eden. Certainly Sydney, New South Wales, Australia in 2005 is probably as close as you will get to it, but it is still not the Garden of Eden. That means there is no magic money. There is no money tree. There is no magic pudding. There is no monetary magic wand. I know because I looked for all of them when I became Treasurer—I think Peter Collins might have run off with them. But there is no magic money. Everything has to be paid for and there was always a shortage of public resources for all the demands that are put on the public purse. We will never run out of things to do. So there are many projects that if you want to do them and do them in a particular time frame the only option is to see whether there is an appetite for the private sector to invest their money in the project. That was the experience of the previous Government and it is the experience of governments all around the world.

I have to say, Mr Chairman, that I was proudly involved in this very fine project right up to my little fat neck—very proudly involved in it. As I said earlier, when the kudos is being handed around I am going to insist on my fair share. The areas that I was involved in were the major public policy issues but also I was more specifically involved in giving the approval under the Public Authorities (Financial Arrangements) Act, which the Treasurer of the day has to give. I gave that and the project, certainly in my opinion, is going to be a great asset to Sydney. I was not involved, quite properly, in the planning approvals. That is a statutory obligation of the Minister for Planning. Nor, of course, was I involved in the evaluation process. That is done at arm's length from Her Majesty's Ministers. There are experts who do that. There was no political meddling in that at all. That is left to the experts, and I believe the RTA, the Treasury, T-Corp and all the others did an absolutely sterling job and I congratulate them for it. Now, if there are any questions, I would be most pleased to answer them.

CHAIR: Mr Egan, some people have said that to try now to reduce the toll and open a number of roadways the Government should buy the cross-city tunnel. What effect would that have on the Government's budget?

Mr EGAN: It would simply mean that money that would otherwise be available for hospitals, schools, community services, emergency services, policing, environmental protection and all the other vital services that government provides would not be there. One of the things you learn when you become Treasurer is that you can only spend a dollar once: You cannot spend it on X and then go and spend in on Y. It is the economic problem. The economic problem that you learn about in your first week of economics in high school is that there are unlimited demands and only limited resources to meet them.

CHAIR: Can you estimate what it would cost to buy the tunnel?

Mr EGAN: To buy it now, I do not know. I am sure some of the experts can go away and do their sums and tell you. It is a ludicrous proposition.

CHAIR: But it would not be the net cost—the \$680 million.

Mr EGAN: The \$680 million is underestimated. The \$680 million, as I understand it, is the building cost—just the construction cost. The real funding of the project is in the order of about \$860 million because there are development costs, RTA costs and also the financing costs that the consortium were up for while the thing was being constructed. So if you look at the total funding required for the project, it is about \$860 million. That is a lot of money out of any budget or any series of budgets.

CHAIR: Would the consortium not also want loss of profits?

Mr EGAN: Of course.

CHAIR: So that could make it \$2 billion.

Mr EGAN: I do not know. I could not put a figure on it. But it would be something in excess of the \$860 million.

CHAIR: You indicated that you had no involvement in the contract negotiations for the cross-city tunnel—you or your office.

Mr EGAN: No, that is right.

CHAIR: Was consideration given at any time that the cross-city tunnel should be publicly funded? Was that an option?

Mr EGAN: It certainly was not an option when the project was first being mooted, although around about 1996 or 1997—it might have even been 1998 but I think it was probably 1997—I actually considered and mentioned to a number of people the prospect of us establishing a State-owned tollway company. But the more I examined my own suggestion, the more I realised that it would not remove either the construction risk or the patronage risk from the taxpayer—or the political risk either.

CHAIR: How does the cross-city tunnel project differ from other privately financed projects initiated by the New South Wales Government while you were Treasurer? Were any lessons learned from the earlier PPPs? If so, what were those lessons and how did they affect the cross-city tunnel decisions or processes?

Mr EGAN: The major PPP projects prior to the cross-city tunnel that the Carr Government entered into were the Olympic contracts. I think they were excellent contracts as well. They did not put the taxpayer at any risk, unlike the airport rail link project. As far as I am aware, this is the first time that the public sector, the taxpayer, has recouped the expenditure which they were required to make for the ancillary aspects of the project. So I think that is a huge improvement. I think the Premier mentioned that there was actually no payment to the RTA from the M2 project. There was actually a payment from the taxpayer to the consortium for that project, so certainly that is a huge improvement.

CHAIR: If it had been publicly funded, what would you calculate the toll would be?

Mr EGAN: It would be very much the same as it is. I mean, the toll was set by the RTA, which is the maximum toll that the company can charge, but if it had not been a toll project, I can assure you it would not have got past me. I would not have been taking money off country New South Wales, or the schools or hospitals in the Kiama electorate, or in the Heathcote electorate, or wherever, for a project which was not going to benefit those people but was going to benefit people like me who regularly or occasionally use it.

CHAIR: As Treasurer, you would have been strongly opposed to a public-funded tollway because of your policy of reducing the Government's debt?

Mr EGAN: Look, I am a great advocate of public expenditure where it is needed and where it is sensible and there is no alternative. In my budgets we saw, each and every year, very substantial increases in funding for services across the board and for infrastructure, that is, publicly funded infrastructure, taxpayer-funded infrastructure. We have the biggest capital works program ever undertaken by any State in history, not only in dollar terms but also in real terms. If you adjust our current public works expenditure to compare it with previous years in real terms, the capital works budget is about 30 per cent higher than it was on average in the nineties and it is about 50 per cent were 60 per cent higher than it was in the eighties and seventies. There has never been so much public

expenditure on capital works or public services, but there is a limit. There is no money tree. You run up against the limit.

I suppose you can argue that we should have gone into deficit, but that is only a very short-term expedient. All debt has to be repaid, all debt has to be serviced, and to go into debt to have the budget deficits at a time of very high economic growth and very high revenues would, in my view, have been quite reckless. You take advantage of the sun shining to fix the roof. If you do not fix the roof then, you cannot do it when it is raining—pouring—or hailing. You fix the roof when the sun is shining, and I am very proud that we did that. In fact the general government debt of New South Wales is now in actual terms is zero—it is actually negative. I think the last time that was the case was back on January 26, 1788—a day made famous by the fact that my great-great-great-grandfather actually carried Captain Arthur Phillip ashore.

CHAIR: Obviously the Cross-city tunnel Motorway Consortium and its partners have some very hard-headed, experienced commercial people.

Mr EGAN: I am sure.

CHAIR: Did you ever have any reservations about whether the RTA had adequate commercial experience to be able to negotiate the best possible deal?

Mr EGAN: No doubt at all. In fact, the RTA is renowned, not only throughout Australia but elsewhere in the world, as experts in putting these arrangements together. They have had a lot of experience. They no doubt have learnt lessons over time, but if you are engaging in a project of this size, you could do no better than have the people in the RTA negotiating on your behalf. In fact, not only the RTA but also the New South Wales Treasury is internationally renowned for its expertise in these areas.

In fact, as we speak, the head of the Treasury, the Secretary of the Treasury, Mr John Pierce, is in Washington DC at the invitation and the expense of the International Monetary Fund [IMF] to lecture to other countries on how to get the best value out of these projects. Indeed, a year or two ago he was in Prague. On that occasion it was at the invitation and at the expense of the World Bank doing likewise, so I am very, very pleased with the high level of expertise that this State has for those major projects.

Not all of our agencies do because they did not have the experience of being involved in the delivery of large projects like this. So when some of those smaller agencies get involved in a proposed public-private partnership [PPP], they require a lot more external assistance than the RTA would.

CHAIR: In view of your experience in the Treasury, did they at any time give any assessment of the contract? Did they ever do an evaluation?

Mr EGAN: The Treasury?

CHAIR: The Treasury.

Mr EGAN: They keep a watching brief on all these things. The evaluation panel, if my memory serves me right, consisted not only of the RTA experts and a number of external experts in areas such as engineering, law and financial modelling who were brought in for the purpose but also experts from the New South Wales Treasury Corporation [T Corp], and also I think the review panel also consisted or included Treasury officials—probably Danny Graham, who I think you are speaking to tomorrow—a man worth his weight in gold.

The Hon. GREG PEARCE: Mr Egan, did you sign off on some lands tax concessions for the tunnel?

Mr EGAN: Yes, I would have, as part of the overall package, yes. I think there is a limit of \$70,000 on which the consortium has to pay land tax.

The Hon. GREG PEARCE: So the consortium does in fact get a benefit from the State Government?

Mr EGAN: No, you have to look at the whole package. We were leasing our land to them. I think it makes sense that in the total financial package, you make those payments to the Government certain so that a government of a more dishonest complexion down the track—and God only knows that may by some mischance happen one day—could impose, say, land tax of \$50 million a year. Well, obviously, no-one is going to sign up without having some certainty about that.

The Hon. GREG PEARCE: So where in the overall financial package would we find that land tax concession that you gave to the Cross-city Tunnel?

Mr EGAN: I suspect it is in the contract summary. Have you read it? Have you read the contract summary?

The Hon. GREG PEARCE: Did you not also sign off on stamp duty concessions?

Mr EGAN: Yes, I probably did. I do not remember the details of it, but I am sure I did.

The Hon. GREG PEARCE: Did the tunnel also receive concessions on rates—on its other normal rates?

Mr EGAN: I am sure there would be something in the contract which specified what the rates would be for the same reason that you could not leave investors at the mercy of someone down the track saying, "We will impose some prohibitive level of rates which make your project or your contract with us untenable."

The Hon. GREG PEARCE: So we achieve the project at no cost to government, other than the concessions on lands tax, stamp duty and rates.

Mr EGAN: Hang on, they are revenues that the Government and the Council of the City of Sydney would not have got, without the tunnel. They would not have got them, if the tunnel had not been built, so there is no loss of revenue. There is no loss of revenue. I think you can understand that. There is no loss of revenue without the tunnel.

The Hon. GREG PEARCE: They are concessions. I am interested in this fascination of no cost to the Government, but no actual concern for the community, the people who have to pay the distorted tolls, the people who have their access to their homes and businesses destroyed by a project like this, which has run out of control. How do you reconcile your constant theme of no cost to the Government with the wider obligation to the community to actually deliver a good project?

Mr EGAN: I thought I had actually explained that quite well. The community does not just consist of the potential 1.6 per cent of State residents who would use the cross-city tunnel. You would have the residents of Mr John Turner's electorate, or Mr Brown's electorate, or Mr McLeay's electorate subsidising me for using the Cross-city Tunnel. Why should the residents of country New South Wales, why should the residents of Kiama, be subsidising me to use the cross-city tunnel?

[Interruption]

CHAIR: No interjections from the floor, or the person will be removed, including members of the upper House.

Mr EGAN: I do miss him, Mr Chairman. Sometimes I cry myself to sleep thinking that I might never come across him again.

The Hon. GREG PEARCE: We have heard a lot about the up-front fee being for costs recovery, and we will obviously go through the detail of that with the RTA in due course. Can you just explain to me the treatment of the payment of that fee and the fees on the other tollways?

Mr EGAN: The other tollways did not actually get a payment. The other tollways —

The Hon. GREG PEARCE: No, a payment by them—the up-front payments.

Mr EGAN: The other tollways saw the taxpayer subsidising the private consortia.

The Hon. GREG PEARCE: I am talking about the Lane Cove and M7 tollways.

Mr EGAN: Yes.

The Hon. GREG PEARCE: Where there was an up-front payment in each case.

Mr EGAN: Yes.

The Hon. GREG PEARCE: In the 2003-04 budget papers, those payments are expressed to be part of the just other revenue, which was increased from \$50 million to \$344 million. Can you explain how you categorise them as other revenue when they are supposed to be cost recovery?

Mr EGAN: Mr Chairman, I am not a professional accountant.

The Hon. GREG PEARCE: You are a former Treasurer.

Mr EGAN: The accounting treatment is something which the experts in the Treasury take responsibility for.

The Hon. GREG PEARCE: So we will ask them why the funds were treated as revenue and not cost reimbursement?

Mr EGAN: Well, they would be, I would think, revenue, which is revenue into—

Mr MATT BROWN: Incoming.

Mr EGAN: I cannot see what point really turns on that.

The Hon. GREG PEARCE: I just want to ask you a little bit about the variation in December 2004.

Mr EGAN: Yes.

The Hon. GREG PEARCE: It was in relation to funding extra works to \$35 million.

Mr EGAN: Yes.

The Hon. GREG PEARCE: And that was funded by an increase of 15¢ in the base toll, which you agreed to.

Mr EGAN: That is right.

The Hon. GREG PEARCE: How was it that the Government was so strapped for money that it could not afford \$35 million?

Mr EGAN: I suppose we could afford any amount, but that is not the point. The options were really three. One was that that additional \$35 million should be funded out of the RTA's budget, and that simply means that if it had been, there would have been other projects that would have suffered, either in that year or in subsequent years. So that was one choice. The second choice was that it be funded from the budget. That likewise would have meant \$35 million less for other things—schools, hospitals, community services, environmental protection and emergency services, you name it. The third option was that it should be initially borne by the consortium and ultimately paid for by the users, by the beneficiaries, of the motorway. Confronted with those three choices, in my mind at least the choice was very clear. Is that all?

The Hon. AMANDA FAZIO: They have not done their homework.

Mr MATT BROWN: This is as tough as it has been. They are doing all our dorothies.

CHAIR: Mr Constance? We will move to another member now.

Mr EGAN: I do not think I have met Mr Constance before.

The Hon. GREG PEARCE: He is a fine man.

Mr EGAN: A new boy, are you?

Mr MATT BROWN: He lives over your way, in a much better house.

Mr EGAN: I have plenty of advice. He lives over where?

Mr MATT BROWN: Near you.

Mr EGAN: Where?

Mr MATT BROWN: Surry Hills or Bondi.

The Hon. GREG PEARCE: No, he is the member for Bega.

Mr EGAN: The member for Bega. You should be very pleased that we did not take funds off Bega to pay for this project.

Mr ANDREW CONSTANCE: But you are not funding the Princes Highway, Treasurer.

Mr EGAN: But we are funding the Princes Highway. We would have been funding the Princes Highway a lot less if we had to spend \$800 million to fund the Cross-city Tunnel.

Mr ANDREW CONSTANCE: Tell that to the families who have been affected.

Mr EGAN: Well, I get down your way often.

Mr ANDREW CONSTANCE: Good.

Mr EGAN: And I am going to tell your constituents that you wanted that \$800 million for the cross-city tunnel funded by them.

Mr MATT BROWN: Shame!

Mr ANDREW CONSTANCE: I want to raise the issue of the project which, in terms of public-private partnerships, seems to be a new concept—the idea of extracting money up front, a large cash payment free up front, and the way in which tenderers can extract that money back. Obviously in relation to the Cross-city Tunnel, it has been done through the relevant road closures and the tolls. Do you see this as a future means for governments to manage public-private partnerships—by encouraging competition in terms of extracting up-front fees?

Mr EGAN: Well, I think it is important that, when the private sector undertakes one of these massive projects, there are also of course ancillary expenses which the government is up for. I think it is important, if we are not going to keep fleecing the public purse, that the public authorities that are responsible for these ancillary infrastructure and services should be recouping for their expenditure. I think it is important that some of the financial benefits should also issue to the taxpayer.

Mr ANDREW CONSTANCE: What is your understanding of the breakdown of the project fee?

Mr EGAN: I do not know what the breakdown fee is.

Mr ANDREW CONSTANCE: With these types of projects do you believe there is any benefit to governments down the track if information is strategically leaked to consortia as part of contractual discussions?

Mr EGAN: I would not believe so.

Mr ANDREW CONSTANCE: Given that details were leaked in this case, and Carl Scully is on the public record as saying—

Mr EGAN: Hang on. Wait a minute.

Mr ANDREW CONSTANCE: Carl Scully has said very clearly—he has expressed his disappointment that a draft cabinet minute was seen by the consortium. Is there a benefit to government—

Mr EGAN: The contract was signed, sealed and delivered.

Mr ANDREW CONSTANCE: Is there a potential benefit to government for such information to be leaked?

Mr EGAN: The contract was signed, sealed and delivered, as I understand it, before there was any question of changing the location of the stack. It certainly did not impact on either the selection of the Cross City Motorway as the preferred proponent or the ultimate contract.

Mr ANDREW CONSTANCE: Coming back to my question, is there any benefit to government?

Mr EGAN: I think you have got your dates wrong.

Mr ANDREW CONSTANCE: Come back to my question.

Mr EGAN: I have answered that question.

Mr ANDREW CONSTANCE: The answer is yes, is it?

Mr EGAN: I could not believe there would be.

Ms LEE RHIANNON: Do you feel compromised that New South Wales Labor accepted donations from the members of the Cross City Motorway Consortium? Bilfinger Berger in the three years leading up to the signing of the contract gave \$30 500; Baulderstone Hornibrook gave \$55 750; and Deutsche Bank gave \$26 000. Altogether your party took \$112 250 in the lead-up to the signing of the contract. Do you not think that makes people worried about how democracy works in this State?

Mr EGAN: No.

Ms LEE RHIANNON: You do not think it is a problem?

Mr EGAN: No, not at all.

Ms LEE RHIANNON: So no problems with taking money from companies that you give contracts to?

Mr EGAN: I think it is incumbent on most commercial companies to contribute to the democratic process. I would not even object if they contributed to the Greens.

Ms LEE RHIANNON: You have made comments a number of times about how this project is no cost to the public and you have clearly said it is something you are proud of. You would have been busy before Christmas last year and I am wondering if you have forgotten an exchange of letters that you and Mr Scully engaged in about the fact that there was a shortfall in money for this project.

Mr Scully asked you to approve urgently the joint financial agreement for the sum of \$39 million to allow the project to be completed.

Mr EGAN: That is the question Mr Pearce asked. That is why I agreed that that \$35 million should be funded by the consortium and, ultimately, by motorists.

Ms LEE RHIANNON: Had you forgotten you made the comment about no cost to the public before Mr Pearce asked? It is public money that is going into this project.

Mr EGAN: No, it is not public money. I think you are under a misapprehension.

Ms LEE RHIANNON: The \$39 million is not consortium money, it is taxpayers' money.

Mr EGAN: No, not at all.

Ms LEE RHIANNON: Are you saying the \$39 million is consortium money?

Mr EGAN: Yes. It is actually \$35 million, I think.

Ms LEE RHIANNON: There has been some dispute about that according to the letters.

Mr EGAN: It is work undertaken on behalf of the RTA by the consortium.

Ms LEE RHIANNON: I will get the letters later on, but I clearly understood that it came out of our budget.

Mr EGAN: No, that is the very point. I was determined to make sure it did not come out of our budget. It comes out of my pocket as a motorist—15 cents every time I want to use the cross-city tunnel.

Ms LEE RHIANNON: But it was an upfront payment. You are now arguing that because the money comes back it has not been—

Mr EGAN: No, that is not part of the upfront payment.

Ms LEE RHIANNON: I will move on to the banking arrangements.

Mr EGAN: I did not do any of the banking arrangements—good heavens, running down to Martin Place every Friday with a bag of money. The only time I ever saw any money was when a pensioner sent me \$10 in the post to assist with the cost of the public hospitals.

Ms LEE RHIANNON: KBC Finance Ireland was one of the finance companies that became involved in the project, but it had no ratings or annual report, nor financial information for review. I understand it was only discovered when Deutsche Bank tried to sell some of its debt to KBC Finance Ireland. The parent company of KBC was approached to overcome the problem, but refused to give a guarantee. Does this show that when you were Treasurer there were problems in how judgments were made about the financial arrangements and that there were not enough checks in place?

Mr EGAN: Ms Rhiannon, I have to admit that I have not heard of KBC. I have heard of KFC.

Ms LEE RHIANNON: That is precisely the problem. People have not heard of KBC Finance Ireland. It is a financier but it did not have the minimum BBB credit rating issued by Standard and Poor's or a minimum credit rating of BAA2 issued by Moody's.

Mr EGAN: I am quite impressed that you know what a triple A or a B plus is. You have learned a lot since I left the place.

Ms LEE RHIANNON: You were not usually rude, Mr Egan. I did not think you would continue that. It is quite extraordinary that you have boasted again today that you were the best Treasurer when, on your watch, an Irish financial company—

Mr EGAN: They are looking up—an Irish bank.

Ms LEE RHIANNON: — was coming into the deal. That clearly must have been an embarrassment to you because you pride yourself on the wonderful credentials of this State when it comes to anything financial.

Mr EGAN: I think you will find there was a financial expert on the evaluation panel, so the consortium certainly would have been very carefully vetted for its financial rating.

Ms LEE RHIANNON: So you are passing that responsibility to them. You do not think it is because some of your measures for these public-private partnerships are not strict enough?

Mr EGAN: No, not at all.

Ms LEE RHIANNON: As you worked hard as Treasurer to ensure New South Wales had debt, how much money did you understand this project would inject into the public purse?

Mr EGAN: It is lucky to break even. The upfront fee covered the RTA's costs and, as we know, the costs turned out to be about \$39 million more than anticipated, and that was the reason for the variation in the contract. The public purse has not benefited in that sense, but also the public purse has not been suffered either.

Ms LEE RHIANNON: The project lasts for 30 years. As Treasurer you must have signed off with some understanding of the money that would come back to New South Wales. What was your understanding of the financial benefits?

Mr EGAN: The value that comes back to New South Wales in a financial sense is the value of the asset at the end of the concession period, plus any share in revenue that exceeds the revenue predictions. I think that is all laid out in the contract summray—there are some 60 pages, which provide enormous detail.

Ms LEE RHIANNON: I am after the figure or your understanding of what that is. This is where the dispute is. What was your understanding of the financial benefit that would flow over 30 years to New South Wales?

Mr EGAN: I am not anticipating any financial benefit unless there is a much greater than expected patronage. What I am happy about is that the taxpayer—the public purse—is not contributing to the project.

Ms LEE RHIANNON: Mr Egan, as you are aware, this is the first day of the hearings. The project is very complicated and we still do not have all the information and we are yet to meet the consortium. If we have further questions, are you happy to return?

Mr EGAN: I would welcome any opportunity to reacquaint myself with your good self.

Ms LEE RHIANNON: Thank you very much. There was a huge discrepancy between the two tenders in relation to the projected traffic figures for the tunnel. The successful tenderer projected 93 000 vehicles a day and the other tenderer's figure was 60 000 a day. Did any of your staff ever question this huge difference in assessment? I have heard the reasons that you gave earlier about the financial benefits, but that is an extraordinary difference. I wondered if you ordered any questioning of those figures.

Mr EGAN: No. I thought I made it quite clear that at a political level none of Her Majesty's ministers and none of our staff meddled in the evaluation process. That would be quite improper. We received a recommendation from an expert evaluation panel, which was oversighted by a review panel.

Ms LEE RHIANNON: Did you ever ensure there was a contingency plan in place so that if we ended up in the mess that we are now in with the aboveground traffic changes, the Government would step in and ensure that the public were not inconvenienced?

Mr EGAN: You are mixing up two things—traffic changes and financial matters, aren't you?

Ms LEE RHIANNON: Yes, but I think you were in here when I was questioning Mr Carr. One of the questions was about the required traffic changes, of which there are 22. If the RTA reverses those above-ground traffic changes, the RTA—which means the public of New South Wales—will have to pay money to the consortium. There is a clear financial link with the operations of the tunnel.

Mr EGAN: You are putting the cart before the horse. The planning changes, the traffic lane restrictions, preceded the building of the tunnel. They were not put there for the purposes of the tunnel. The tunnel was put there to enable those traffic changes to be implemented. There was a planning consideration. We have a CBD that was laid out well before the motor vehicle was ever thought of. Therefore, we have a CBD that will not be able to manage if every person believes they can drive into the CBD in a car carrying only one person. There had to be a restriction, otherwise, as the NRMA pointed out, the CBD would simply be strangled. It was not just a year or two or three ago, but literally way back in the last century that plans were being formulated to take traffic out of the CBD.

CHAIR: Your time has elapsed, Ms Rhiannon. We have to move on.

Ms LEE RHIANNON: The traffic changes are still occurring and many are scheduled to occur. It is not accurate to say they were already in place before the tunnel was put there. They are being put in place now.

Mr EGAN: The traffic changes were being planned to improve the amenity of the CBD well before the tunnel contract was signed.

Ms LEE RHIANNON: These are not city changes, these are Darlinghurst, Paddington and Woollahra changes. Changes are occurring right now and will continue to occur to push traffic into the tunnel. They have come after the project was completed.

Mr EGAN: Yes, of course, because you could not have done all those things without the tunnel being there in the first place.

Ms LEE RHIANNON: That contradicts what you said before.

Mr EGAN: No, it does not.

Mr MATT BROWN: How many questions without notice were you asked in your time as Treasurer?

Mr EGAN: Literally thousands. At one stage I held the record for the number of questions asked of any minister in the Westminster system. Unfortunately, in the last couple of years, the Opposition decided it would ask me no questions. Also, regrettably, a few years ago the crossbenchers and the Opposition ganged up and changed the standing orders so that when I got the occasional question I was not allowed the opportunity to answer it.

Mr MATT BROWN: You might have answered my next question. I wanted to know how many questions you were asked about the cross-city tunnel in your time as Treasurer.

Mr EGAN: I do not think I was asked one. Given the fuss that is now being made the lane closures, one would have thought that a vigilant Opposition would have been onto that.

Mr MATT BROWN: They were in the planning processes, in the two environmental impact statements?

Mr EGAN: All of them, yes. As the Premier emeritus pointed out this morning, when Mr Debnam issued his one and only press release on the subject, complaining that we were taking too long, he did that after he knew of all of the lane changes.

Ms LEE RHIANNON: Mr Egan, if we had asked you about lane changes you would have just ridiculed us because we were not directing the question to the Minister for Transport.

CHAIR: The Government members are asking the questions.

Mr MATT BROWN: It is interesting to hear that because it is quite confusing to listen to questions from the Opposition as to what their policy is on this particular road. Are you aware whether they support the current policy or are totally opposed to it? Does the Opposition have any policy position on this particular road?

Mr EGAN: Mr Brown, that is a silly question. You know that the Opposition has no policies!

Mr PAUL McLEAY: Can you explain why it is important to protect the taxpayer from financial risks in projects like the cross-city tunnel?

Mr EGAN: Because risks can be translated into enormous financial losses. I mean we only have to look at the big dig in Boston, another tunnel project. I think initially it was going to cost about \$2 billion and ended up costing over \$20 billion, a risk that the taxpayers of Boston and Massachusetts have had to wear. We were certain that was not going to happen here. The consortium was required not only to take on the risk of construction and design, but also the risk of patronage.

Mr MATT BROWN: One often hears that the Government can borrow money much cheaper than the private sector can. In fact, they have probably heard some squawks from the gallery today in that regard. Why should the cross-city tunnel have been funded by the private sector and not by the taxpayer, if that is the case?

Mr EGAN: People who say that the cost of capital is cheaper for the public sector really do not know what they are talking about. What we are talking about here is the rate of interest at which the Government can borrow money as against a private sector organisation. It is true the rate of interest at which the Government can get money is lower than for the private sector—for one reason alone. Not because the cost of capital is lower, but if you are a private financier and you are lending money to me for a project you know that if that project is a commercial dud you probably run the risk that you will not get your money back. When you are lending to me as a government you know that you will get your money back because you know that if something goes wrong the taxpayer will wear the cost. When a government is borrowing money the cost of capital, the risk weighted cost of capital, is actually the same because there is an implicit subsidy from the taxpayer, who bears the risk. Is that clear?

Mr MATT BROWN: Yes.

Mr EGAN: By the way, let us say that this project had proceeded as a public tollway, if we had a publicly owned tollway company and the Government had invested taxpayers' money, had borrowed money on behalf of the taxpayer, and let us say we were in the position that we are in now where the current patronage is well below what was projected, all the critics would be saying, "Hey. Hang on! Why did you take these risks when the private sector had an appetite for taking these risks? Why did you not let the private sector take the risk of and the taxpayer would not be bearing a loss?"

The Hon. AMANDA FAZIO: What was the reaction from the business community when the cross-city tunnel project was announced, in terms of the benefits that they saw both for current business and future business opportunities in Sydney?

Mr EGAN: I am not sure that I have an answer to that. Certainly, the State Chamber of Commerce was very supportive of the proposal, as was the NRMA, but I cannot remember any specific conversations I had with business organisations or business people about it.

The Hon. AMANDA FAZIO: Was there any unfavourable reaction from the business community?

Mr EGAN: No, not at all.

Mr PAUL McLEAY: Coming back to the issue of a absolving risk, can you explain how the cross-city tunnel compares with the Coalitions airport rail link?

Mr EGAN: Well, the airport rail link was one of those projects that was going to be at no cost to the Government. In fact, you will remember the former Coalition Transport Minister boasting about that a number of occasions. Then, shortly before the election at which the Coalition was turfed out of office, he had to admit that actually there would be \$380 million of taxpayers' money involved in the project. Of course, as we know, that ultimately ended up at about \$700 or \$800 million. So you have a private-public partnership project, a project that was meant to be financed by private finance, where the taxpayers of New South Wales contributed about 85 percent of the total capital cost. It is just bizarre, absolutely bizarre. It is a bit like the Port Macquarie Private Hospital, which the taxpayer ended up paying for twice—or would have paid for twice if we had not done something about it.

CHAIR: Just to clarify a point about the taxpayer not having to meet any cost, the road closures seem to be operating on an effective funnelling of vehicles into the tunnel. If the Government, under public pressure, says, "We are going to reopen some of those roads," the government would have to pay a financial penalty.

Mr EGAN: Yes, obviously there is a financial penalty on anyone who enters a contract and then breaks the terms of that contract. But keep in mind the road closures were designed to take cars out of the central business district [CBD]. The tunnel was designed to help that policy objective of taking cars out of the CBD. We make no apologies for that. You cannot have everyone in Sydney believing that they can drive a car into the CBD. The CBD is constrained and traffic was growing day by day. The city was laid out before the motor vehicle had been thought of.

CHAIR: Do you agree, though, it was good financial policy to include those penalties in the contract? From the government's point of view, do you think it was good financial policy to have included those penalties in the contract? If the Government wants to review the closures it will have to pay X amount of dollars? No one knows quite how much.

Mr EGAN: I think it is good practice to limit your exposure when you sign a contract. Otherwise you do not know what you would be up for. But, obviously, if anyone enters a contract and breaches the terms of it, they are liable for damages, so it makes sense to limit your exposure in the terms of the contract that you agree to. I think that is very good business sense.

CHAIR: It is a matter of whether it has limited its exposure or increased its exposure by the way in which the contract was drafted. If you reopened these roads, the Government would have to reimburse the consortium.

Mr EGAN: Still, it is a limitation on the damages, which a party who had a contract that was breached could apply for.

Mr MATT BROWN: I want to ask your question about the airport rail link.

Mr EGAN: Ask me something about the media, because the media's role in this has been egregious, absolutely egregious.

CHAIR: Has the attacks on the cross-city tunnel been a media beat up?

Mr EGAN: It has been a media scandal, frankly. Under the last term of reference, item (g), I think the Committee should turn its attention to the role of the media, because in a democracy the people form their opinions on information which the media provides. Unfortunately, these days the media thrives on crises and scandals, catastrophes and conflicts to get people to buy a paper or tune in. When there are no such conflicts or controversies or crises, the media will create them. As the former

Premier pointed out this morning, we have had the dishonest situation of the media pretending that all of these things have been thrust on an unsuspecting public, when in fact the media not only knew about the lane closures but reported on them, and reported on them glowingly.

One of the things you will notice in some of the press coverage is that journalists just throw in an occasional adjective or word here and there to create the background lightning and thunder, but they can never produce the rain. Occasionally you will see in the coverage of the cross-city tunnel the word "scandal". If there is a scandal, it is the obligation on you and this Committee to unearth it. So I would suggest to you that you invite some of those journalists who have used expressions like that to come and share their information with you. I would not suggest you summons them, I would not suggest you demand that they reveal their sources—I do not want to make martyrs out of any of them—but put them to the test.

Let us see if they can come up with the evidence of a scandal, because this project has been exemplary in the way that it has been conducted. But what a newspaper can do with a dishonest headline is just remarkable. A couple of weeks ago you might have seen that photograph of me in the *Daily Telegraph*. I did not recognise myself when I saw it. I thought: Who is that poor old bugger? It turned out that it had been taken by a photographer lurking outside my home, taken unannounced. I did not see it until the following day when it appeared. The headline stated, "We will drag him here in chains," and the caption under the photo stated, "Troubled. Former State Treasurer Michael Egan."

I will tell you that in the photo I do look troubled. I look very worried. In fact, I look guilty, but what they do not tell you is that it was taken after I had done an hour and a half—I was unshaven and I had not combed my hair. I had just had an hour and a half's exercise, thumping the pavement for 45 minutes and working out at the gym for 45 minutes, and I was rooted! The caption, if it had been honest, should have said, "Elite athlete, exhausted after superhuman workout." Now, that is the media for you.

The Hon. GREG PEARCE: I just want to clarify something. The \$35 million that you signed off on, was that signed off as a variation to the project? Or was it new and additional funding that you approved as a private sector-government funded project?

Mr EGAN: No, I did not approve any funding. That is the point. I was not going to take a cent from the budget.

The Hon. GREG PEARCE: You approved the transaction.

Mr EGAN: Not a single cent! So the agreement which the RTA and the consortium came up with was that the money that the RTA would have to outlay on the 240 planning conditions, which turned out to be more costly than they expected, including the additional lane on the Enmore Bridge, I said—or Carl Scully first raised it with me. He said, "This is something which the users of the tollway should pay. Therefore I propose that we negotiate with the consortium. They will undertake these works on our behalf and we will enable them to lift the toll by 15¢." It is not great amount of money. It is the cost of a third of a cigarette or about five per cent of a schooner of beer.

The Hon. GREG PEARCE: You accepted and understood that this extra funding was not part of the original scope of the project?

Mr EGAN: That is right.

CHAIR: I think Mr Egan would be happy to answer questions if they were sent to him in writing.

Mr EGAN: Certainly. I would be happy to come back in time. In fact, if you like, you can invite me to the upper House every day and I will give you the benefit of my political, financial, economic, philosophical, even theological, insights.

Mr JOHN TURNER: You are working for the Macquarie Bank, too, are you?

Mr EGAN: No. My only remunerative engagement is with the *Australian Financial Review*.

(The witness withdrew)

(Luncheon adjournment)

CHRISTOPHER PATRICK FORD, Director Traffic and Transport, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills,

BRETT JAMES SKINNER, Director of Finance, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills,

PAUL JOHN FORWARD, Former Chief Executive, Roads and Traffic Authority, Level 8 Blich House, Sydney,

MICHAEL JOHN HANNON, Acting Chief Executive, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills, and

LESLIE ROBERT WIELINGA, Director Motorways, Roads and Traffic Authority, 260 Elizabeth Street, Surry Hills, on former oath:

CHAIR: Gentlemen, thank you for returning as witnesses in our afternoon session of this inquiry. We do not have to go through any formalities. Obviously, you are still under oath, and that continues as long as you are witnesses before the Committee. The Hon. Dr Arthur Chesterfield-Evans has asked to be able to ask some questions this afternoon, so we have allocated in some time under the terms of the setting up of the Committee. There is provision for other members of Parliament to ask questions.

Mr MATT BROWN: Would that be out of crossbench time?

CHAIR: Yes, it will come out of my time. If you have a gap or you do not use all your time, obviously that will work out.

The Hon. AMANDA FAZIO: We will happily donate it.

CHAIR: We will commence with questions. How is "improvement of traffic flows", as an aim, consistent with surface road closures and a toll so high as to dissuade, discourage, people from using it, Mr Hannon?

Mr HANNON: Could you repeat the question?

CHAIR: How is "improvement of traffic flows", which is a quote from earlier, as an aim, consistent with surface road closures and a toll so high as to dissuade, discourage, people from using it?

Mr HANNON: As has been indicated this morning, the intention and the objective when the Cross-city Tunnel was conceived was that it was going to have a significant impact on the CBD, and the impact that it was going to have was one where the volume of traffic coming into the city by way of cars on the surface roads was going to be significantly reduced. So the whole fundamental point we start from here is one where the Cross-city Tunnel was intended to take cars under the city, and when it took the cars under the city, then there would be fewer vehicles on top of the city or on the surface roads.

It was also done in the context of an integrated transport strategy. The integrated transport strategy was about looking at the other modes of travel within the city. It was looking at public transport, and that is why it was looking at multiuse car vehicles, so we were looking at transit lanes and bus lanes as a means of getting people into the city. Clearly the city was becoming clogged and congested, as we indicated this morning and as confirmed by numerous commentators. So that was the situation we were confronted with—that we wanted to take the traffic that was coming into the city under the city, and we wanted to reduce the amount of traffic in the city. We wanted to encourage, by way of an integrated transport approach, the greater use of bus lanes and transit lanes, and also encourage more pedestrian movement, and also encourage more bike movement as well because bicycle lanes have been provided. So that was the strategy.

In terms of the toll levels, the toll levels were set earlier in the piece and the appropriateness of the toll is something which is obviously one of the things that will come through in the use of the tunnel. People will make the decision as to whether the toll that has been set is the toll which they are

prepared to pay. As we also indicated this morning, the consortium has the option of reducing the toll, but at this point in time they have not indicated that they are going to reduce the toll, so really it then becomes a judgment for people to make as to whether the toll that has been set is a toll that they are prepared to pay. We simply sit back and look at what happens in terms of the ramp-up that we discussed this morning. As I indicated then, we have noted varying percentage ramp-ups in the first two years of usage of the four more recent toll roads. They range from 20 to 30 per cent in two years up to 120-odd per cent, so we will sit back and see what happens there.

Mr FORWARD: Can I just elaborate a little bit on Mr Hannon's answer?

CHAIR: Yes.

Mr FORWARD: As outlined this morning by a number of the witnesses, there was a lot of debate in fact to capture road space and provide better urban amenity and better access to public transport in the city, and, irrespective of the numbers—but even if you get 30,000 to 40,000 cars using the Cross-city Tunnel, fewer lanes would be required on city streets—that then provides an opportunity to provide some urban amenity to the city. The concept is a bit chicken and egg, this concept about the road closures and the tunnel. In fact, the desire for the road changes—the road closures—many of those preceded the Cross-city Tunnel concept itself. They were issues that were raised by very many people in the community. A distinguished group of architects, urban designers that Mr Hannon has already referred to, the Council of the City of Sydney, the South Sydney City Council, were all demanding of the RTA that this road space be captured early so that, over time, traffic did not grow and then occupy that additional space over time.

A similar philosophy was used on the Sydney Harbour Tunnel when that was introduced. When the Sydney Harbour Tunnel was introduced, a whole lane on the Sydney Harbour Bridge was provided for bus only transport. Rather than have the traffic progressively grow and take over that extra lane space, a whole lane on the harbour Bridge has now been provided for buses and taxis, and that has been a tremendous success in terms of moving public transport in the city; likewise, the western end of the project in Druiitt Street—and the bus movements there that we have talked about this morning have been quite considerable and the improvements there have been quite considerable. So there was a lot of pressure on the RTA to free up that road space, to capture that road space, if you like, for other benefits, not just for vehicles.

The issue of the toll is very much about people's ability to pay and the value that they seek from that toll. One needs to take it back and look at the time savings. If people are going to save 20 minutes, then they make a judgment as to whether that 20 minutes or 15 minutes is worth paying the toll for. What we have noticed on other road projects is that, over time, people start to consider that decision in a fairly rational way and make their choice. So whilst it is a maximum toll, it is the toll that was felt could be set in reflection of the time savings the people would acquire through using the tunnel.

CHAIR: From the evidence we have had today and from what you have just said, the argument seems to be that it does not matter whether it was privately funded or publicly funded, the toll would be approximately \$3.50—it would not be lower—yet would a publicly funded tunnel not have a lower toll because it does not have to pay dividends to shareholders? It does not have to have a built-in profit factor. The current consortium not only has to charge a reasonable price, but it has to build into that its profit, its dividend to its shareholders, which means it must be higher than a publicly funded cross-city tunnel.

Mr FORWARD: Mr Chairman, I find this a very interesting point that you make. The proposition that you have just put to us assumes that the project is going to achieve the patronage levels that have been factored into the financial model. Of course, under that scenario and under the scenario we currently have, the private sector takes all of that risk. Now it is probably fair to say—and this is a question that you could well ask the Cross City Motorway this afternoon—

CHAIR: Yes, we will.

Mr FORWARD: But it is probably that at this point in time they may be below their traffic forecasts, and it is feasible that in the future they may have to in fact borrow money, additional funds,

in order to fund the repayment of interest. Now, that is a risk that the Government is isolated from—totally isolated from—in this project. All that risk at the moment is borne by the private sector. If it was a government toll road, the Government would in fact bear all of that risk itself. People are sort of saying that this project is not going to achieve the financial success that people thought it was going to achieve—mind you, my view on that is that it is early days and you cannot tell, it is too early to judge—but remember that they take all the risks, and the Government will have to factor that risk into their calculations if the Government were to fund this particular project. Once again, the Government may have to borrow additional funds in order to pay the debt. If you are fully debt funded and you are not getting your returns to pay off your interest, then the Government in fact is going to have to borrow a lot more money.

Mr HANNON: I suppose the only other consideration is that while they wear the patronage risk, they also had to wear the construction risk. A project like the Cross-city Tunnel, which is a tunnel through the middle of Sydney with the location that they were in, with the foundations of the buildings, with the railway tracks and with the water and sewage pipelines as well, that risk which they wore as part of their bid would have been something that the Government would have had to wear as well. So if the cost had blown out—and that does happen at times—that would have been another risk that the Government would have to wear; that would be another debt that the Government would have had to fund as well.

CHAIR: How big a factor was it in your mind in accepting the tender from the successful tenderer, the Cross-city tunnel Motorway Consortium—the fact that it was prepared to contribute this gross amount of, say, \$105 million, which was higher, I understand, than any of the other tendering companies? Was that "the" factor in their tender?

Mr HANNON: At the end of the day, the evaluation committee that comprised cross agency and plenty of external expertise made its recommendation to their review committee that it was the best bid, and obviously it was the best bid on all fronts. Clearly, the up-front fee that they were prepared to pay and the project that they were proposing to deliver was the best bid, so it was the recommendation which obviously took on board the amount of money, but it also happened to be a project which we were satisfied could be delivered.

CHAIR: It may be difficult for you to answer this question, but I will put it to you. What is the approximate value of the risk that the private sector has taken on in this project? Did you calculate it? If so, did the RTA negotiate that value downwards?

Mr HANNON: I might ask Mr Wielinga to answer part of that. We operated under the Working With Government guidelines for privately financed projects. This document, which is the Government's policy on how we deliver these projects, has a significant section on risk. It identifies all of the risks that we should consider in delivering these projects, so it looks at sponsor risk, design, construction and commissioning risk, site risk, financial risk, operating risk, market risk, network and interface risk, industrial relations risk, and so on. It is a very comprehensive document. In reviewing all the submissions we got from the consortia we analysed all those risks. Mr Wielinga was involved in the detail of that and he can tell you how the assessment was done.

Mr WIELINGA: I guess I should start by talking for a couple of minutes about project risk and how it is normally handled. There are fundamental principles about allocating risks in all civil engineering projects, called the Abrahamson Principles. In simple terms, that principle says that when you are looking at who should own a risk you try to answer a couple of questions: who is in the best position to control and manage that risk; and, second, who gets the commercial benefit out of the risk if it is managed well? When you are doing these sorts of deals you look at all the individual risks on the project and try to answer those questions and say, 'Yes, we think it is appropriate that this should be the private sector', or 'Yes, this risk should be with government.' When the RTA put out a project deed as part of the detailed proposal, it included a risk profile. Sometimes when bids come in proponents suggest or make changes to that risk profile. So we are actually pricing the differences with them, not the total risk itself. We are not in a position to price the total risk on a project but we have a look at the differences from what we assumed was an appropriate risk profile.

Some care needs to be taken. We get a lot of experienced people involved in this. By following the Abrahamson Principles with risk and having the best allocation of risk, you get the most

efficient outcome. If government were simply to throw all the risk across to the private sector it would price in a premium as a result and you would not get the best outcome for the community. If you did not have the risk of the public sector under control of the private sector, government would be taking on too much. Again, that would affect an appropriate efficient pricing regime. Very early in the tender process we take a careful look at this risk allocation and that is how we manage it.

The Hon. GREG PEARCE: Can one of you tell me exactly how the business consideration fee was calculated and, at the time the contract was entered into, what amount the RTA was trying to have repaid to it to recover costs? You might have to take this on notice, but I would like a line breakdown of the payment.

Mr WIELINGA: We would appreciate being able to take it on notice to give you the full details. To give you the general thrust of it, we were looking to cover RTA costs associated with delivering the project. That includes things such as project development. We spoke this morning about the preparation of environmental impact statements, and the planning work, community consultation and all the sorts of things associated with the project. Early in the tendering process Energy Australia and other utility authorities were undertaking a lot of work in central Sydney. They were building a fairly major power substation at Darling Harbour. They were also putting in a lot of new underground powerlines in the city and were working to a deadline to get that enhancement work done. We had to get involved with them very early and sort out those new arrangements to facilitate the cross-city tunnel. Some fairly substantial public utility adjustments needed to be dealt with before we had an executed contract.

There is the cost of tendering processes, and some adjustments or construction activity around the city that we had to deal with as well. For example, a substation associated with the Crown Plaza Hotel had to be relocated and put into a new building. It needed to be got out of the way fairly quickly. It was a quiet time of the year for the hotel and they asked us to do it over this period when things were quiet. We needed to move fairly quickly, so we facilitated that. We can give you more details of how the money was utilised, but that is the general thrust of where it was used.

The Hon. GREG PEARCE: Just to be clear on that, I am asking for the total figure that you expected to have to recover at the time the contract was signed, on a line-by-line basis for each item.

Mr WIELINGA: I understand the question and I assume when the question arrives it will be spelled out for us.

The Hon. GREG PEARCE: I noticed going through the documents there is a trail of calculations done by the economic services unit, which at various times talks about an RTA development fee of \$54 million and a business consideration fee of \$46 million. In June 2002 assessments were done in relation to a toll of \$2.75 or \$3 to recover the business consideration fee. It is quite apparent as you work through all these documents that by August 2002, the RTA had decided its costs were \$98 million. Does that figure ring a bell with you?

Mr WIELINGA: Yes, it does. One of the reasons for the change was the Energy Australia work I described a little while ago. There were a couple of other matters, on which we will provide details.

The Hon. GREG PEARCE: By August you had decided you wanted to recover \$98 million. Then you did a lot of work with the Cross-city tunnel Consortium leading up to the document I mentioned earlier, the finalisation report, in which you look at the various proposals. Surprise, surprise, the CCM Long 80, as we called it this morning, gave you \$100.1 million as an upfront payment. Looking at that trail of documents, it seems pretty apparent the RTA chose the one that gave it back the amount of money that it wanted.

Mr WIELINGA: That is not correct. I spent a little time this morning describing our assessment process to you where we looked at the financial transaction for this proposal, risk conformance adjustments, non-price assessment, whole-of-life costs, and road user costs. Those sorts of things were all part of the assessment process.

The Hon. GREG PEARCE: I have no doubt you went through a very expensive and lengthy assessment process, but when you follow the trail of documents you see that your whole focus was on working out how much money you wanted to get as an upfront payment, and then you took the one that gave you that amount even though it was not the subject of the initial EIS or any of the supplementary environmental impact statements. It was a proposal that came out of the negotiations when you knew you wanted \$98 million. You ended up with \$96 million, but it is quite apparent going through the documents that that was what drove the final decision. There is nothing else in there that says 'Go for the Long 80'.

Mr WIELINGA: No, when you have a look at what we did in the assessment process—

The Hon. GREG PEARCE: I have a look at it.

Mr WIELINGA: Perhaps I could spend a little time and explain some of those things again.

The Hon. GREG PEARCE: Give me the reasons you chose the Long 80 option. What were the elements that made that option your choice, other than getting the amount of money that you wanted upfront?

Mr WIELINGA: I mentioned to you this morning in answer to a question that there were two significant things: obviously the no cost to government requirement that the RTA had in delivering this project—

The Hon. GREG PEARCE: That is getting the amount of money—the \$96 million?

Mr WIELINGA: That is correct. I said also that we assessed these proposals on their merits, and it was a value for money assessment. One of the advantages of this form of contract delivery is that we get innovative proposals and good ideas from the private sector, and we utilise those when it occurs. It occurred on this occasion. I also said this morning that the long tunnel proposal created a situation for us where there was less construction impact on the community in William Street. The consortium's proposal was to lower the tunnel.

I should take a couple of minutes to describe a cut-and-cover situation. The original proposal for a longer tunnel involved one which was not deep and the method of construction was to close a lane in William Street, build the concrete tunnel structure underneath, put the lid on it and put the traffic back on that lane, and progressively work across William Street while the tunnel was constructed. This lower tunnel option took away all of those construction impacts and was a significant advantage. It overcame some complexities in the Eastern Distributor area; for example, they were able to go underneath, go a little bit longer and tie in at the other end of Kings Cross Tunnel. All of these advantages were detailed in the supplementary EIS we put on permanent display. There was a significant advantage to the community in going with this longer, deeper tunnel construction.

Mr ANDREW CONSTANCE: I have a question for Mr Forward. Looking at your comments in a letter you wrote to Minister Tripodi on 27 October, you stated there was not a practice within government of routine disclosure of amendments to existing contracts. Are you aware of any amending deeds for other public-private partnerships that have not been made public and, if so, what are they?

Mr FORWARD: No.

The Hon. GREG PEARCE: I was having a look at the financial close document, which you sent to the Minister for Roads on 17 December 2002. It has attached to it the pre-signing report, which is quite lengthy and went through various drafts. Nowhere in that document is there an expression of the amount that the RTA was going to receive as an upfront payment. Why would that be? The \$96 million does not appear in your report to Mr Scully.

Mr FORWARD: I might ask for assistance from Mr Wielinga here. I assume that was in previous advice to the minister.

The Hon. GREG PEARCE: Just on that, you would obviously have discussed the amount being achieved with the minister?

Mr FORWARD: I guess there are a couple of factors here. One is that the amount that is paid in either direction for these projects—not just for this project but for all other projects, whether you pay the consortium money or they pay you money—involves a complexity of factors, but on the day of signing it comes down to what the interest rates are. It is only possible to provide an estimate, depending on what you feel interest rates will be on the day you sign. In all these projects, the RTA and TCorp, Treasury Corporation, monitor the movements in interest rates. Until you sign the project, the Government takes the interest rate risk. That has been the case with this project and with all the projects undertaken by the Coalition. You lock in the interest rate on the day that you sign. It gets to the stage that a very small movement in interest rates can change that amount quite considerably.

CHAIR: In regard to the \$96 million, does the new submission you have given us today list the breakdown of what the \$96 million covered?

Mr FORWARD: Mr Pearce has asked for that detail and we will provide it.

The Hon. GREG PEARCE: When you give us that detail, would you also give us an indication of what funds have been expended and what value you gave to the money being paid upfront and the expenditure being delayed. In other words, you have \$96 million, but that was in 2002. Mostly expenditure has not been incurred since then. So you have an interest component on that. I am trying to get to the net figure that the RTA achieved out of it.

CHAIR: Could you supply a breakdown of that?

Mr HANNON: Quite a lot of the money was spent early in the stages, as indicated. We were trying to free up a corridor effectively for the tunnel. The services he talked about, the money was spent early in the piece, rather than later. The dollars are varying.

Mr WIELINGA: In the third part of your question, you have asked for a breakdown. Are you looking for dollars on the day, nominal dollars, or what?

The Hon. GREG PEARCE: How do you calculate it?

Mr WIELINGA: There are different ways that we can do it.

The Hon. GREG PEARCE: You got to the \$98 million that you wanted. Obviously we want it shown against that calculation.

CHAIR: At that time.

Mr WIELINGA: Yes.

Ms LEE RHIANNON: I refer to a document that you forwarded to the Committee entitled "Roads and Traffic Authority: Port Jackson Electorate". It details high profile and highly contentious RTA projects within the electorate; projects for each electoral cycle March 1995 to March 1999, March 1999 to 2003 and post-2003. Clearly it is the primary research for the Sydney member of Parliament, Sandra Nori, to produce election leaflets. Did the RTA produce an equivalent document for the 93 electorates? Or was it only for marginal seats? Who requested the document be produced? What was the cost to the RTA of researching and compiling the document?

The Hon. AMANDA FAZIO: Point of order: I seek clarification on whether the question seeks information that relates to the Committee's terms of reference.

Ms LEE RHIANNON: To the point of order: Clearly it does, because the document refers to the cross-city tunnel. However, unfortunately, in that section of the document that bit is missing. On a page that is un-numbered, there is a "Summary of Highly Contentious Issue Briefings", and one is the cross-city tunnel, also in the Bligh electorate. Another is the key work on a pedestrian bridge at

Leichhardt. I have the bit about the pedestrian bridge, but the tunnel bit is missing. I believe my question is very relevant.

The Hon. AMANDA FAZIO: Further to the point of order: The second part of Ms Lee Rhiannon's question asked whether this document was prepared for all other electorates in New South Wales. Attempting to claim that that is relevant to the terms of reference is too far estranged.

CHAIR: The second part of the question is not relevant to this hearing, but the first part is. If the RTA can supply that information, now or on notice, it could be that the information was available but not actually printed in the document.

Mr HANNON: I have not seen the document. I need to see it before I can comment.

CHAIR: The document is now provided to you.

Mr HANNON: We will take that on notice.

Ms LEE RHIANNON: Whilst acting for the RTA on the cross-city tunnel, Clayton Utz was simultaneously acting for interests associated with some of the private parties directly involved in the project. As far as I have been able to ascertain the list of such parties includes Bilfinger Berger Baulderstone Hornibrook, Abi Group, Westpac Banking Corporation, Deutsche Asset Management and Ernst and Young, the RTA's financial advisers, were simultaneously clients of Clayton Utz while remaining experts with Deutsche Bank and the private companies in relation to the project. Even if Chinese walls were put in place, is that sufficient guarantee that there was no perception of a possible conflict of interest on the part of the private law firm contracted by the RTA to be its independent legal adviser? Is that issue a perception? As you know, perception and a possible conflict of interest are also very serious legally, as I understand it.

Mr HANNON: The number of expert legal firms that assist us in these sorts of projects is limited. If you go to an expert legal firm, a financial firm or a technical firm, they are experts and there are a limited number, obviously they work right across the board. In some technical areas we have a very limited number of experts in the whole of Australia, maybe only a couple in a geo-tech area or traffic management. It becomes an issue for government to find appropriate expertise in the marketplace that can ensure that when we negotiate with the other side we have the best available expertise.

Ms LEE RHIANNON: Accepting that, do you agree with that perception?

CHAIR: Mr Hannon was still finishing his answer.

Mr HANNON: In these situations, a process is put in place where we follow the guideline document that I talked about earlier. We engage on all of our major projects the best available probity auditors so they can help us on both sides of the equation. They can make sure that the experts that we utilise—technical, financial and legal—have processes in place which ensure that our position is not prejudiced in any way, shape or form. They ensure also that when we negotiate with the other side, the processes then put in place are appropriate. That happens to be a fact of life: in a country like Australia where we do not have a lot of large projects, there is a need for us to have the best available expertise. This happens, and we have to have processes which make sure we get around that.

Ms LEE RHIANNON: I move on the Metro-West and the cross-city tunnel. I have two letters from Mark Harris, one in May and one in July this year. Mark Harris is the project director TIDC Integration. I am not sure what TIDC stands for. He is with RailCorp. He raises issues that I imagine you are aware of. I will run through those so I can get an answer from you. He outlined that RailCorp is not satisfied that the structural design, referring to the cross-city tunnel, is of sufficient integrity to preclude cracking of the cross-city tunnel during construction of Metro-West and Metro-Pitt. He said that cracks in the cross-city tunnel could result in concrete flakes or pieces of concrete if the appropriate crack pattern forms, falling on passing motorists.

He further wrote about the area in which the cross-city tunnel was built and that it took some of the land that was allocated for Metro-West. Could you give an up-date on those most serious matters that Mr Harris has addressed?

Mr WIELINGA: Yes. When the cross-city tunnel was built it was necessary for us to place the cross-city tunnel in fairly close vicinity to both Metro-West and Metro-Pitt, the future rail lines that run north-south within Sydney. Metro-West runs under Sussex Street, and Metro-Pitt under Pitt Street. As part of the technical specification for the project, we are in close vicinity to those particular areas. We asked the contractor to put fibreglass rock bolts into the rock instead of steel rock bolts. It was an engineering solution. If in the future they had to cut along those particular rock bolts, it will be easier to cut fibreglass than steel. You can cut steel rock bolts. When the contractor was going through these particular areas, they made a judgment that steel rock bolts were better, and they would look for other solutions.

The issue with Metro-West with State Rail Corporation has been resolved. We are looking at a couple of possible solutions for Metro-Pitt. They have agreed on a timetable to resolve it. It could involve a slight relocation of the proposed pedestrian way on the new rail station, or it could mean a slight relocation of those facilities. It will affect some additional land. Those solutions are being worked through at the moment. Advice to me is that State Rail and the Cross City Motorway Consortium and Baulderstone are working effectively on resolving that. We are keeping a watching brief on it. I am confident at this stage that those issues will be resolved between RTA and the State Rail Authority.

Ms LEE RHIANNON: Who bears the costs of that, the RTA or the consortium?

Mr WIELINGA: It is an issue for the consortium at this stage. We will continue to monitor it and see what the final solution is.

Ms LEE RHIANNON: Regarding the road changes in East Sydney, a number of times today consultation has been commented on. Could you inform the Committee what consultations were undertaken with emergency services, particularly fire brigade officers and ambulance officials with regard to the changes of roads in East Sydney?

Mr WIELINGA: Is there a particular example you are asking about?

Ms LEE RHIANNON: Because of concerns that road narrowing and road closures means that access would be reduced. Road narrowing, particularly along William Street, means that if a fire engine is coming in either direction it is now not possible to pull off to the side because the side is now a pedestrian way. At Queens Cross, which is the corner of Craigend, Victoria and Darlinghurst streets, there has been pedestrian widening, which is where the Darlinghurst fire station is located.

Mr HANNON: Chris Ford, our Director Traffic and Transport, might be able to give you some advice on that.

Mr FORD: In relation to Queens Square—

Ms LEE RHIANNON: Queens Cross.

Mr FORD: I am sorry, Queens Cross, we have had discussions with New South Wales Fire Brigades.

Ms LEE RHIANNON: Prior to commencing the road changes?

Mr FORD: Yes, prior to commencing the road changes, during the consultation period when different options for Queens Cross were formulated. The same would apply to fire services that affect the eastern suburbs. You mentioned Victoria and William streets and fire appliances having to pull up on to the footpath. There are two lines in each direction in William Street, and one is a T2 transit lane. Fire appliances can use that lane.

Ms LEE RHIANNON: My concern was that the two lanes may be blocked. I am interest in you elaborating on the consultation, because it has been raised with us that there have been many consultations. I was interested to hear what had happened.

Mr FORD: I will have to take that on notice. A number of people were involved with the consultation process. It certainly involved New South Wales Fire Brigades. I will come back to you on that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Who devised the base financial model for the tunnel?

Mr SKINNER: The base case financial model you are referring to is part of the consortium's submissions to the organisation. We developed, in consultation with Treasury and other officials, the public sector comparator, which included certain parameters such as what is a reasonable rate of return for equity? What are the required loan rates? What are the different margins that would be expected for a public sector model to go forward? That was put up as part of the expressions of interest. As a consequence of that, different consortia submitted their own proposals. Each consortium had different base case models.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Who devised the base case model for the one that was accepted?

Mr SKINNER: It was provided by the consortia associate doing the proposal. The one we are talking about. I would expect that in each consortia they would have had bankers, equity partners, their own financial advisers, putting together their own financial models as they saw fit, depending on construction costs and risks, the expected equity, the way the finance and the debt was expected to be provided, and each consortia do things differently—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: On page 18 you said that the RTA had received and was satisfied with the audit of the trustee and the companies base case financial models for the project.

Mr SKINNER: What document are you referring to?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The summary of contract. On page 37, the private sector participants base case financial model of 18 December 2002, assumes that the number of traffic connections for the cross-city tunnel as specified in project D will be maintained throughout its operating terms, except during special events. Obviously, part of that base case financial model involves road closures?

Mr SKINNER: I presume that the base case financial model factored in certain assumptions of how they were to derive their revenue streams and the patronage from those revenue streams. The audit you are referring to is a standard requirement for those projects to give comfort that the model has been calculated in a fashion consistent with the assumptions provided by the consortia. So, the audit of that base case model provided us with comfort that the model was consistent with the assumptions they were providing going forward. In terms of specific traffic measures, I am not clear on exactly what you want.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Who was the auditor who gave you this comfort?

Mr SKINNER: What is required in this situation is that the consortia that actually designed this base case financial model are required to commission an independent audit report. They are required to procure that service. As part of that service of procurement, they require the auditor to provide a reliance, by ourselves and others, that the outcomes of that audit are able to be relied upon by ourselves the consortia, equity and others.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You do not choose the auditor?

Mr SKINNER: We are not choose the auditor, no. But, it is an important point to make that we are put as a reliant party in their opinion, and that means that the auditor is required to provide us with certainty, as a reliant party in that document, that the assumptions in the base case model have been adhered to.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it is all about fine chance?

Mr SKINNER: No, it is not at all.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You do not actually get your own auditor to come to your own conclusions?

Mr SKINNER: We rely on the audit opinion.

Mr WIELINGA: We need to explain a process issue as well in relation to the base case financial model. In previous projects the Auditor General has said that government did not understand the financial arrangements of the deed because we did not have detailed access to what are called base case financial models. As part of submitting bids, consortia are now required to submit their full base case financial model. There are a number of processes going on to check the veracity of those models. We get them early. When you have a preferred proponent with a base case model, with RTA people, our financial adviser and Treasury Corporation we have their base case financial model and we do a number of trial interest rate sets in the lead-up to financial close on a project where we utilise their financial model and check it to make sure that the outcome that is ranged is consistent with the outcome that they are getting. We put in place a detailed protocol that Treasury Corporation helps us to develop for the rate-setting process. That is followed on a number of trial settings on the way up and by the time we get to the financial close an independent audit that is done, everybody is very familiar with the way the financial model works. They go and get their own interest rate sets off the market. Everybody does it independently. We both do the calculations independently, outcomes are checked and, with Treasury Corporation's assistance, there is a very good understanding on how that base case model works; and there is a high level of confidence that the numbers that that come out of it during a close to process are what they should be.

Mr MATT BROWN: Point of order: Both Ms Lee Rhiannon and Hon. Dr Arthur Chesterfield-Evans are going close to attacking the professional integrity of lawyers and now accountants, without any substantive basis or evidence and I do not see why those professions should be smeared as they are being smeared at the moment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: To the point of order: The object is to test the competence of the people before the Committee, and indeed the decision-making processes that resulted from that competence. That is what the Committee is for and that is what the questions are for.

Mr MATT BROWN: The questions are attacking the integrity of these professional opinions.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: They are attacking the decisions that were made and the way they went about things. That is what we are here for.

Mr MATT BROWN: I take offence at it.

CHAIR: We just want to keep the questions as straight questions without any inference of corruption or other. You have one more question and then we will move on.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In that you have agreed to do certain things with regard to traffic connections, does this also mean that you are not able to build light rail tunnels or other things that might compete with this tunnel? Does that mean you are totally tied to the car and the number of cars, in terms of the outcomes and limitations?

The Hon. AMANDA FAZIO: I think we discussed this morning when you were asleep.

Mr WIELINGA: No, that is not correct. When you refer to traffic connections to the tunnel what they are talking about is that part of the road network that join up to the connections in the tunnel themselves. If you want to build light rail project that runs parallel to the tunnel, you are entitled to do that. If you put the bus lanes in William Street and Park Street and the T2 lanes for the buses in William Street, and those buses start running along there and they take patronage away from the tunnel because people are using public transport, there is no exposure.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It is not like the M2, where there is a prohibition on building?

Mr WIELINGA: Correct.

Mr PAUL McLEAY: Has the final project deed for the cross-city tunnel been tabled in Parliament, and is it therefore publicly available?

Mr HANNON: All project documents associated with the project—the project deed was submitted to the Parliament in 2003. As some would be aware, the RTA sought privilege on some of those confidential project documents, which was granted by the independent arbiter. Subsequently, in November 2005 I advised, all previously privileged documents were made public. I now understand that all documents are available to the public, and since 2003, I understand, all are available to the Parliament.

The Hon. AMANDA FAZIO: May I just clarify something with you. There was a lot of talk this morning about the long 80 option. I think in response to questions earlier this afternoon from the Hon. Greg Pearce you talked about a further consultation phase once the long 80 option was being considered. I just want to clarify that that meant there was a new planning period for public comment before the long 80 option was approved. Is that correct?

Mr WIELINGA: Yes, that is correct. Perhaps I could refer you to page two of the flowchart that is on the back of the RTA submission. The purpose of the supplementary environmental impact statement [EIS] was to detail the long 80 tunnel option so that we could get some community comment on it. As I said this morning in regard to community consultation, there were several stakeholder meetings and a supplementary EIS was displayed at 19 locations, four public meetings and 13 stakeholder meetings, 25,000 brochures distributed and a toll-free telephone number set up. We got about 1,000 representations from the community on that particular environmental impact statement.

Mr PAUL McLEAY: Why is the RTA concerned with pedestrians, public amenity and public transport?

Mr HANNON: The words, "an integrated transport outcome" have been mentioned a couple of times. One of the unique features of the cross-city tunnel, as has been mentioned a few times, is that the proposed surface changes were largely in place before we really got into the tendering process for the project. It came over a fairly long period of time, where there was a consensus that these public domain space improvements, the provision for public transport, the provision of a cycleway, the wider footpath and so forth were largely agreed as the lead-in to that process. The objectives in the environmental impact statement were focused on those outcomes. The planning conditions of approval that we got for the project reinforced the project outcomes, and subsequently the project deed reflected the planning approval and the EIS for the project. That was the sequence of events.

When you get these sorts of conditions or these sorts of briefs for a project they reflect those outcomes. What was clearly looked for here was an integrated transport solution, and they were looking for a number of benefits, not just a road benefit, on this particular project. We did what we could to accommodate that. I guess that is the cross-city tunnel outcome that we have.

Mr FORWARD: If I could just add a point to that answer about the legislative environmental assessment process—and I repeat the word "legislative", because there are a whole lot of things the RTA did that were outside what was required and in addition to that process. For example, the overview report we put out with the option for the shorter toll was outside the legislative process; it was in addition to that process. So the legislative process for the environmental impact

assessment process actually starts with the Director-general of the Department of Planning—in this case the Department of Infrastructure, Planning and Natural Resources—who issues the director-general's requirements for the EIS. That is a most important point, because in those director-general's requirements was a specific reference to the fact that the RTA should look at improving urban amenity, improving pedestrian access and improving public transport into the city. So the director-general's requirements actually set the framework for the environmental assessment process that then took place.

CHAIR: Were the changes to William Street dependent on the cross-city tunnel project or could they have been made if there was no cross-city tunnel project?

Mr FORWARD: It is the former. That point was made by a number of commentators who said that you could only provide the boulevard treatment to William Street if a cross-city tunnel that actually extended the whole length of William Street was put in place. So a pre-requisite for improvements to William Street was a cross-city tunnel.

CHAIR: The RTA has copped a great deal of criticism from drivers because of the reduction in the lanes in William Street, which I have personally experienced myself, but it is not really something for which the RTA was directly responsible. Would that be true?

Mr FORWARD: There are two elements to that. The first element is that there is construction happening there at the moment, and construction, when it involves lane changes, is always disruptive. If we put the construction facts aside and just look at the narrowing of the lanes, that you yourself have experienced, or the reduction in the number of lanes, that was a requirement of a large number of different players in this process who demanded improvements to William Street and the boulevard treatment of William Street. We talked a lot about that this morning. There are the various councils and the various commentators in terms of architects of urban designs in Sydney. A lot of people were requesting those changes—even the Department of Infrastructure, Planning and Natural Resources was requesting the boulevard treatment of William Street. So that was really something that was, we felt, demanded from the community and demanded from various spheres of local government.

CHAIR: Had it occurred in, say, two years time it may not have been linked with criticism of the cross-city tunnel. What is happening in William Street has, in the public perception, become associated with criticism of the cross-city tunnel. People are blaming the tunnel.

Mr FORWARD: That is correct. As to whether he would have happened if we had done it in two years time, the view was that you had to capture that road space as soon as the tunnel was provided. So you capture the space, rather than allow traffic to build up and start to recapture the road space that was freed up as a result of the additional capacity provided by the tunnel.

Mr MATT BROWN: With regard to the question from my colleague, Mr McLeay about why the RTA is concerned about public amenity and public transport, it is my understanding that the RTA worked directly with transport—particularly with signalling for buses, for instance—and pedestrian access. I would be interested to hear your evidence as to the work that the RTA does in trying to assist a better free run of public transport. Perhaps Mr Forward or Mr Ford could answer that question.

Mr FORD: I would be pleased to answer that question. The RTA has quite a significant bus priority program. The program is directly concerned with the provision of bus priority construction—for example, bus lanes, what are called B signals, which are blue signals giving buses priority at intersections, transit lanes and sections of bus-only road. That is a fairly substantial three-year program. It is currently at around the \$30 million mark, so it is a substantial public investment program. That program is oversighted by the Ministry of Transport and a committee of which the RTA is a member. In the city the Sydney City Council is actively involved on that committee, as indeed the bus operators are involved. That committee meets tomorrow. It is also charged with the oversight of the implementation of the bus priority measures associated with this project.

Coming back to bus priority and the role of the RTA, we have a very clear charter for the efficient movement of people as well as goods, and buses are far more efficient in moving people than

most motor cars—50 people in a bus. Bus running times in the city have progressively deteriorated as traffic volumes in recent years have increased, and in particular the north-south movement of buses in both George and Elizabeth streets with the destination of The Quay or the origin of The Quay.

A benefit of the cross city motorway is the reorientation of the signal phasing, which currently favours east-west in the morning and evening peak, progressively to north-south and hence improving conditions for bus operations in the north-south direction once traffic is moved into the tunnel. That is a major benefit arising out of this project, which is directly focused towards bus running time improvements in the city.

Mr MATT BROWN: As a strong supporter of public transport, I am pleased to hear that evidence. My next question is to Mr Skinner. The issue of KUC Finance—not to be confused with the former Treasurer's KFC—was raised earlier today by Ms Lee Rhiannon. Was there any risk to government for a debt provider to the project not having the appropriate credit risk?

Mr SKINNER: In these arrangements the consortia have to pull together a number of different players to put a project together. One of these players is certainly debt. In most of these arrangements it is syndicated debt, meaning a number of parties are involved in putting together a debt package for the consortia. One of our requirements when we went to the market on this was that they had to be at least a triple-B rating as part of Standard and Poor's credit rating system. That is the requirement of what the consortia has put together.

KBC Finance is certainly a smaller provider in relation to the other debt providers in the syndicate. Deutsche Bank, another significant player in the debt provision, was looking to have part of its debt sold off, if you like, in this situation, and KBC Finance was the player asked to look at doing that. Because of that change, and under the RTA consent rights, the consortia had to come back to us to make sure we were comfortable with an arrangement going forward. It was part of that and part of our due diligence process that we have identified that this player did not have a Standard and Poor's rating because of the size and structure of this KBC Finance.

Due process from that point is that we are required not to unreasonably withhold consent, and to withhold consent requires that the RTA or the Government in this situation would be no worse off. What we had to look at then and what would normally happen in the debt markets is that you look at the group or the parent company. The parent company in this situation was KBC Group, which is a large international Irish arm of finance debt provision. They are well known to the marketplace and then have a Standard and Poor's rating of an A, and they also provided us with a letter of comfort. With those things taken on board we felt it was difficult for us to reasonably withhold our consent to allow them to change that structure of the debt that was provided.

Ms LEE RHIANNON: My document said the parent company would not guarantee?

Mr SKINNER: No, what I said was we got a letter of comfort, which is different to a guarantee.

Ms LEE RHIANNON: You were happy with that?

Mr SKINNER: We were comfortable with that.

Mr MATT BROWN: To the RTA, no-one specifically: Are you aware of suggestions that the RTA has exceeded its legal authority by signing the project for the cross-city tunnel, and have you got any advice as to your legal authority?

Mr HANNON: We are aware of suggestions and we have sought senior counsel's advice. I will quote from part of that advice and we can give a copy of that advice to the Committee.

CHAIR: Will you table that for us?

Mr HANNON: We put four questions to senior counsel. We asked, "Does the RTA have power to enter into the cross-city tunnel contract or arrangements?" Amongst a long advice, it said, "Yes. It is within the power of the RTA and the Minister for Roads to cause the cross-city tunnel to be

built and to authorise the imposition of a toll on its users. The RTA has power to construct roads, tollways and road tunnels and the chief executive has power to enter into contracts for the performance of such functions." And, "that the joint financing arrangement entered into by the RTA in relation to the cross-city tunnel was one which was approved by the Treasurer and as a consequence the powers conferred on the RTA took effect." That was the first question's response.

The second question we put to senior counsel was, "Do the cross-city tunnel contractual arrangements purport to fetter the RTA's statutory discretion in relation to the management of the road network? In other words, do they seek to preclude the RTA from exercising discretionary powers for performing public duties conferred or imposed on it in respect of the road network?" The answer was, "No. Provision made by clause 18 of the project deed is clear and unequivocal." The third question we put was, "Does the principle of law that a public authority cannot fetter its discretion, preclude it from exercising discretionary powers or performing public duties by contractual or other undertakings or other undertakings applying to the cross-city tunnel contractual arrangements?" The answer was, "The principle applies because of its general application but it has not been infringed and the Act affects its possible application in any event."

The last question said, "In the event that the RTA will work to revoke or alter certain traffic restrictions to which the cross-city tunnel contractual arrangements refer, would the RTA be liable to pay compensation or provide other relief to the companies who are parties to those arrangements?" The advice says, among other things, "The project deed does contemplate the traffic arrangements specified in clause 18 may be changed." He goes on to say, "It is important to note that under the project deed a material adverse effect will occur only where there is an effect on the specified matters which is both material and adverse." It says, "It is not possible to determine whether the RTA is liable to pay compensation to the trustee or the company or provide other relief to them under the project deed without specific information about restrictions." That goes to the issue we spoke several times about if the contract says certain things are going to happen. If those things are reversed, obviously there is a potential exposure. That advice we can make available to the Committee.

CHAIR: You will table that? Can we make that document public?

Mr HANNON: Yes, you can.

Mr ANDREW CONSTANCE: Is there any indication from the tunnel consortium that it will sue the Government if the Government seeks to redress the congestion issue by reopening some roads?

Mr HANNON: I am not aware of that suggestion at this stage because I do not think the Government, as far as I am aware, has suggested it is going to reverse any of the street closures at this stage.

Mr ANDREW CONSTANCE: So, there has not been any indication from the consortium?

Mr HANNON: No, not that I am aware of.

Mr JOHN TURNER: The briefing by Mr Forward to the Minister on 13 October states that nothing in the project deed limits or restricts the ability of the RTA or government to manage the transport network generally, that is maintaining and managing roads, et cetera. Then it says, "However, if there are changes by the RTA in the future it may leave the RTA being obliged to provide certain financial or other relief to CCM." While it appears there is nothing to limit your ability to manage the roads there is significant possible financial penalties in relation to it.

I note further that the document says, "The potential financial exposure of the RTA under these provisions may be particularly high in present circumstances where the trading performance of the CCT is below that projected in the base case financial model." That raises two questions. One is what would be that particularly high amount of compensation that could be payable and, secondly, we heard this morning the former premier say this is just an aberration, that in a couple of years time we will all be happy and this tunnel will be a wonderful thing. But even your comments here say that the CCT is below that projected in the base case financial model. It is obviously below their figures that they had on the table at some stage. So, what would be the significant penalties and do you say the

project is well below what was projected or it is all just an aberration that will go away in a couple of years?

Mr FORWARD: The figures at the moment are relatively low although they are clearly growing. The Government is not exposed to any financial penalty as a result of that.

Mr JOHN TURNER: Not in relation to that, no, but it is a twofold question. You were saying earlier today that this is nothing to worry about because it is the normal thing that the Eastern Distributor had low loads when it first opened, et cetera, but this statement of yours says the trading performance of the CCT is below that projected on the base case financial model. They have done their base case and their levels and it is below that. So there is really a problem out there.

Mr FORWARD: No, there is not. I can only repeat the answer I have given many times. The Government is not exposed to any financial penalty as a result.

Mr JOHN TURNER: I am asking the question about whether the figures done by the CCT are well below the worst-case scenario the CCT has. It says—

Mr FORWARD: Mr Turner, for the past five weeks CCM collected zero revenue on this project.

Mr JOHN TURNER: This is as at 13 October we are talking about.

Mr FORWARD: For five weeks there was no toll on this project. The Government was not exposed to any financial risk.

Mr JOHN TURNER: But the numbers going through tunnel are lower than what they calculated for the worst-case scenario.

The Hon. AMANDA FAZIO: So what? That is their commercial risk.

Mr JOHN TURNER: We are saying in a couple of year's time this is all going to go away. It is obviously not going to go away.

CHAIR: The RTA is saying there is no financial liability to the Government.

Mr JOHN TURNER: We are not talking about potential exposure. The numbers are lower than they had projected.

The Hon. GREG PEARCE: Can you explain to me why the RTA was opposed to the toll-free period initially?

Mr FORWARD: The RTA was not opposed to the toll free period. That was a decision for the Cross City Motorway.

The Hon. GREG PEARCE: I am looking at an email of 20 August from Mr Paul Willoughby to Mr Wielinga in which Mr Willoughby is scathing about what he called the alleged decision to have a toll-free period. Do you recall that, Mr Wielinga?

Mr WIELINGA: No, I am sorry, I do not.

Mr FORWARD: Could I just make a point here? Mr Willoughby does not set the policy for the RTA.

The Hon. GREG PEARCE: What about Mr Howard Penn, on 11 February 2004, where you are dismissing the proposal for a tunnel opening on 30 June 2005 and there be a toll free operation of four weeks from 21 July 2005? You do not recall that one either?

Mr WIELINGA: No, I do not, I am sorry.

The Hon. GREG PEARCE: Will you take them on notice? One is 11 February 2004 and the other is 20 August 2003. Was there any disquiet in the RTA about the traffic modelling and the possibility that, given the cross-city tunnel consortium bid was so much higher than the other two tenderers, was there concern that their bid might have been unrealistic and the RTA should be cautious about accepting their dollars based on their figures?

Mr FORWARD: We had independent traffic advice from, arguably, Australia's top traffic modelist. This is not a science; it is trying to project human behaviour. It is trying to look at a period of a number of years. All sorts of variables come into play here. One has to make the best assessment of that. It was our view that these were reasonable figures, given the longer-term nature of this project.

The Hon. GREG PEARCE: Would you have been confident in accepting the consortium's bid if there were concerns about whether their bid was sustainable, and about whether their figures were so rubbery or so worrying that they may not be able to sustain their bid?

Mr SKINNER: Let me make a number of points here. Firstly, the consortium takes all the risks on the traffic figures. Secondly, there are considerable equity funds put into this project. The bankers and financiers who put in that equity also have a view on traffic figures, and they also get independent advice on the traffic figures. The equity is provided to these projects before the contract is signed. That is an important point. Before the contract is signed, the equity is fully underwritten. So the banks do their own due diligence on the traffic volumes. This project was fully underwritten before the Government gave it approval.

The Hon. GREG PEARCE: Would you regard 5 per cent or 10 per cent error in the traffic figures as being of sufficient concern to warrant even further testing of the figures?

Mr MATT BROWN: Mr Chair, is the Hon. Greg Pearce talking about the motorway's traffic figures or the RTA's traffic figures?

The Hon. GREG PEARCE: The motorway's traffic figures.

Mr SKINNER: The RTA carries out some sensitivity tests to understand at what level the motorway is able to repay its debt—not its equity, because it takes the full risk of these projects. With a 5 per cent or 10 per cent variation in traffic, we were comfortable that it could repay its debt.

The Hon. GREG PEARCE: Could you explain the November 2002 Economic Services report, in which Ms Legaspi wrote that under the RTA traffic a minus-5 per cent CCM was close to being in default? Also in the report to the Director Finance, Ms Legaspi wrote:

Running all the proposed scenarios simultaneously create model integrity problems with the CCM Model (ie, Target rates of return and debt covenants were not met).

So your unit, in running the CCM model, found that they were close to default, and their target rates of return and debt covenants were not met.

Mr SKINNER: I would have to familiarise myself with that piece of advice you have there. I would say it is part of normal process within our unit to do certain testing in that regime, but again I would have to take the question on notice.

The Hon. GREG PEARCE: With regard to your testing of their model, in November 2002 you concluded, "They are close to being in default. Their target rates of return and debt covenants were not met, and any further reduction will not meet debt covenants as well." Did you not have cause to be absolutely terrified by this bid, and as to whether the consortium would achieve the traffic that it was working on and be able to meet its debt requirements?

Mr SKINNER: Again, I would have to see the advice you are talking about, and see what assumptions that report was based on at the time. But again, I would have to say to you that all risks in this situation are with the private sector consortium that has put this forward.

The Hon. GREG PEARCE: You are simply happy to say, "They are at risk, and we have done the numbers and we think that potentially they will not be able to meet their debt levels, but we will just go ahead anyway"?

Mr SKINNER: No, that is not what I am saying.

The Hon. GREG PEARCE: Would you have a look at that report, dated 15 November 2002, which is from Julieta Legaspi to the Director Finance, who I assume is you?

Mr SKINNER: Yes.

Ms LEE RHIANNON: Mr Skinner and Mr Wielinga, there has been speculation that the New South Wales Government considered taking full control of the controversial cross-city tunnel. I refer to some late-night emails between you in October—perhaps on 7 October. Mr Brett Skinner told Mr Wielinga:

... it would be best financially to let commercial pressure influence the tunnel operators to adjust prices to get traffic into the tunnel. Or if they don't, the asset could be up for a cheap sale price.

There was also discussion that reversing road closures would cut tunnel use by 25 per cent. A buy-back price of \$1 billion was also mentioned, and it was suggested that if nothing was done the price could be driven down. Clearly, there is speculation between you, and perhaps others, about reversing road changes, how much this will cost, and a buy-back price. Could you share with the Committee other discussions you have had about these matters, and tell us where those discussions are up to?

Mr SKINNER: Obviously that is an email I forwarded to Mr Wielinga on that particular evening. I think it is important to say at the outset that the Government has certainly made a policy decision that they do not intend to go back to the negotiation table and reopen this contract. I think that needs to be said at the outset. What I would follow that up with is that, as I am sure you would appreciate, in our position to monitor these sorts of contracts and how they are performing, we are regularly doing different analyses to provide an understanding—for ourselves as much as anything—about where these things might be at.

With regard to the sort of discussion you have referred to in that advice to Mr Wielinga, I also state that it is far too early to be considering these sorts of issues. Certainly only parts of that have come out of that particular email. That is because we are only four, five or six weeks into this project, and the traffic numbers and the impact of the traffic numbers need to settle down through the ramp-up we have talked about.

I suppose the other part of the reason why we are looking at it at such an early stage is very much one of the risks we cannot transfer to the private sector, which is the political risk, and the fact that there was quite a deal of debate, as there still is now as a result of this inquiry, about what Government may need to consider doing in terms of negotiating this contract. Our research and analysis was very much on that preparatory basis.

Ms LEE RHIANNON: Mr Hannon, why has the cross-city tunnel project first amendment deed, the one dated December 2004, still not been summarised and published in accordance with the Premier's guidelines?

Mr HANNON: I understand that the amendment deed has been summarised, and that it has been put on our web page.

Ms LEE RHIANNON: Why was it late? I am sure you are aware that the Auditor-General has also criticised the Government's failure to publish details about the changes to original contracts for public-private partnership projects, and that is an example of one of these delays. So why was it late?

Mr HANNON: I think you would be well aware of why we were late. I think Mr Forward indicated earlier that the amendment deed was not put on the web because the RTA's view at the time was that the custom and practice of the RTA was that variations and amendments to contracts were not captured by the circular. That has since been corrected.

Ms LEE RHIANNON: I understand there has been correspondence from the RTA—and I imagine you have had meetings about this—expressing concerns about the three slightly raised median strips near Sir John Young Crescent, and that you have expressed concerns about the safety consequences of those median strips. Could you inform the Committee what has been done? In correspondence with Clayton Utz you have expressed concerns about safety and about the possible impact on your local contractor if anything is done to those median strips.

Mr HANNON: Do you have a document you are speaking to, in terms of the RTA expressing concern?

Ms LEE RHIANNON: I do not have the document with me, but there is a letter or email in which you sought advice from Clayton Utz about what would happen under the contract if these median strips were removed.

Mr HANNON: I am not aware of that document.

Ms LEE RHIANNON: With regard to some of the road changes, were any studies undertaken before Bourke Street and the other street in the vicinity were closed and narrowed?

Mr WIELINGA: There are a couple of conditions of approval. In the planning approval for the project, there is a condition of approval associated with Bourke Street. From memory, I think it is condition 288. That required the RTA to look at that intersection with William Street and to reconsider the reinstatement of a right-turn lane. There is our report on the RTA's web site going into the details of that community consultation associated with Bourke Street, and I think there were 144 submissions. We can provide a copy, but that is certainly on the web site. There is also another condition of approval associated with the traffic calming devices that are required in Paddington, at Niel Avenue, Brown Avenue and Glenmore Road, again from memory.

Ms LEE RHIANNON: Is it correct that the majority of the submissions you received about Bourke Street were critical of the changes to that intersection?

Mr WIELINGA: I would need to check. I was not directly involved in that detail, but we would be happy to provide you with some advice on that.

Ms LEE RHIANNON: Do Mr Ford, or any of the other members of your panel, have an answer?

Mr FORD: Again, I am not aware of any.

Ms LEE RHIANNON: I understand that the majority of the submissions you received about the changes to Bourke Street were critical of the changes.

Mr WIELINGA: I am not aware of that. But again, I need to come back to you on that.

Ms LEE RHIANNON: Are you aware that businesses in that vicinity have gone bankrupt? For example, Joybellies cafe has closed, as well as a backpackers hostel. Are you aware of this?

Mr WIELINGA: We will have to take the question on notice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I am interested that the Government is very keen to get rid of risk. I do not how Bradfield would build the bridge, or how the rail network would have been built in those days. When you said it was silly to take all the risk, are not motorists taking the risk, in the sense that you have now lost control of traffic within the city because you have had to block many of the roads? Have not motorists taken the risk?

CHAIR: You will have to rephrase the question.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are not motorists taking the risk? You have not had to guarantee money, but you have guaranteed certain things in order to keep traffic

numbers up. In a sense, if you get that wrong, the motorist takes the risk. In other words, they take the risk of either paying through the nose or getting there very slowly?

Mr HANNON: As I said in my opening this morning, what were the objectives that were set for the delivery of this project? Sure, it was about building a tunnel, but it was also about doing something with the city once we removed 30,000 vehicles from the city streets. That is all about looking after the other issues, which are set out in the document I held up this morning. The Action for Transport integrated transport plan indicated what the Government was about back in 1998-99. It was about improving Sydney's air quality, which is about removing vehicles from the city and removing congestion, reducing car dependency, and moving towards public transport, bikes and pedestrian movements.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Was it not cost neutral, though, to have built a light rail to, say, the University of New South Wales? Would that not have had the same effect on traffic and also have lessened to the number of people who became car dependent, or does the RTA not consider that?

Mr HANNON: Sorry, what was your example?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: My understanding of the time the cross-city tunnel was being considered was that another option was to build light rail to the University of New South Wales from Central and that would, of course, have been filled both ways in peak time and taken a lot of cars that would have come from the eastern suburbs. Those commuters would have gone by light rail. It was roughly cost equal. The RTA, presumably, was not involved in that because it was a non-car option. Is that true?

Mr HANNON: I am certainly not aware of that study, no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: As far as this financially, is it not the case that about 10 per cent of projects blow out very greatly on their cost, but most of them are close to cost, but if any consortium or anyone else doing it is only financing one project they have to finance it for the worst-case scenario? Thus, if you are spreading your risk over 10 projects you would not have to build in as big a risk premium as if you were just doing one.

CHAIR: That may be a question for the consortium.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: No, it is a question for the RTA because they would have the option. If the RTA had financed this one as one of the many projects they do they would not have to build in as big a risk because they are doing it over a bigger cost basis.

The Hon. GREG PEARCE: This is Democrats at the bottom of the garden fairy stuff.

Mr HANNON: I indicated earlier that the guidelines we follow consider probably one dozen different areas of risk and, clearly, we had many consortia seek registration of interest. We selected three. Clearly the one who takes the most conservative approach to risk is going to really not have too much chance of winning the contract. That is really what this is all about. That is a risk element.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You are still going to have a higher risk premium if you have a single project as opposed to a number of projects, do you not?

Mr WIELINGA: It is probably important to make the point, with companies that tender for one project of this magnitude that are not dealing with just one project, they are tendering in a number of different tender areas both all around Australia and internationally. They are dealing with a continuous large stream of different projects. They are looking at it at balance sheet level, not at individual project level where they are managing risk.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You say that the fact that only one in 10 blows out means that they can take that risk themselves because of the other nine projects they are doing, irrespective of an RTA one?

Mr WIELINGA: Yes, it is the whole order book for the company that is the consideration.

CHAIR: I think we are moving into the hypothetical now. We appreciate your attendance today, answering our questions and being so helpful. We may need to have you come back. Probably you hope that will not happen, but we will have to see how the Committee progress in its inquiry. You have given us a lot of material today, and we appreciate all the time you have given to the Committee for its inquiry, especially Mr Forward in his position at the moment. We appreciate your attendance.

(The witnesses withdrew.)

Short adjournment

PETER RICHARD SANSOM, Chief Executive Officer and Managing Director of Cross City Motorway Pty Ltd, corner of Palmer and Cathedral Streets Woolloomooloo, sworn and examined:

CHAIR: What is your occupation?

Mr SANSOM: Civil engineer.

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

Mr SANSOM: I am the Chief Executive Officer and Managing Director of Cross City Motorway Pty Ltd.

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

Mr SANSOM: Yes.

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 and we will go into camera. Do you wish to make an opening statement?

Mr SANSOM: No, I do not.

CHAIR: Perhaps you might indicate how long you have been involved, because some of the questions may go back to pre your appointment.

Mr SANSOM: Yes, certainly. I commenced with the Cross City Motorway on 16 December 2002.

Mr MATT BROWN: Was that in your current capacity?

Mr SANSOM: Yes, that is exactly correct.

CHAIR: That covers pretty well all the period we would be concerned about, I would think. As you know, there has been a great deal of concern—I think probably you have more concern—about the volume of traffic in the tunnel. How were the estimates of traffic volumes arrived at, particularly the figure of 90,000 cars per day on which the base case financial model is based?

Mr SANSOM: Essentially, Cross City Motorway employed an international firm of consultants, Hyder Consulting, to undertake the traffic analysis associated with the provision of the cross-city tunnel.

CHAIR: What are the consequences for your company if the estimates are incorrect?

Mr SANSOM: Cross City Motorway bears all the risk associated with the traffic volume patronage, and there is a 100 per cent commitment from the shareholders and the shareholders are taking an extremely long-term view on this project. We are now only three months into what is, after all, a 30-year contract.

CHAIR: You would have a sliding scale, in other words, of what you expect would be the first traffic volume figures and then the next year, the next year and so on. So you never expected 90,000 vehicles in 2005?

Mr SANSOM: No. Certainly, this is the first project in the world that has opened as a full electronic tollway with all its systems operational from day one. This is a phenomenal project and, I guess, there are a lot of things to be learned. I know the world tolling industry is watching closely Cross City Motorway.

CHAIR: Could you table that sliding scale of what you expected the traffic to be over a period of time, every five years or so?

Mr SANSOM: Yes. At the time, when the project was first bid, there was a realisation that the project would probably take 18 months to two years to reach the patronage levels predicted. We anticipate now—

Ms LEE RHIANNON: Do you mean in 18 months it would reach 90,000?

Mr SANSOM: That is what the Hyder study said at the time. As I said, this is the first full electronic toll road that has actually opened working. As a result of that we now think it will probably take three years, something of that order, to reach those sorts of patronage levels.

CHAIR: Just to put it on the record, we have asked the RTA these questions, but is the RTA or the New South Wales Government exposed to the liability if the estimates are incorrect? Is there a guaranteed minimum of annual revenue for the cross-city tunnel?

Mr SANSOM: No. The Cross City Motorway bears all the risk of patronage.

CHAIR: The estimates were provided by the consultancy firm?

Mr SANSOM: Yes. I understand the RTA separately undertook their estimates, and those estimates were published in both the EIS and the supplementary EIS to the project.

CHAIR: Did that second and financial impact statement process caused some changes in your planning? Did it result in planning changes, or at least one means of assessing the harbour tunnel from the Eastern Suburbs without having to use the cross-city tunnel? Did that in some way lead you to revise that 90,000 figure?

Mr SANSOM: I am not aware of the exact details associated with that.

CHAIR: What do you see as the role of the public consultation in the public-private projects? What involvement does your company have in public consultation, if any?

Mr SANSOM: I guess before the project commenced there was substantial consultation with the stakeholders, the broader public. I am aware that from 1999 onwards that there was consultation in terms of the public and the first EIS, and there were calls from the council to extend the project. The project was originally mooted to run between College Street and Darling Harbour. There were calls from the council—the member for Bligh—at that time to actually extend the tunnel all the way to the Kings Cross tunnel portals so that that was built as a revitalisation of William Street, which was then termed I guess, I think from memory, the Gateway Project. During the course of that time the Cross City Motorway went to an EIS with the longer tunnel up towards the Kings Cross tunnel, and at that time the Cross City Motorway looked at the options available and it felt that it was actually preferable to extend the tunnel further and to take it out underneath the Kings Cross tunnel.

That had a number of objectives. Firstly, the major objective to build the cross-city tunnel up to William Street, up towards the Kings Cross Tunnel is extraordinarily difficult under William Street with William Street operating. So the tunnel was actually lowered to below the Eastern Distributor and then was taken out to Kings Cross tunnel. To make it easy, I think if you think about it, it is an easier arrangement if you start at Darling Harbour in the west and you end up closer to Rushcutters Bay than if you end up at the hill of the Kings Cross tunnel. That is essentially the scheme that the RTA or the Cross City Motorway then responded to and put up. We did put a conforming tender in, but then we looked at the alternative, which is the longer extended tunnel and eventually that went to the supplementary EIS.

CHAIR: That would have made a change in your plans for the level of the toll to be paid. If it was a short tunnel, obviously, there would be less capital costs; a longer tunnel, higher toll.

Mr SANSOM: Exactly.

CHAIR: Is that correct?

Mr SANSOM: Yes, that is correct.

CHAIR: How did that effect your thinking then? Can you tell us what the original toll may have been then the increased toll for the longer tunnel?

Mr SANSOM: When you bid for these particular projects you need some parameters in which to work, and the RTA had set that toll. They set it at \$2.50 in 1999 dollar values and they also set the term of the project. It was a 30-year term. In doing so that is excellent for the private sector because it sets your basic parameters. From that, of course, you then look at your traffic projections—the RTA had provided them in the EIS—and, of course, we had Hyder Consulting doing the traffic projections as well. You then look at your revenue over a 30-year period, you look at your capital costs of the project and, basically, that is how you determine it and you look at your internal rates of return. That sort of suggests the project is viable as it is and, certainly, the longer tunnel was viable.

CHAIR: So the toll then increased from the \$2.50 to \$3.50?

Mr SANSOM: The \$2.50 base toll was the toll in 1999 dollars and that was increased with one amendment deed to be essentially \$3.56 if you include the impact of CPI.

CHAIR: Yes, the CPI increase. What is your understanding of the intent of the business consideration fees? You know there has been a lot of discussion about this.

Mr SANSOM: I guess that is where the RTA has clawed back some of the monies associated with the returns on the project. I indicated how we actually calculated the revenue and then we looked at our costs over the 30-year period. In doing so you set an internal rate of return and there were some monies left over, and those monies equated to the business consideration fee and they were all mooted in the tender documents that it was anticipated that a business consideration fee should be payable.

CHAIR: Did the RTA explain to you what it would cover? Were you interested in knowing?

Mr SANSOM: You would need to ask the RTA. In media they have indicated that it is for the costs associated with the project.

CHAIR: They did not have to discuss that with you? You just took that as a set figure.

Mr SANSOM: Yes.

CHAIR: The cost to them?

Mr SANSOM: Yes, we submitted a fee that was borne out by our calculations.

CHAIR: We will move onto the Opposition.

The Hon. GREG PEARCE: Thank you for coming. You said you started in your current position on 16 December 2002, which is the day before the contract was concluded?

Mr SANSOM: Yes, the contract was signed on 18.

The Hon. GREG PEARCE: Were you involved in negotiations then or not?

Mr SANSOM: No, I was not.

The Hon. GREG PEARCE: Whom from your organisation should we talk to about the negotiations of the tender?

Mr SANSOM: The group essentially involved was part of Baulderstone Hornibrook or Deutsche Bank. However, obviously, I have information relating to the negotiations. But, obviously, I cannot answer it if I do not know.

The Hon. GREG PEARCE: What was the business consideration fee you initially put in your tender?

Mr SANSOM: I am not privy to the exact amount, but it was somewhat closer to the final figure that was resolved, I understand.

The Hon. GREG PEARCE: Could you get that figure for us?

Mr SANSOM: I could take that on notice, and if you could provide me with the details I will take it on notice now. I am happy to provide those details.

The Hon. GREG PEARCE: Did you have any role in developing the final bids?

Mr SANSOM: No. You need a scheme that is laid down, and the scheme includes William Street and changes to Woolloomooloo.

The Hon. GREG PEARCE: The long 80 bid, which is the tunnel you were just talking about, could you give us a little bit more detail as to why you favoured that? Obviously, the untrained person says, "The problem with the tunnel is that the entrances and exits are in the wrong places" and no-one wants to go through there.

Mr SANSOM: Yes. As I have been involved with road and transport projects for a significant time, it is about the buildability of the project and also about the geometric alignment of the project. I guess that both of those came into the situation with the longer tunnel. The first one was it is preferable to enter at approximately the same level—Darling Harbour—and end at approximately the same level than it was to run the tunnel up along William Street. The other matter was the buildability issue. To build the cross-city tunnel with the existing traffic conditions along William Street would be extraordinarily complicated and, therefore, the bid team was looking for an option that took away that complication. It also looked at the option of removing all the tunnel spoil, and that was greater than 600,000 cubic metres of rock were removed from the cross-city tunnel and it all went out by the Eastern Distributor. The average person operating in Sydney did not have the trucks running around the city removing that spoil.

If we had built it from William Street from the surface all that excavation would have occurred on William Street, piles would have been pushed down from the surface, public utilities would have been in the way and it would have been a very long, drawn-out process. It might have taken longer than a period of three years that ultimately the tunnel was built. In fact, I think the tunnel was built in something like two years and eight months, I think. To build it from William Street would have been quite complex. It would have meant total traffic constrictions across the CBD. One thing we are very happy with is the way the cross-city tunnel was built. We actually minimised problems of disturbances. Of course, if we had built it from the road surface we could not have built it at night. We would have had EPA issues with noise, whereas building underground meant that we could continue to build it 24 hours a day, seven days a week.

The Hon. GREG PEARCE: Do I take it that the tender that the RTA put out actually anticipated that sort of construction building in William Street?

Mr SANSOM: I believe so.

The Hon. GREG PEARCE: You say that what you did was a vast improvement in terms of building it, what the RTA asked for?

Mr SANSOM: It was more innovative and it guaranteed the building program. Of course, also underground you are not affected by wet weather and all those other arrangements.

The Hon. GREG PEARCE: Can I just focus on the traffic management measures? Do you have a list of the traffic management measures which your consortium wanted implemented as part of its proposal? I am making a distinction there between those that the Department of Planning or the planning process imposed if they were not also something that you would have imposed or would have asked for.

Mr SANSOM: I understand for the project that there were not very many at all. Basically, the longer tunnel was fully encapsulated by the bus lanes and the T2 lanes that had been on the public record since 1999 as being a way of decongesting the city and improving public transport into the future. There is no doubt that Sydney, if it continued to have the traffic or the cars running through the city, would suffer significant congestion in perhaps 10 to 15 years. So the changes, if you like, the road narrowing in William Street, they were promulgated within the original schemes.

The Hon. GREG PEARCE: So just to be clear in my question: were they traffic management measures that you required for the purposes of your tunnel?

Mr SANSOM: Yes, the schemes were out there. I guess the RTA had significant consultation with the stakeholders, particularly council, the Department of Transport—DIPNR ultimately had to sign off on everything—and they were in the EIS, and to my knowledge there have been few changes that have been made and we are still subject to the 292 conditions of approval on the project.

The Hon. GREG PEARCE: Let us take it the other way around: if the bus transit way and lane removals were reversed on William Street, what impact would that have on the motorway?

Mr SANSOM: I will use the term quite significant, but I will try and explain why. When you do the original traffic projections you need a scheme to work with. When you sign the contract you are actually signing up on that scheme. So that is what all the parameters are for you to go forward for your 30 years. You are quite happy to have a change, quite happy in the planning phase to have a change, because when you do your traffic projections that will clearly show something different, and if the bus lanes or the T2s were not in there that is fine as well, that would perhaps change the business considerations fee, perhaps it would not, but that is the risk that we took. That patronage level is based on the known scheme. So when you do change the scheme then that has an impact.

Mr ANDREW CONSTANCE: Did that scheme include the knowledge that roads would be closed? In terms of the methodology of the patronage were cross-city motorway traffic projections based on public road closures?

Mr SANSOM: The original EIS, which is the 2000 EIS, had the bus and the T2 transit lanes, and that was to enhance the gateway treatment. So that scheme was in the public domain.

Ms LEE RHIANNON: It did not have the road changes in Darlinghurst, Woollahra, Paddington, did it?

Mr SANSOM: That came about, as I understand it, through the consultation process. The cross-city tunnel does not impact on the consultation process; that was the DIPNR sign-off on the conditions of approval. The changes in Darlinghurst, in particular Nield Avenue and those other streets, I understand were a concern by the residents that traffic would filter through those streets to gain access to the cross-city tunnel. Therefore, the condition of approval is related to exactly that and it is related to traffic calming in those particular areas.

Mr ANDREW CONSTANCE: Could I just have it clear then. The traffic projections after the tender were based on public road closures in essence designed to funnel traffic into the tunnel?

Mr SANSOM: No, the whole arrangement was that was the scheme that was made available to the tenderers and that was the scheme that the tenderers bid upon.

The Hon. GREG PEARCE: Were there any measures that you as a consortium asked for in your bid that were not part of the previous—

Mr SANSOM: I am not aware of any, but I could take the question on notice to confirm that.

The Hon. GREG PEARCE: Can I also ask you about the business development fee? You have probably seen some of these documents that have now become public.

Mr SANSOM: I have seen some.

The Hon. GREG PEARCE: The cross-city tunnel finalisation report by the RTA?

Mr SANSOM: No, I have not reviewed it.

The Hon. GREG PEARCE: It is a document the RTA prepared, I think in November, December 2002, and it includes an assessment of the four proposals that you had on the table at that stage and the two that the other tenderer placed on the table. In relation to your conforming bid and the other tenderer's conforming bid, under yours the proposed business development fee was \$42.5 million, the other short-listed tenderer had a business consideration fee of minus 42.1. Does it surprise you that the other mob wanted to be paid \$42 million to do the job but you were prepared to pay them \$42.5 million?

Mr SANSOM: That is associated with the sophistication of the teams that are bidding. This is a 30-year project and this is a billion-dollar project. What you are talking about is less than 10 per cent in billion dollars: it is 8 per cent. That does not surprise me. That is about financing; that is about construction costs; that is about patronage levels. And when you take the myriad changes, less than 10 per cent, I would have thought, is within a reasonable range.

Mr ANDREW CONSTANCE: There was a memo drafted from Paul Forward to the Minister for Roads on 13 October 2005 where it is indicated that, "The potential financial exposure to RTA under the MAE provisions may be particularly high in present circumstances where the trading performance of the cross-city tunnel is below that projected in the base case financial model". So obviously at that stage things were not tracking to plan in relation to the cross-city tunnel. Why was that, and has the situation improved?

Mr SANSOM: I am not privy to that piece of correspondence, but you say it was 13 October 2005?

Mr ANDREW CONSTANCE: Yes.

Mr SANSOM: I am not sure what the implication is. I guess it can only be in relation to traffic projections and perhaps they are less than what the RTA expected as well. But I think you would have to ask Paul Forward.

Mr ANDREW CONSTANCE: I am just intrigued to know from you as the chief executive as to how you were tracking at that period of time and how you are tracking today?

Mr SANSOM: As I said, I think for us this is a long-term investment. Three months into a 30-year contract—it is just too early to call on how we are tracking. We are quite pleased with the gradual build-up of traffic. We started at 20,000 vehicles a day on the Friday of the first week and last Friday we had 31,000 vehicles through. So it is a gradual increase. As I said earlier too, no-one has opened a project like this in the world; this is the world's first experience of a project like this. The world's second experience will likely be next week or when the West Link opens. So this is leading-edge technology and it is also as people understand the behaviour of motorists. Sydney in the past has only had the hybrid motorways or the motorways where you can also pay cash. The cross-city motorway is unlike that; you can only use it via a tag or a pass.

CHAIR: Is that creating some customer resistance to the tunnel?

Mr SANSOM: I think being Australians we tend to get the tag and we think we have a need for it and we are finding that every week we are getting an extra thousand vehicles through the tunnel on a daily basis. I think that is what is going to happen; that is just gradual build-up.

Mr ANDREW CONSTANCE: According to your marketing when communications report and snapshots, about which in your document dated 14 March 2005 there is an indication of a week of grace initiative—I can only presume that there will be a toll-free period at the commencement of the project. Was it you or the RTA who ultimately decided not to proceed with that good-will period?

Mr SANSOM: We actually had in the tender arrangements the opportunity to have a full four-week period as a free period because we felt that the public perhaps needed to understand the benefits of the cross-city tunnel. In discussions with the RTA we had concerns together that we would have some issues about it is free this week and it is not free next week, so we both agreed we would not have the free period. Since then, in hindsight, we recognise that the cross-city tunnel is an extremely complex project. To give you an understanding of how complex: in the area of William Street and Bourke Street there are actually 10 tunnels on 10 levels; six are our tunnels and four are the Eastern Distributor tunnels.

So understanding all this is underground, this is an extraordinarily complex interchange, but no one can see it. So, as a result, we decided to have the three-weeks-for-free period to enable the motorists of Sydney to understand what the cross-city tunnel does to benefit them.

Mr ANDREW CONSTANCE: Just a final question on a different issue. Are you aware of any member of your consortium viewing or gaining access to copies of any draft Cabinet minutes relating to the cross-city tunnel and associated works?

Mr SANSOM: Mr Chair, I understand that that is the purview of a separate ICAC inquiry and I ask that consideration be given that it stays within that purview.

CHAIR: You said a moment ago that you had considered having a toll-free period. Do you regret now that you did not start off with a toll-free period?

Mr SANSOM: In hindsight, yes.

CHAIR: You also mentioned a moment ago about the road closures. You were saying they were not meant to be a funnel but to reduce the traffic in those residential areas at the request of the residents. Can you amplify that?

Mr SANSOM: That was my understanding for what is called the Paddington LATM scheme, that there was concern by the residents of that street that those streets would become the access routes towards the cross-city tunnel, and there was a number of studies. Parsons Brinckerhoff PB undertook a study—they are traffic consultants—consulted with the residents widely, consulted with council, including Wollahra Council, and came up with a scheme. We are implementing that scheme but it is not our scheme, it is their scheme and we are the builder of that scheme. And essentially the same as William Street: we have been given the gateway scheme, we are implementing that, and that has the public transport measures imposed which will allow the city to function in decades to come.

CHAIR: So if there were changes made to those road plans or closures, they would not affect your calculations?

Mr SANSOM: In fact, if there are road closures it could disadvantage us because the aim of the Paddington LATM was to discourage traffic from using that as what is called a rat run to gain access to the cross-city tunnel.

CHAIR: So if the Government made some changes to those roadways you would not be seeking compensation from the Government?

Mr SANSOM: Not for changes down there, no. Basically, the scheme has been part of the planning process. We have signed up for that scheme. Where we are required to implement we implement.

Mr ANDREW CONSTANCE: Have you indicated to the Government that you would sue if there were any changes in terms of closed roads?

Mr SANSOM: Not at all. The contract has a range of provisions. We would look at the provisions; should changes be mooted, those changes would go through the planning processes of this State.

Mr ANDREW CONSTANCE: So on that basis you would be happy for the Premier and the Minister for Roads to be talking to you about potential reopening of closed roads?

Mr SANSOM: I would have to talk to the shareholders and work through a process. Where we have an arrangement in the contract that requires us to negotiate in good faith we would do that.

Ms LEE RHIANNON: Have any profits been made from the cross-city tunnel to date?

Mr SANSOM: That is an interesting question. I guess there is obviously revenue being generated because the toll road is open and at some point in the future we will need to look at paying back our banks for the loan monies that they have provided to us.

Ms LEE RHIANNON: So does that mean that you are not making profits at the moment?

Mr SANSOM: Well, we are not losing anything either.

Ms LEE RHIANNON: So, what daily traffic flows are required so that you do make a profit. You said you are up to 31,000.

Mr SANSOM: Yes, 31,000 on Friday. This is a matter of equity. Equity has invested substantial amounts of money into the project and there are a number of syndicated banks who have loaned us the money. These are major international developers and financiers and they have given 100 per cent commitment to this project and that means exactly that. This is a project on their portfolio amongst many projects around the world that they have.

Ms LEE RHIANNON: If you took that on notice would you be able to give us clearer information about the financial returns on this project?

Mr SANSOM: The financial returns are now currently in the public domain and they were based around traffic estimates at the time. I think in all commercial confidentiality the ultimate patronage that we have that generates our returns is exactly that. It is commercially confident to Cross City Motorway.

Ms LEE RHIANNON: Talking about information in the public domain, the cross-city tunnel figures themselves, will you put those into the public domain?

Mr SANSOM: When we have been asked, particularly by media, to give figures, we have provided that information. Thursday was 30,000, Friday with 31,000, Monday was 26,000. There are people counting at the present time around the portals. I will stab that somewhere between 27,000 28,000 will be today's figures. I will indicate to you that next Friday's figures will be somewhere between 31,000 and 32,000.

Ms LEE RHIANNON: Rather than you having a stab in the dark, why will you not put these figures, because you get them daily, onto your web site or the RTA's web site. You can give figures when it seems to suit you to release them publicly but why can they not be released daily?

Mr SANSOM: This is a commercial operation and it will continue to remain so. We have been providing the figures.

Ms LEE RHIANNON: Again you are giving a contradictory answer there. You are providing the figures but you provide the figures on some days. Why can we not have that information out there? This is a very controversial project. Maybe it would help smooth things over for you and it would be a good public relations exercise.

Mr SANSOM: We are quite happy to publish from time to time our figures but we do not intend putting it on our web site.

Ms LEE RHIANNON: On page 34 of the finalisation report it states: "CCM advise that the financial impact of reduced patronage due to public transport would be a reduction in the payment to the RTA of \$24 million." I know this issue has been quite controversial about the impact on public transport development, with some people saying there is none at all. But when you read the document you still find these little clauses that jump out to you. Would you like to comment on what public transport developments are covered in here? Is it new public transport systems like light rail, extension of heavy rail or an increase in bus services or can the Government do whatever it likes with public transport and there will be no problem?

Mr SANSOM: Look, we are already installing the bus lanes now into the CBD. There are other bus lanes proposed, as I understand it, under the bus plan. We are certainly working with the monorail people in relation to the monorail system and we support the monorail system and whatever extensions of them are proposed. We do not know in the next 20 to 30 years what other changes may or may not be proposed for this CBD and those clauses are there to ensure that there is good faith consultation at the time. Luckily, under our planning arrangements, that is what actually occurs. We go through a major planning process, which ultimately leads to DIPNR signing off on them.

Ms LEE RHIANNON: So the conclusion one would take from that answer is that extensions of light rail, heavy rail or even increasing bus services, the Government could be liable?

Mr SANSOM: I doubt it.

Ms LEE RHIANNON: That is not good enough. We would need a yes or no. Public transport is very important to the future transport of this city.

Mr SANSOM: I agree.

Ms LEE RHIANNON: And at the moment there is a big cloud over it and you are adding to it.

Mr SANSOM: Can I take that question specifically on notice, but I would point out that we are actually installing the bus lanes, which will encourage improved bus services. If this city is to work in the coming generations and the coming decades, we need to have an integrated public transport system. I am of the view that the cross-city tunnel is just part of that and that our trains and our buses are integral.

Ms LEE RHIANNON: In answer to an earlier question your answer suggested that road changes in East Sydney and Woollahra are not connected to the contract. I was surprised by that because 22 of the road changes, if they were reversed, would expose the RTA to a financial liability payable to the consortium. When you read that much of the documentation it suggests that this has been a very important part of the contract and that is why there is a belief among the public that those changes are designed to push people into the tunnel.

Mr SANSOM: Again I will go back to some of my earlier comments, when you are working on one of these schemes you actually need to define the scheme. If we define the scheme with the bus routes in there down William Street, that is what we have banked—we have financed based on that scheme. That is why those clauses are in there, because if you take out what you banked, and you change the conditions of the deal that is exactly what you do. That is, if you like, our insurance.

Ms LEE RHIANNON: But if any of us were to believe that the RTA would have volunteered to close these roads one would have thought that in the negotiations for the contract that your people are pushing for these road changes because they knew that 93,000 cars in 18 months, as you hoped, and three years, as you now expect, would be hard to achieve, so they have driven a deal wanting these road changes. I just do not believe that the RTA would have just nominated that out of goodwill, even though they are pretty on-side.

Mr SANSOM: If we go back to 1999, that was when the city of Sydney indicated that William Street should be narrowed to two lanes each way, and that was ultimately what was put into the scheme. That was well before the cross-city tunnel was even considering going forward with this project. These schemes are not new. These schemes have been well publicised since 1999. That is six years these schemes have been in the public domain. The scheme has not changed.

Ms LEE RHIANNON: The fact that you just concentrate on William Street, as I notice the previous Premier and Treasurer did, is just fuelling the belief that the changes to roads in East Sydney up to Woollahra has had a specific purpose in mind and that is to boost your profits?

Mr SANSOM: Okay, you also referred to those that are associated with the MAE events. Without me reading the contract, those particular ones are associated with the T2s, the bus lanes; you might recall the Druiitt Street bus lane, which now provides direct access into the city for buses, which is a significant improvement. I would suggest that the Park Street bus lane and future bus lanes will also assist public transport into the city. The MAE events are solely related to those major changes with bus lanes.

Ms LEE RHIANNON: So you are saying that the MAEs are not connected with these minor road changes out to Woollahra, Paddington and East Sydney, because the document suggests otherwise?

Mr SANSOM: I would have to read each clause of the document to confirm that.

Ms LEE RHIANNON: Have you had any discussions with the RTA or any other government representatives about a buyback because you might be aware that there has been an e-mail exchanged amongst the RTA?

Mr SANSOM: I was only aware because I was sitting at the back as it was raised. There have been a couple of discussions with the Government and that was just in relation to a comment about reducing the toll.

Ms LEE RHIANNON: So there was discussion about the Government buying back the tunnel?

Mr SANSOM: No.

Ms LEE RHIANNON: What were the discussions?

Mr SANSOM: About requests from the Premier and the Minister to reduce the toll.

Ms LEE RHIANNON: And they took a while to convince you to have a toll-free period because you were resistant at first, were you not?

Mr SANSOM: Yes, we had an agreement with the RTA that we would not pursue that route post-opening and following. We understood that people needed to understand the benefits of the cross-city tunnel and, therefore we implemented the toll-free period.

Ms LEE RHIANNON: So had the Government convinced you to implement the toll-free period?

Mr SANSOM: They did not. In fact, it was an initiative of Cross City Motorway. We physically, my chairman and I, went and briefed the Minister that we were intending to do it and following that briefing, which I would need to check the date but I think it was 13 October, on the Thursday, we announced the toll-free period that afternoon.

Ms LEE RHIANNON: Obviously you would be aware of how the location of the stack was moved. What was your involvement with the decision around that issue?

Mr SANSOM: Again, I understand that that is currently a matter for the ICAC and I would ask, Mr Chair, that that is where it should stay.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Who devised the base financial model for the cross-city tunnel?

Mr SANSOM: It was devised by the sponsors, which were Baulderstone Hornibrook and Deutsche Bank, working together on a known scheme using their advisers and advisers included Hyder Consulting for traffic, Ernst and Young for tax and a range of other advisers and then the financial model is then developed from there and that gives you the base financial model.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that financial model provided to the RTA in totality?

Mr SANSOM: Yes, and it is a document about so high and it is physically handed over.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Did you choose the auditors for that document? We heard evidence from the RTA, you may recall, that you had chosen an independent auditor who had given them a letter of comfort?

Mr SANSOM: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: An assurance?

Mr SANSOM: Yes, I think I understand. Is this in relation to Ernst and Young's involvement?

The Hon. AMANDA FAZIO: No, it was in relation to questions about the financial rating of KBC.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: It was in relation to how the Government checked the probity and soundness of your base financial model.

Mr SANSOM: KBC is one of our syndicated banks. We have 16 banks, international banks and some Australian banks that have provided the loan moneys for the project. KBC, I understand, is a Belgium-based bank and it did not have a credit rating. They are owned by KBC and they have an A-rating and therefore satisfy any RTA requirements.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Did they go through your base financial model as auditors?

Mr SANSOM: No, KBC is one of the banks.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Who audited the base financial model?

Mr SANSOM: I do not know who audited it on behalf of the RTA but we produce it and Deutsche Bank as the sponsor produce it and then the banks, of course, go through it as well, so there is a whole range of involvement.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The RTA said that you had chosen an independent auditor and that the independent auditor had audited it and then the audit report went to the RTA, who accepted it. Do you know if that is the case?

Mr SANSOM: I would have to check that.

CHAIR: You will take that question on notice.

Mr SANSOM: I am confident that would have occurred, but I would have to check that.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The question of whether the RTA chose their own auditor or whether you did is the point of interest.

Mr SANSOM: I will take that on notice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You said that you have got 16 banks and a lot of expertise working on this project. Did that enable you to lessen your risk margin than if you were working on this as a single project?

Mr SANSOM: No. Sharing a risk is important on projects of this nature. We have taken the design risk, we have taken the geotechnical risk, we have taken the construction risk, we have taken the patronage risk. We have actually taken a lot of the risk away from the Government and the responsibility lies with us. As mentioned earlier, though, when these shareholders are working across the world, you might be aware that some 70 per cent of PPP projects are delivered on time and some 30 per cent are not, so it is a given that some projects will not meet their time and cost arrangements. The cross-city tunnel has delivered on time, it has delivered on cost. It has yet to deliver on patronage.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In terms of the fact that presumably your equity partners would know that you have got a 30 per cent chance of not meeting, in other words that is a risk; in other words you would have had to pad your bid to take this into account, would you not?

Mr SANSOM: If you do, you will never win a contract. This is about taking risk and bidding in a competitive environment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I gather in your answer to Lee Rhiannon about public transport been able to be developed without you having recourse, as with M2 contract, that you would claw money back if something happened in the public transport area.

Mr SANSOM: You have to look at any proposal put on its merits to determine whether that was the case.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you would be able to negotiate if there were public transport—

Mr SANSOM: I cannot think of anything. I said I would take it on notice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But they may build light rail parallel to you going on in the eastern suburbs and you would be able to do anything?

Mr SANSOM: That would cause us some concern. But I will have to take that question on notice and obtain further legal advice as to what we could or could not do.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you may have redress there.

Mr SANSOM: I will take the question on notice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If there was a peak oil situation, the price of oil rose dramatically and a car-pooling system was established, would you try to get redress from that?

Mr SANSOM: Not at all. In fact, I said that this is about an integrated transport situation. This is about supporting all the transport initiatives that are going to work to make this city a liveable city. To do that we have to look at what the objectives of the cross-city tunnel are. They are about improving amenity. If you think about it, we have already taken 30,000 cars off the CBD streets.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes, but if 30,000 cars are taken off your projection through car pooling that will obviously influence you. You have got to make a buck.

Mr SANSOM: That is a personal decision for the car owner, and I applaud it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Did you get any Federal Government infrastructure bonds or other preferential tax treatment that helped you with the bid?

Mr SANSOM: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: In your financial model can you revalue the tunnel and issue shares?

Mr SANSOM: That would be a matter for the shareholders at some point in time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You could not pay dividends from an issue of shares, could you?

Mr SANSOM: Again, we do not have shares in that sort of environment. But, if we did, that would be a future arrangement. It is not contemplated today.

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

Mr MATT BROWN: Thank you. Mr Sansom, I am trying to understand a couple of answers that you gave earlier. You appeared to give two contradictory answers. In relation to traffic changes in Paddington you said initially that you would not seek compensation if the Government sought to reverse the traffic changes. Later you said that the shareholders may exercise rights under the contract. What exactly do you mean by that? Are there any reversals of contracted traffic changes where you would be prepared to waive your right to compensation?

Mr SANSOM: We would need to look at the MAE clauses, particularly in the Project Deed. We would not be looking to change them. We would need the deed to stand alone, which means that we would have to enter into good-faith negotiations with the Government in relation to those.

Mr PAUL McLEAY: In relation to the toll-free period, you have said that, while you had discussions with the RTA, it was your company's decision not to have a toll-free period. Is that correct?

Mr SANSOM: That is correct.

Mr PAUL McLEAY: What is your view of the RTA and their involvement in this project?

Mr SANSOM: Literally there are very few government departments—perhaps in Australia—that could take on and deliver the projects that we have actually seen being delivered. The cross-city tunnel is just one of them. The Westlink M7 is soon to open. We have the Eastern Distributor and so on. They are very good and very adept at working closely with the private sector to attain the best value for the State in these projects. I think we lose sight of that. We now have this marvellous infrastructure being brought on line and we should congratulate them on taking some of those risks. I go back to the Eastern Distributor. When it first opened there was concern. I look at Darling Harbour and the issues that that caused when it first opened. There was significant public outcry. Now look at Darling Harbour. I hate to mention it, but the Opera House had its own issues. I would not like to call the cross-city tunnel a future Opera House but you always find that when delivering infrastructure projects of this value in a community environment you are changing the way that people go about their business. We have done that in the case of the cross-city tunnel. In five years we will all be saying what a marvellous piece of infrastructure it is.

The Hon. AMANDA FAZIO: When you had the recent toll-free period for motorists to get a feel for using the tunnel, do you think you achieved what you set out to achieve?

Mr SANSOM: Yes, I believe so. Many people in the eastern suburbs, the inner west and even further afield now have a better understanding of what the project is about. To that end, I took my wife through the tunnel one Sunday so that she understood where it went. Many of us struggle to understand the complexity of plans—I spoke about the 10 levels et cetera under William Street; the 10 tunnels. She got to understand the benefits to her and, as a result, she now uses it.

The Hon. AMANDA FAZIO: The cross-city tunnel contract only sets a maximum toll price, which theoretically gives you the capacity to reduce the toll. Many people have said to me that lots of people enjoyed using the cross-city tunnel when it was free so why do you not reduce the toll and if you have more cars going through the tunnel every day at a reduced toll your daily income will probably be greater than having a lesser number of cars paying the higher toll. What is your view on that?

The Hon. GREG PEARCE: That is called rocket science.

Mr SANSOM: We actually think the toll is pretty good value. It saves you 20 minutes in either direction during the day. It means that a journey that traditionally took 20 minutes—and up to 30 or 40 minutes—has now been reduced to two minutes. As people continue to use the tunnel it will make the amenity of the CBD much better. That will reclaim the roads from cars, which has been an objective of many, and that will make Sydney a much better and more liveable city. I would like to think that the toll is actually good value.

CHAIR: Did you set the toll personally, as general manager?

Mr SANSOM: As I said, the toll was set at \$2.50 in 1999 figures.

CHAIR: The current one.

Mr SANSOM: That is correct. It was escalated with the CPI and one of the amending deeds to arrive at the current toll of \$3.56.

CHAIR: So you set it yourself; it was your job.

Mr SANSOM: The shareholders are all part of that. The shareholders work closely in the formation. They looked at the \$2.50 and they escalated it. We have the right to increase the toll every quarter and we have elected to have a moratorium on any future increases until at least 1 July next year. So currently it is less than what it should be.

The Hon. AMANDA FAZIO: Do you think that the public are accepting the idea of only being able to have a tag or a pass to go through the tunnel? Have you had a lot of complaints or any resistance from people?

Mr SANSOM: It is interesting. Those who use the tunnel support the tunnel. It is about understanding that in the future you may need a tag to drive around the city. Certainly I have a tag, my family has a tag and I would encourage everyone to get a tag because as toll roads become more electronic we do not want to be stopping at toll booths and paying cash, as occurs under the current arrangement. You put your tag on, it is painless and it just happens. You can move around the city freely.

The Hon. AMANDA FAZIO: Have you done any market research since the tunnel opened that has helped you to work out ways in which you can increase patronage in the short term?

Mr SANSOM: That will be ongoing. We have been doing market research for three years, and that will continue to be ongoing. One of the things about the benefits is that you can guarantee that if you leave the inner west you can get to the beach at Bondi reasonably quickly, whereas in the past you could not guarantee that if you were crossing the city.

The Hon. GREG PEARCE: You cannot find a park when you get there, though.

Ms LEE RHIANNON: You cannot get down Bondi Road. That is the whole point. You are just clogging up the roads with more cars.

The Hon. AMANDA FAZIO: As a resident of the inner west I could complain about all these eastern suburbs types clogging up our roads, but I am not that mean spirited.

Mr MATT BROWN: I am very interested, as is the Government, in community involvement. What steps has the company taken to involve the community in the project to date?

Mr SANSOM: All the way through the project we had newsletters. Some 30,000 newsletters would go out during the construction phase. Of course, we are now in the operations phase. We have still got work going on in William Street and we are still communicating to those residents around the area.

Mr MATT BROWN: Are you having ongoing dialogue with the business community?

Mr SANSOM: Do you mean those who are reasonably close to the project?

Mr MATT BROWN: Yes.

Mr SANSOM: Yes, that is certainly the case.

Mr MATT BROWN: Can you describe the engineering and construction processes involved in projects like the cross-city tunnel? The extent of that is fascinating.

Mr SANSOM: This is about managing complexity. This is about delivering and guaranteeing delivery in accordance with the contract period. It is an extraordinarily complex project. I have only told you about a couple of things but everything associated with the cross-city tunnel is innovative. This is the world's most sophisticated tolling system.

Mr MATT BROWN: What about the messages you send through the radio?

Ms LEE RHIANNON: Can you have a private session later?

Mr SANSOM: I am happy to update you and show you the video.

Mr MATT BROWN: Thank you. Can you explain how it works?

Mr SANSOM: It is extraordinarily complex. It is a fully operational working system and it continues to be finetuned on a daily basis. It will be here for the next 30 years.

Mr PAUL McLEAY: Following the Hon. Amanda Fazio's question about market research, do you have anything planned to increase patronage besides the toll freeze?

Mr SANSOM: Yes. We have our moratorium on increases, of course. We have also got tags in the market with no deposit and no licence fees. So they are the best-value tag in the Sydney area. You do not get your tag until you think you have a need for it so we are looking at opportunities to do that. In fact, the board has an Electronic Tolling and Customer Management Committee that is meeting again in a week to review what other things we might consider. But I am not sure at this stage where that will go.

The Hon. AMANDA FAZIO: I do not know how effective the marketing campaign has been about your having the cheapest electronic tag system because I have never heard that before.

Mr SANSOM: The Cross City Motorway beep tag is no deposit and no licence fee. It is the best value tag for money, and if you have not got one I suggest you get one.

CHAIR: That is a commercial.

The Hon. AMANDA FAZIO: I did not know about it.

CHAIR: It is obvious that the electronic toll makes the traffic flow faster as there are no stoppages.

Mr SANSOM: We all know that fumbling for coin is an issue in its own right. With a tag or a pass you do not fumble for coin; you just drive straight through. That will be the long-term planning for Sydney, I am sure.

Mr PAUL McLEAY: Do you think the design of the new one is safe? Have there been any accidents in the tunnel yet that you are aware of?

Mr SANSOM: The design is safe. That is the first thing we should comment on. The designers are an international firm of reputable designers, well skilled in—

Ms LEE RHIANNON: How can you say it is safe when you do not filtrate it? The air is not being filtered.

Mr SANSOM: I will answer the question if that is acceptable, Mr Chair.

CHAIR: Yes.

Mr SANSOM: It is quite safe. It has been designed by a firm of international consultants. An independent verifier reviews all the safety aspects of the project and another company undertook a full safety audit of the project. To date, there have been a number of breakdowns—generally vehicles have run out of petrol. There has been one small fire in a taxi that was put out. I am not aware of any accidents per se. There has not been an accident.

Mr MATT BROWN: On that issue, can you talk about the arrangements in place for incident management? You have already identified a few incidents. What incident management arrangements have you got in place with emergency services and the like?

Mr SANSOM: A number of protocols were required to be signed off before the tunnel was opened. They were with the emergency services. We ran a field exercise physically in which we simulated a car on fire. The tunnel is sophisticated. It can put out a fire. It can reverse ventilation to ensure the safety of motorists. It can talk to motorists via a PA system or through the radio re-broadcast system. It can liaise with the fire brigade and we have the ability to have the fire brigade or the police take control should an incident occur. Of course, the RTA's Traffic Management Centre can view our cameras and intervene as necessary. So there is a significant amount of protocol that has been developed to ensure safety.

Mr PAUL McLEAY: How do you liaise with the RTA on a daily basis about the operation of the road network?

Mr SANSOM: During the construction period a representative was appointed. Of course, we are still doing the stage two construction works on William Street. We also liaise with their operations group which is through the traffic management centre. So at present we are constructing under stage two and we are also operating. We do not necessarily liaise daily but reports are provided daily and the RTA has access to our systems.

The Hon. AMANDA FAZIO: Have you noticed any impact on the number of cars going through the tunnel because of the pretty significant increase in petrol prices in recent months? If you have, can you give us an idea about what the change in volume has been?

Mr SANSOM: I think we opened probably at the height of the most expensive petrol and there may have been a slight resistance. Anecdotal evidence suggested that traffic volumes did drop off during that period but often people may have migrated across to a form of public transport and may be looking at the current petrol prices and migrate back. It is a very behavioural thing and I am not sure that our numbers have been influenced. We have generally grown at a thousand cars per week over the 12 weeks we have opened. We see that continuing.

Mr ANDREW CONSTANCE: I have a couple of questions on the ventilation stack. Obviously there is a bit of controversy about the location of that stack. Mr Les Wielinga from the RTA was involved in negotiations on that. Who from the Cross City Motorway Consortium was involved in discussions on the ventilation stack?

Mr SANSOM: Again I think that is subject to an ICAC inquiry. However, I would say that we waited under condition 248, which was the planning Minister's approval, for its location. That condition was ultimately approved and the stack was built in its original position.

Mr ANDREW CONSTANCE: It is on the public record that Mr Wielinga was involved in the discussions. Is the Cross-city tunnel willing to go on the public record with who was involved from their organisation in the discussions?

Mr SANSOM: I am trying to remember. I think we had very few discussions. What we wanted was a decision as to its location. Again I think I will leave it at that.

Mr ANDREW CONSTANCE: Can we have that on notice?

Mr SANSOM: I still think it is part of the ICAC investigation and that is where it should be staying.

The Hon. GREG PEARCE: Can I clear up with you your view on the traffic management measures? From what you said earlier is this more or less an accurate view of your position? In relation to the William Street Works, they were all part of the public planning and they were not requirements of yours in the project.

Mr SANSOM: Correct.

The Hon. GREG PEARCE: In terms of materially adverse affect [MAE] events, for example the busways were removed from William Street or extra lanes were put in, then those would impact on your commercial position potentially.

Mr SANSOM: That is correct, and under the contract we would be required to negotiate in good faith with the Government.

The Hon. GREG PEARCE: Earlier you said the Paddington works and so on were not your requirement and would not be materially adverse affect events—most likely would not be.

Mr SANSOM: Yes, exactly.

The Hon. GREG PEARCE: So things like the Cowper Wharf Road changes, were they your requirements? Would they if changed again be potentially MAEs?

Mr SANSOM: Cowper Wharf Road was in fact I understand in the original EIS there was no right turn proposed and it was actually through the community consultation process that the right turn was then incorporated into the project. I would have to confirm whether Cowper Wharf Road is in fact an MAE. I do not think it is but I will take that on notice and confirm it.

The Hon. GREG PEARCE: At the other end of the city, the Druitt Street and George Street changes, are they again part of the planning issues and would they be MAEs?

Mr SANSOM: They are definitely part of the planning scheme. In fact, we installed the bus lane to provide improved access to the CBD and that is what the bid was based around. Yes, I believe that some of those are in fact what I referred to as the MAE events.

The Hon. GREG PEARCE: And is Sir John Young Crescent the same as Cowper Wharf Road in your view?

Mr SANSOM: Yes. I understand that those schemes were on the RTA's web site for some years. I would need again to check the actual MAE events to confirm whether they are in or out. Some are; some are not.

The Hon. GREG PEARCE: The December 2004 variation, the \$35 million worth of work, was that work that you required?

Mr SANSOM: It is probably worthwhile if I try to explain that. That amendment deed was associated with what we call CCM-funded change orders. That was a contra arrangement with the RTA undertaking works on Anzac Bridge and CCM undertaking and paying for all the works associated with change orders on the project. So it is a contra arrangement where the RTA provides some adjustments and we would provide the money to pay for the works that the RTA would have been obligated to pay us.

The Hon. GREG PEARCE: These were RTA requirements, not yours?

Mr SANSOM: Exactly correct. We identified some issues through the course of the final design and indicated that we would have some concerns where the cross-city tunnel and the Western Distributor joined in particular. We indicated those concerns to the RTA, which went and did some separate studies and as a result of that they viewed that some improvements were necessary to Anzac Bridge and we assisted them in the way forward so that we took on the costs associated with the changes that they were obligated to pay us for the cross-city tunnel and they took on an improvement to the Western Distributor and Anzac Bridge.

Mr JOHN TURNER: Does it follow that they were obligated to pay you for that—you took it on—and then they increased the toll so that the motorist is paying instead of the Government?

Mr SANSOM: I guess it is a user-pays arrangement.

Mr JOHN TURNER: So the Government moved it from its obligation across to motorists to pay for a period of time.

Mr SANSOM: Perhaps that is a view you could take.

The Hon. GREG PEARCE: Just on that Anzac Bridge change, was that removal of the transit lane? It was an extra lane, was it?

Mr SANSOM: It was an additional western lane essentially. We contributed some widening on the Western Distributor over Harris Street where we undertook to install that at our cost and that was another \$1.5 million contribution we made to that at no additional cost.

The Hon. GREG PEARCE: But the \$35 million worth of works were RTA requirements, not project variations initiated by you.

Mr SANSOM: No, they were all RTA initiated project changes up to \$35 million. CCM initiates its own changes directly with its contractor with no cost to the RTA.

Mr JOHN TURNER: Earlier you said that you had forgone one of the toll increases. You were looking some time next year. Is there provision to roll the forgone 4 per cent when you come up next time? In other words, it is two terms to take the 8 per cent, or is there provision for you to do that?

Mr SANSOM: Yes, that provision allows us to do that. Whether we do that or not will depend on the shareholders' views at that time.

The Hon. GREG PEARCE: In relation to the ventilation in the tunnel, there was a change mid way through the planning process. I think the EPA required more stringent standards. Can you explain what exactly was done there and perhaps indicate how it compares to, say, the M5 East tunnel?

Mr SANSOM: Yes. The changes on the cross-city tunnel are significantly more stringent than the M5 East, particularly in relation to the in-tunnel visibility issues. The cross-city tunnel actually has a third tunnel essentially which is a ventilation tunnel and that allows the tunnel to be drawn away from the main lines tunnels should an incident occur where congestion occurs and as such the in-tunnel visibility is much improved for the cross-city tunnel.

Ms LEE RHIANNON: As a representative of the consortium, can you explain why private partners of the consortium, Boulderstone Hornibrook, Bircher, and the Deutsche Bank have decided to give donations to the New South Wales Labor Government?

Mr SANSOM: You would have to ask them.

Ms LEE RHIANNON: Do you think that they can see there is an advantage?

Mr SANSOM: Again, you would have to ask them.

Ms LEE RHIANNON: Why is the air quality air monitoring data recorded on the CCM web site inferior to that displayed on the RTA web site, the M5 East? I am referring to the carbon monoxide readings. They do not make sense. Also the data about the stack is not clear and there is also unfortunately no historical data. So for all the problems and criticisms there have been for the M5 East, we have to say that it is actually better than your very modern state-of-the-art world leader.

Mr SANSOM: I guess what we have done is comply with the 292 conditions of approval. If something does not make sense and you advise me of that specific, I will take that on notice and correct that. At this stage we provide a report to DIPNR in relation to the air quality and we will continue to do so. I understand that there are quality monitoring stations—there are four stations. We have been keeping base data for that and in accordance with the conditions of approval that information, if it has not already been done so, will be provided to DIPNR.

Ms LEE RHIANNON: Earlier you mentioned that there are 16 banks involved. Can you take that on notice and give us a list of the 16 banks, because I have not found all those names?

Mr SANSOM: I would have to check the commercial requirements but I will take that on notice to see whether I can make that available.

Ms LEE RHIANNON: Did you concede any advantage to having Clayton Utz, the RTA's solicitors, also acting for key members of the consortium?

Mr SANSOM: I am not aware of that.

Ms LEE RHIANNON: So you did not know that Clayton Utz has that conflict of interest?

Mr SANSOM: I would doubt whether that is the case. Many of the major consultancies and advisers work for a range of clients, both government and private, and I am not aware of any conflicts.

Ms LEE RHIANNON: I want to go back to this issue that a few of us have been exploring with you about the road changes. In a letter dated 8 October this year from Clayton Utz to Les Wielinga there is an attachment listing all the category A road changes that would attract a financial penalty if the RTA reneged on them. You have claimed that the road changes required by the CCT contracts were suggested by the RTA and not required by the consortium and were not an attempt to funnel traffic into the tunnel. Why therefore would the RTA accept a situation where it must pay money if these changes are made? I have to say again that it beggars belief and I did want to return to it. Premier Iemma himself has said in the media on more than one occasion that he cannot alter these road changes as the Government is stuck with the contract. Are you telling us something different now?

Mr SANSOM: No. We have signed a contract in good faith with the Government and there are those MAE provisions and I am not aware of that document you are referring to from Clayton Utz to the RTA.

Ms LEE RHIANNON: So there is this document here that I will give you a copy of, which sets out the classifications for all these road changes—there are about 50 of them. There are four different levels: A, the B, C and D, and the A is the one that attracts the financial penalty.

Mr SANSOM: Correct, so the one that attracts the financial penalty—your words—is the only ones that we have got a contract to look after.

Ms LEE RHIANNON: So those 22 of the 71, you required those to be put in place?

Mr SANSOM: I am not privy to the document. I will take it on notice and I will go through it.

CHAIR: Do you want to supply the document to the witness?

Ms LEE RHIANNON: Yes.

CHAIR: You may respond on notice in due course, if you wish.

Mr SANSOM: Yes, Mr Chairman. If it is acceptable, there have been a few of those today. If I can get a list, I will respond to each of one of them individually.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I understand that the Currency Act, the Federal Act, states that any service in Australia must be able to be paid for in Australian currency. Is that correct?

Mr SANSOM: If you say so.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is the tolling system in defiance of that in the sense that you have to buy it through the toll?

Mr SANSOM: All I can say is that we have had senior advisers. Obviously, Victoria's Melbourne CityLink has the same issue. Others have the same issue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I understand that with Melbourne CityLink, if you have gone through the system without a toll, you can pay it at a number of service stations without buying a card. Is that correct?

Mr SANSOM: It may be. You can also buy it or purchase it at our Woolloomooloo office after the event.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you can do it after the event without penalty?

Mr SANSOM: Without penalty, as long as you contact us within 24 hours.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So you have only the one outlet to do that in.

Mr SANSOM: Correct. The outlet is in the middle of the project. It is only one kilometre from either end.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But you do not have the Melbourne system where you can go to a number of service stations and pay?

Mr SANSOM: No. We are looking at perhaps other products in future years. One of the reasons the cross-city tunnel was successful in opening as a toll road on day one with all the systems working is that we did not look at these extraneous products. Melbourne CityLink, the project that you are referring to, its tolling system did not work for six months.

The Hon. GREG PEARCE: But they have traffic.

Mr SANSOM: Yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You are saying it had nothing to do with the Currency Act that they introduced this pay late at a number of venues.

Mr SANSOM: I am not aware of that, no.

CHAIR: We have reached the end of our allocated time for this witness. I am sure that if you write to the witness, he might wish to answer some of the questions in writing.

Ms LEE RHIANNON: Could we suggest other witnesses that we could call from the consortium?

Mr SANSOM: The Cross City Motorway is—I am the chief executive and the managing director. We are a very small organisation, with no more than 30 people.

Ms LEE RHIANNON: So from you and the nominees group, who would you suggest would be useful for us to talk to? Can you nominate names?

Mr SANSOM: Can I ask in relation to?

The Hon. GREG PEARCE: It is in relation to the negotiation phase.

Mr SANSOM: Yes. I can provide that detail to you. I just need to confirm who they would put up. Some changes of course have occurred in the organisational structure.

CHAIR: We thank you for attending as a witness and for the information you have provided. We hope that the traffic volume will increase for the good of the people of Sydney.

Mr SANSOM: Thank you very much.

(The witness withdrew)

The Committee adjourned at 5.03 p.m.
